

STATE-SANCTIONED SEX: NEGOTIATING FORMAL AND INFORMAL REGULATORY PRACTICES IN NEVADA BROTHELS

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ABSTRACT: Nevada is the only state in the United States that sanctions legalized prostitution. With thirty-six existing brothel licenses, Nevada offers an important site for the sociological analysis of public sex policy. In this article we use policy analysis, interviews, and document research to examine formal and informal regulations that govern the licensing, business operations, and contemporary culture of Nevada's brothels. A decentralized, haphazard, and historically unique set of laws and norms have created and sustained the Nevada brothel industry. Nonetheless, this system of legalized prostitution is ingrained in the economic and social systems of rural Nevada and offers valuable sociological insights into public policies governing sex with ramifications that reach far beyond Nevada's boundaries. We conclude with six sociological insights regarding Nevada's brothel system that contribute to the ongoing academic and public dialogue on prostitution policy.

The ways in which we have understood prostitution in recent years have been increasingly challenged. The feminist debates that framed prostitution as either women's exploitation writ large (Barry 1979; Dworkin 1981; MacKinnon 1987; Pateman 1988) or prostitution as work (Bell 1987; Delacoste and Alexander 1998) are being superseded by empirical research revealing prostitution to be a much more complex reflection of cultural, economic, political, and sexual dynamics (Bishop and Robinson 1998; Chapkis 1997; Kempadoo and Doezema 1998; Scambler and Scambler 1997; Weitzer 2000b). At the same time prostitution policy is increasingly being debated both nationally and internationally. Existing policies of criminalization are criticized for being ineffective (Pearl 1987; San Francisco Task Force 1996; Weitzer 2000a), for failing to punish the men who encourage and benefit from prostitution (Barry 1979; Dworkin 1981; Pateman 1988), and for selective enforcement, discrimination, and violation of workers' rights (Alexander

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1997; Jolin 1994). In the United States, according to Pearl (1987), prostitution control policies cost taxpayers an average of \$7.5 million annually per city. Yet police have made little headway in controlling it. Shifting migration within the European Union and the increasing power of the prostitutes' rights movement is causing policy makers to rethink prostitution policies (Deutsch 1999). And the increase in sex tourism internationally is bringing new attention to issues of trafficking in women (Bindman 1997; Doezenia 1999).

In this context, the surprising lack of research on the one system of legalized prostitution in the United States, Nevada, is especially glaring (exceptions are Galliher and Cross 1983; Pillard 1983; Reynolds 1986; Rocha 1975; Symanski 1974). Nonetheless, the Nevada case is cited regularly in arguments both for and against changes in policies (Chapkin 1997; Hobson 1990; San Francisco Task Force 1996; Schrage 1994, 1996). It is ironic that now, in the post-Lewinsky era, most Americans know more about President Bill Clinton's sexual escapades than about the only legalized prostitution operating in the United States. With the inarguable trend toward the pornographication of everyday life (Adkins and Merchant 1996; McNair 1997) it is important to examine prostitution policies in all their forms. We begin to fill this void by analyzing in detail the formal and informal regulations that govern the United States' only system of legalized prostitution.

PROSTITUTION POLICY DEBATES

Studies of prostitution policy have generally placed laws into several categories. These include legalization (state licensing and various state regulations), abolitionist policies (laws punishing third-party "exploiters," not the "innocent" prostitute), criminalization (solicitation is illegal and the prostitute is criminalized) and decriminalization (regulation of prostitutes as independent businesses). The distance between the laws and implementation is often quite large, making a realistic assessment of policies very difficult. And informal policies often subvert any official laws that are on the books. Nonetheless, these policy solutions have been hotly debated since the regulation of the family and sexuality first moved from the purview of the church to the state.

Legalization was among the first forms of state intervention into prostitution. Policies regulating prostitution historically have been—and still are today—justified by a desire to control disease, violence, theft, robberies, assaults, white slavery, and other forms of social disorder. The first policies seeking to control rather than eliminate prostitution mandated medical testing and included the Contagious Disease Acts in England and others in the United States. The late nineteenth and early twentieth century saw the greatest use of regulation in the United States through medical supervision and the licensing and zoning of brothels in districts outside residential neighborhoods. Thus legalization policies reflect a medicalization of deviance, the characterization of prostitutes as vectors of disease, a desire to control social disorder thought to come with this vice, and a desire to label and separate good girls from bad (Best 1998; Gilfoyle 1992:138–42; Hobson 1990; Luker 1998; Walkowitz 1980).

Abolitionist policies likewise first appeared at the turn of the century. Feminists and other reformers argued that medical testing under the Contagious Disease

Acts was often brutal (prostitutes were carted to unsanitary hospitals and tested against their will). Then, as well as today, these critics argue that most regulations stigmatize, label, and otherwise harm potentially innocent women in the name of perpetuating laws that mainly benefit men (Barry 1979; Hobson 1990; Pateman 1988). Importantly, these laws frame the institution itself, not just the immoral, deviant, or diseased woman, as the problem and seek to focus legal sanctions on the men that benefit from prostitution. This ideology generated laws at the turn of the century such as the Mann Acts in the United States, anti-trafficking treaties in the mid-1900s, and other legal reforms today designed to abolish prostitution by controlling the "third party" with laws against trafficking, pandering, procuring, promoting prostitution, and encouraging someone to be a prostitute. Today in the United States, almost all prostitution policies contain elements of the abolitionist approach, although they are not enforced in ways that some reformers had hoped. Some systems of regulation, including Nevada's policies, criminalize aspects of third-party involvement. Analysts of abolitionist policies have pointed out that both historically and today, third-party policies most often are enforced in uneven and racist ways against people of color, foreigners, and immigrants (Doezema 1999; Walkowitz 1980). Further, because they seek to abolish the institution of prostitution, these policies assume that all prostitutes are unwilling victims, something much recent research has begun to problematize (Alexander 1997; Bindman 1997; Kempadoo and Doezema 1998).

Criminalization became the dominant prostitution policy in the United States after World Wars I and II. The label of the prostitute as vector of disease coupled with the desire to protect young servicemen from harm helped to end almost all experiments with legalization in the United States. Today most American laws are a combination of criminalization and abolitionist policies. In practice, most enforcement is uneven and selective and serves to confine illegal activities to or displace them from particular areas (Weitzer 2000a). 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.

Decriminalization policies have only recently entered the policy debates. In the early 1970s, as the women's movement began to criticize prostitution laws generally, prostitutes themselves began to organize. COYOTE (Call Off Your Old Tired Ethics) challenged selective enforcement and discrimination in criminal law and began to reframe prostitution as work (Jenness 1993; Weitzer 1991). They and others now call for decriminalization to allow prostitutes to operate the same as any other independently licensed business (Alexander 1997; Shrage 1994). In 1986 the International Committee for Prostitutes Rights drafted the World Charter for Prostitutes Rights, which argued for decriminalizing adult prostitution; regulating third parties according to standard business codes; eliminating zoning laws and mandatory health checks; allowing freedom of association, travel, and privacy; protecting human rights, civil liberties, and rights to social services; and equal participation in determining regulations and protections (Delacoste and Alexander 1987:305-7). Around the globe, sex workers have echoed calls to place sex work under existing worker and human rights laws. These policies have

enjoyed some support. In 1959 the United Nations concluded that prostitution should not be a criminal offense. In recent years the American Civil Liberties Union (ACLU), the National Organization for Women, the San Francisco Task Force on Prostitution, and Jocelyn Elders, former Surgeon General, have all supported decriminalization. The call for decriminalization has spurred the latest discussions of prostitution policy, but research shows that there is little public support (Weitzer 2000a:162).

The United States is certainly not the only country grappling with questions of prostitution policy, and our debates are best understood in the context of international prostitution. Today a number of countries have various permutations of these policies. Abolitionist policies exist in Brazil and Kenya, where soliciting is legal but third parties are punished. However, as with the criminalized countries, enforcement is arbitrary and uneven: in Brazil prostitution is tolerated; in Kenya police regularly harass prostitutes (Bindman 1997; van der Gaag 1994). England allows prostitution but not offenses against "public order and decency"; thus visible solicitation is illegal (Benson and Matthews 2000:57). Unique experiments with forms of regulation exist in many European countries. Germany has legalized prostitution with mandatory health checks, but prostitutes are not eligible for national health insurance. Turkey licenses brothels, but restrictions are high (prostitutes cannot marry or hold other jobs while registered) (Bindman 1997). Various territories in Australia have licensed brothels and escort agencies, with very mixed results depending on the oversight given to regulation (Sullivan 1997). Most recently, in October 1999 the Netherlands legalized brothels for the first time. Their stated aims were to control child prostitution, to guarantee cleaner and safer working conditions for their thirty thousand prostitutes, and to control the recent increase in illegal immigrants (Deutsch 1999). While brothels had existed and were tolerated before, new standards will set permits, locations, and working conditions. Amsterdam has allowed window prostitution, a quasi-decriminalized form of prostitution whereby independent prostitutes can rent window space in a certain district and advertise in newspapers and fliers. Its regulations have long been cited by decriminalization proponents as a successful model.

In general, legalized prostitution across the world is not an expression of society's acceptance of prostitution but functions to isolate, stigmatize, and render prostitutes invisible (Gibson 1986; Harsin 1986; Hobson 1990; Walkowitz 1980). Because of the social norms regarding sexuality and the sale of sex, there are often contradictory formal and informal, official and unofficial controls in the system of regulation. Consequently, whether officially or unofficially, the regulatory systems often reflect various levels of patriarchy, racism, and homophobia by means of nonsystematic enforcement and selective criminalization.

While Nevada's regulatory system is quite often criticized by prostitutes rights advocates, research on it is limited. A thorough study of the brothel system published in 1974 by Symanski outlines a system implemented by local sheriffs of intense restrictions on women's privacy and freedom of movement and civil rights. Because brothels are isolated in uninhabited rural areas, local sheriffs can impose restrictions on both the brothel and prostitutes' activities. Women are required to live on the premises and regulations severely limit their mobility in

towns. For example, the town of Ely mandated that women who quit working for the brothel must leave town on the next available transportation (Symanski 1974:372). Meanwhile, owners and madams are respected entrepreneurs. Pillard (1983) draws on her own original research in which she found fewer informal regulations but a substantial number of restrictions on prostitutes' rights. Because prostitution is a privilege and not a right, the community can impose any rules it chooses. While Pillard (1983:46) supports Nevada's legalized system, she calls for modernizing the regulations. Reynolds (1986) paints a less oppressive picture of the brothels in her review of laws. According to Reynolds, the laws in Nevada are "a strange combination of political and legal power, the profit motive, and a pervasive attitude of live-and-let-live" (p. 87). She also noted the pervasive and sometimes arbitrary power of local sheriffs' unofficial rules. All of these regulations rested on keeping prostitutes separate from the respectable members of the town.

Hobson (1990) draws on these studies to say that Nevada policy represents the worst of the European system in isolating and restricting the rights of women workers. Brothels render women an "untouchable caste kept apart from the institutions and daily life of the 'permanent' residents and confine them to certain sections of town" (pp. 227-28). She draws almost entirely on Symanski's 1974 study. Chapkis (1997) refers to Nevada's legalized system as a "state licensed pimp" whereby women are defined as independent contractors with no claim to health benefits, vacation pay, or retirement. They have little control over their workday or who their clients are—they work twelve-hour shifts, seven days a week—and are required to pay room and board. Most of Chapkis's information is from a 1994 special issue of *Gauntlet* magazine and an article by Laura Anderson, a former prostitute (Anderson 1994; Chapkis 1997:162-63).

We have found that some prostitutes' rights advocates privately are beginning to soften their criticisms of Nevada brothels as perhaps a wedge for policy change (LaCroix 1997). Nonetheless, given the lone place of Nevada's system in the United States' panoply of prostitution regulations, it is important to look much more closely at Nevada's regulations today. How do Nevada's regulations compare to trends in prostitution policy generally? How does Nevada's system compare to the criticisms of it?

UNCOVERING THE REGULATION OF BROTHEL SEX

We began our analysis of Nevada's regulations with a cursory review of Nevada laws and discovered a bureaucratic haziness surrounding prostitution policy. There is a patchwork of local legislation—some formal, some informal and unofficial; some old and traditional, some new and efficient—that sets the parameters and standards for the brothel industry.

As a result, we have triangulated our methods for data gathering to identify the complex and largely invisible system of informal norms and traditions that influence brothel culture and operations. First, we conducted a policy analysis of the laws in the state, the ten counties and five cities where prostitution is regulated, to understand the formal regulatory system. Second, we reviewed local and regional newspapers, printed materials, and documents. Third, we conducted

approximately twenty-five formal interviews with brothel owners and workers in the northern and eastern part of the state and numerous informal interviews with legislators, policy makers, city and county officials, police, attorneys, brothel observers, business owners, and would-be brothel owners statewide.

The casual record keeping, informal regulatory processes, and administrative fog that we uncovered in our search for information is indicative of the overall climate of brothel culture in Nevada. Somehow legal prostitution exists in modern times while operating under many of the practices and premises of simple, Old West, small-town governance. After conducting this research, it became readily apparent that the brothel system is really a consortia of formal and informal, modern and traditional brothel regulatory systems that together construct this unique service industry and subculture. We present our findings by reviewing first the formal state regulations and then the formal and informal local regulatory systems.

One final note: our analysis is of the regulatory structure. Although we answer many questions on the nature of the regulations, our information on the ways in which the regulatory structure actually affects workers in the long term is piecemeal. Because the situations and experiences of brothel workers are so different, information on how the system affects workers can be found only through systematic and in-depth interviews with current and former employees. However, we believe our data provide a solid groundwork for understanding the unique regulatory system in Nevada.

NEVADA'S REGULATORY SYSTEM

State Brothel Regulations

For a state made famous for its legalization of prostitution, the Nevada Revised Statutes (NRS) are strangely silent about prostitution. According to George Flint of the Nevada Brothel Association, "The enabling legislation was the fact that there was no legislation." The famous 1971 law that "legalizes" brothels does so in a section of the Nevada Revised Statutes that covers "[d]ancing halls, escort services, entertainment by referral services and gambling games or devices; limitation on licensing of houses of prostitution" (NRS 224.245). The section spells out how counties may license "persons or corporations wishing to engage in the business of conducting a dancing hall, escort service, entertainment by referral service or gambling game or device permitted by law." But nowhere else in that section is prostitution mentioned, except for one short paragraph:

In a county whose population is 400,000 or more, the license board shall not grant any license to a petitioner for the purposes of operating a house of ill fame or repute or any other business employing any person for the purposes of prostitution. (NRS 244.245)

The statute does not say directly that counties or incorporated cities can license brothels. Deciding this, in fact, was highly contentious. In the mid-1970s Walter Plankinton wanted to open a brothel he planned to call the Chicken Ranch in Nye County. County officials, backed by existing brothel owners who then operated without official licenses, had refused to let Plankinton open his brothel, citing a

1949 law that brothels could be considered a nuisance. He went to court, and it was not until 1978 that the Nevada Supreme Court ruled that because of that population paragraph, houses of prostitution cannot be considered nuisances. Finally, in 1980, the supreme court ruled that counties with a population of less than 400,000 could regulate and license brothels (Kasindorf 1985:29–33). Perhaps even more amazing, it was not until 1987 that the Nevada Revised Statutes made non-brothel prostitution explicitly illegal by adding to the code: "It is unlawful for any person to engage in prostitution or solicitation therefor, except in a licensed house of prostitution" (NRS 201.354).

The few remaining state statutes that explicitly or implicitly address brothel prostitution cover pandering, pimping, zoning, advertising, and sexually transmitted diseases. Some of these laws date from 1864 and clearly reflect the abolitionist policies against third parties. They also impose the most common forms of regulation—zoning and medical testing. Thus the few statewide statutes that exist reflect the medicalization of prostitutes and a desire to render prostitutes separate and invisible.

The statutes prohibit pandering (anyone who forces, decoys, or entices a woman to become a prostitute) and working in a brothel (NRS 201.300–60). These laws also protect spouses from being forced into prostitution and prohibit forcing women into marriage. Section 201.320 prohibits anyone from living off the earnings of a prostitute. However, as many workers pointed out, if this law were enforced it might very well prevent them from supporting their spouses, children, or parents.

The Nevada Revised Statutes also impose zoning restrictions designed to keep brothels relatively separate and hidden from "respectable" society. The location of "houses of ill fame" is limited as follows: (1) brothels must not be "situated within 400 yards of any schoolhouse or schoolroom"; (2) brothels must not be within "400 yards of any church, edifice, building or structure erected for and used for devotional services or religious worship in this state"; and (3) brothels cannot front the "principal business street or thoroughfare of any of the towns of this state" (NRS 201.380, 201.390). One of the most common stories reported in newspaper articles is how, in response to this law, the members of one small Nevada community physically moved the schoolhouse so that a long-standing brothel could remain open (Reynolds 1986:100). In practice, these restrictions have not kept brothels as isolated from towns as the literature suggests.

State statutes prohibit brothels from advertising on public streets or highways or in any county, city, or town where prostitution is prohibited (NRS 201.430–440). This expansive ban includes anything showing the address or telephone number of the brothel, which makes simple business matters such as placing help wanted ads in newspapers a risky business.

In 1985 the Nevada Administrative Code imposed stringent health testing on working prostitutes to control sexually transmitted diseases (STDs) (NAC chap. 441A010–A325 and 441A775–A815.) In 1986 HIV testing requirements were added to respond to fears about the burgeoning AIDS crisis. The code mandates that each person applying for employment as a prostitute must submit a blood sample to test for HIV and syphilis and a cervical specimen to test for gonorrhea

and chlamydia. Every prostitute must have a state health card certifying that she is disease-free before being hired at a brothel and granted a work card. Once hired, the code mandates weekly PAP smears for gonorrhea and chlamydia and monthly blood tests for syphilis and HIV. Prostitutes are checked weekly, sometimes in-house by a local physician and sometimes by a physician of their choice. If a prostitute tests positive for anything other than HIV, she is unable to work until the treatment cures her and the physician reinstates her health card. If she tests positive for HIV, a 1987 law makes it a felony to continue work as a brothel prostitute. The sentence is two to ten years or a fine of \$10,000 (NRS 201.356-58). Brothel owners are also legally liable for damages if they continue to employ a prostitute that tests positive for AIDS.

Without a doubt, the AIDS crisis has had a large impact on the brothel industry. Although local regulations long had testing policies for STDs, when health officials announced that HIV could be spread through heterosexual contact, there was reportedly a 30 to 40% drop in brothel business. In January 1987 the brothel industry voluntarily adopted a compulsory condom use policy. Then, in March 1988, the State Health Department mandated condom use for all prostitutes in all brothels (Albert et al. 1995; Stein 1987:3). Brothels are required to post a sign saying condoms must be used. All of the working women we interviewed reported that they support the condom laws. Contracting any STD is detrimental both from a health perspective and from a financial standpoint because the women lose work time while recuperating.

As a result of these laws, according to the Nevada Department of Health, not one licensed prostitute has contracted HIV in a Nevada brothel since the testing regime was instituted (Albert et al. 1995). This is probably the most commonly cited fact by proponents of legalized brothels. Certainly it reflects the power of the medicalized justification for prostitution.

State laws establish a framework for the brothel system that reflects similar trends in prostitution regulation internationally: medicalization of prostitution and isolating and separating prostitution via zoning and advertising. However, issues such as which of the counties with a population under 400,000 actually allow brothels, how many, how they are licensed, how prostitutes are supervised, how owners are screened and licensed, and how brothels are operated are left unspecified by the state of Nevada. To understand these contours of the industry it is necessary to move from the blanket of state law down to the patchwork quilt of county and incorporated-city laws and regulations.

County and City Ordinances

Local governments are the most important regulators of brothels. Because legislation is largely lacking, there is a confusing allocation of power among counties, unincorporated areas, and incorporated cities. All counties with populations under 400,000 are permitted to license brothels. Some license, some prohibit, and others remain silent. In all, ten of Nevada's seventeen counties permit brothels. As shown in Table 1, Carson City, Douglas, Lincoln, and Washoe County ordinances outlaw prostitution. Elko, Humboldt, Pershing, and White Pine County ordi-

TABLE 1
Nevada Counties with Legal Brothels

<i>Counties</i>	<i>Currently Operating Brothels</i>	<i>Towns with Licensing Ordinances</i>
Carson City	prohibited by county law	
Clark	prohibited by state law	
Douglas	prohibited by county law	
Washoe	prohibited by county law	
Lincoln	prohibited by county law	
Pershing	prohibited by county law	
Eureka	no written ordinance	
Churchill	2 Hwy 50, E of Fallon	
Elko Carlin	1 in Carlin	Carlin
Elko	4 in Elko	Elko
Wells	2 in Wells	Wells
Esmeralda	1 Hwy 95, 20 mi S of Tonopah	
Humboldt	5 in Winnemucca	Winnemucca
Lander	2 in Battle Mtn	
Lyon	4 E of Carson City	
Mineral	1 Hwy 95 at Mina, 1 Hwy 6 E of Benton, CA	
Nye	5 near Pahrump, 1 in Beatty, 1 in Tonopah	
Storey	3 in Mustang	
White Pine	3 in Ely	Ely

nances outlaw brothels in unincorporated areas and are silent about incorporated areas. Thus, by default, some incorporated cities have the ability to issue licences and oversee brothels. But Pershing County has no incorporated cities, so the county has no brothels. In Elko County, the towns of Carlin, Wells, and Elko have passed brothel licensing regulations. In Humboldt County, the town of Winnemucca licenses brothels. In White Pine County, the town of Ely licenses brothels. County law in Churchill, Esmeralda, Lander, Lyon, Mineral, Nye, and Storey contains specific regulations for brothels, and so it is the county commissions that retain the right to issue licenses.

The silent counties are an interesting case. Eureka County, split down the middle by Highway 50, the "Loneliest Highway in America," has no ordinances pertaining to brothels. The unincorporated town of Eureka had one brothel until 1970. But in a mining slump the brothel went out of business. About forty-five mostly Mormon citizens occupying the Diamond Valley agricultural region north of town sent a petition to the county commission asking that no more brothels be allowed in Eureka. As this amounted to about 10 percent of the electorate, the county commission complied. But they did not pass a law or an ordinance. They simply do not issue licenses for replacement brothels (Reynolds 1986:103).

As is typical for counties across the United States, many local ordinances have been based on regulations dating from the early 1800s. As a result, county and city ordinances vary considerably. Pillard's 1983 study found that many of the ordi-

nances were extremely sparse in their coverage. Winnemucca codes treated prostitution in half a page. Wells and Elko had no ordinances, except for those exempting the laws against prostitution from applying to their red-light districts. However, in recent years several counties have updated and revised their ordinances. Lander County revised its ordinances in 1991; Wells and Elko have both undergone revision and now have some of the most detailed written ordinances in the state. A good number of the other counties are beginning to adopt a similar format. Consequently, since the studies by Symanski, Pillard, and Reynolds, counties now spell out due process procedures for licenses and appeals and fee structures and have eliminated archaic clauses and codified restrictions on prostitutes. Because of this modernization, many local brothel ordinances are beginning to look very similar to each other. Most city and county ordinances include the following:

1. License and control boards consisting of either the county commission or town board.
2. Prostitution defined as a privileged license. (Owners have no rights to licenses.)
3. Prostitution defined as not a nuisance. (This addresses the 1949 nuisance laws.)
4. License application procedures, contents, filing, and investigations.
5. License restrictions, general prohibitions, and allowances for the licensing board to impose other restrictions.
6. License issuance, renewal, fees.
7. Zoning, or specifications on the location of brothels.
8. Health requirements, medical examinations.
9. Employee requirements, registration, including work permits for prostitutes, managers, bartenders, or maintenance or cleaning personnel.
10. Conditions for the revocation of licenses, due process and hearing procedures, and exceptions to allow emergency closings.
11. Restrictions on advertising.
12. Penalties.

Even with recent moves to modernize, local regulations have not formalized all the specific guidelines or the informal, tradition-based norms that still govern brothel culture today. The application, the powers vested in the counties via the privileged license, the restrictions on advertising, and the limits to growth all demonstrate this odd configuration of laws that allow officials a great deal of leeway to regulate brothels.

License Applications

According to local officials and owners, there has long been a fear that, just as with gambling, prostitution may be dominated by the mob or other organized "undesirables." As a result, the license application process has been designed to keep the "bad" elements out. Information required on brothel license applica-

tions in typical county and city ordinances includes all family, financial, military, employment, and criminal records and whether one has had an interest in a brothel for the past five to ten years. Applications must disclose information on the amount to be invested in the brothel and the source and application of all funds (some include an audit report by a CPA). Applications must disclose full information on management. And the law requires an applicant to provide any other information deemed necessary by the overseeing boards or chief of police.

Applicants are required to pay an investigation fee. This can run from \$150 in Ely to \$58,600 in Lyon County. In some cases it is nonrefundable. In others, law enforcement is required to return unused money after the investigation. In most cases the money goes toward the first year's license fee. These funds pay for an FBI check, a personal interview, and interviews with all employers and business associates listed on the license. The investigator then provides a report to the governing board. If the application is denied, typically applicants have thirty days to cure any curable problems. County commissions and local governing boards have considerable leeway in interpreting the results of the application and the required background investigations and in demanding additional information from applicants.

Most county ordinances prohibit individuals from getting a license if they have been convicted of a felony, drug charge, theft, embezzlement, or crimes involving use of a deadly weapon; if they have been involved in illegal businesses or financial insolvency; or if they or their associates would be "contrary to the health, welfare, or safety of the City [County] or its residents" (exact wording for Lander County Code 5.16.080, Churchill County Code 5.20.100 E 7, City of Carlin Code 5-9-8 (e) 6, Ely City Code Sec. 10A-7 (e) 6, Wells, 3-6-9; close wording from Storey County Code 5.16.090).

Esmeralda County and Storey County, where the now closed Mustang Ranch has been the subject of scrutiny by the FBI, have the least defined license investigation procedures. In fact, the Storey County ordinance requires only names and addresses of applicants and managers, a "personal history record," and "additional information or documents as the board of county commissioners shall request" (Storey County 5.16.160, 5.16.080). The county is currently considering updating their ordinances (Associated Press 1999).

The Privileged License

All brothel licenses are nontransferrable and site-specific. The privileged license is a "revocable privilege and no holder acquires any vested rights therein or thereunder" (exact wording in Ely [407, 10A-1], Carlin [5-9-2], and Churchill County [5.20.070]; all other ordinances have similar wording). Storey County has even added wording stating that an applicant waives any claim of damages resulting from "adverse public notice, embarrassment, criticism, or other financial loss" from the application process (Storey County Code 5.16.150).

In fact, this privileged license allows for very little in the way of owner rights. Officials have the power to revoke the licenses for any reason and are quite free to

impose all sorts of regulations at will. Officials can essentially enter a brothel, investigate, and revoke a license for "any cause harmful to the health, safety and welfare of the general public" (Churchill, Carlin, Elko, Lander, Mineral, White Pine Counties). For many years, county ordinances provided little in the way of protections or due process for brothel owners against a crusading district attorney or sheriff. Ordinances in Esmeralda and Storey Counties still say officials can enter, investigate, or shut down a brothel for "good cause" with no further specification or limitation on what that might entail. Most of the ordinances have been amended lately to specify hearing procedures, investigation conditions, and conditions for advance notice; but according to some owners, these are not always properly enacted. The newer ordinances specify that officials can investigate brothels only if they have reason to fear that there are "health hazards." But Elko mandates that the chief of police must be given a key, if the building is locked at any time, so that he or she can enter at any time. The newer ordinances allow a clause for "emergency" revocation of licenses. Ely and Carlin specify that a brothel can be closed without notice if the brothel endangers public health, safety, or morals. Churchill, Elko, and Lander Counties have removed morals from their lists and specify only public health or safety. Only Wells and Mineral County ordinances do not have any provisions for "emergency" closures. Esmeralda and Storey Counties have few due process provisions and therefore do not have any provisions for suspending the hearing process.

In addition to being able to close brothels at will, authorities can, but few do, limit the number of workers, although the more workers on staff, the higher the license fees. They can limit hours, but most brothels operate twenty-four hours. Elko County restricts the hours. Most of the ordinances spell out size, type, and location of buildings under zoning restrictions (see below). Lander County, however, has more interesting building restrictions that seem to date back a number of years. County law there specifies that licensees must provide the following:

1. A source of water to facilitate cleaning, and all sources of water must be approved by the appropriate county agency;
2. Lavatories and wash basins must be provided with running water and shall be furnished with soap and sanitary towels;
3. Every portion of the business, including appliances, apparatuses, and personnel, shall be kept clean and operating in a satisfactory condition;
4. All businesses shall be provided with clean, laundered sheets and towels in sufficient quantity, and shall be laundered after each use thereof, and stored in an approved sanitary manner. Use shall be defined as actual physical contact with such sheets or towels;
5. All businesses must have approved receptacles for the storage of soiled linens and towels;
6. The counties and cities can therefore place any other restrictions on brothels that they deem suitable. (Lander County Code 5.16.060 G)

A few counties have additional restrictions. Esmeralda County prevents corporations from applying for brothel licenses. It also requires owners to pay all of the

health bills for workers. Wells County has an excluded persons list, similar to the infamous "Black Book" that exists inside the Nevada gaming industry.

In short, licensing requirements are varied, occasionally obscure, sometimes perhaps even unconstitutional and interpreted as well as enforced at will. Hence the patchwork quilt analogy: brothels are constituted and governed in widely variable, inconsistent, and sometimes even quirky ways through licensing requirements that are uncharacteristic of any other legal industry. While laws have been modernized and most of the modifications spell out rights and responsibilities of owners, local officials still have a lot of leeway. While most research has been concerned with violations of workers' rights, it is clear that compared to other legal businesses, owners' rights are being encroached on as well. This point is even more evident with respect to regulatory restrictions on brothel advertising.

Advertising

In addition to the state restrictions on advertising in cities and counties where brothels are illegal, all but one of the counties limit brothel advertising. There are limitations on the type, size, and signage of buildings that offer prostitution. Most prohibit advertising within the city or county limits. The wording of these ordinances is often ambiguous. Most simply state that it is unlawful to advertise, leaving the specifics to multiple interpretations and at-will enforcement. Carlin states, "It is unlawful to advertise or promote, in a soliciting manner, any operation licensed under this Chapter" (Carlin Code 5-9-17 (D)). Elko and Churchill Counties prohibit any advertising by "print, signage, television or radio media, computers, flyers, C.B. radio, telephone books, telephone or any other phone" within their jurisdiction. Wells prevents brothels from advertising by describing the business as a "'brothel,' 'bordello,' 'bawdy house,' 'house of prostitution' or by a word . . . having the same import" (Wells City Code 3-6-40). Mineral County mandates that its brothels use signs that say "Guest Ranch—Men Only."

Some brothels get around these restrictions by selling hats, T-shirts, coffee mugs, or key chains with the brothel name, logo, and address on them. Free matchbooks are sometimes casually left around town. Some of the bigger brothels pay cab drivers or informally market through nearby strip clubs. In many rural brothels, prostitutes take turns on the CB radio sending smooth, sexy invitations out to truckers to stop in for some coffee, a shower, and whatever else they might need. One large brothel outside of Carson City, Nevada's state capital, gives interviews on the Howard Stern show and employs well-known adult video stars. Such marketing makes up for some of the restrictive and likely unconstitutional bans on brothel advertising, but this is of little use to the small, more out-of-the-way (or so-called cow county) brothels for whom advertising bans often pose a greater problem.

Perhaps the biggest new outlet for brothel advertising is the Internet. Brothels are potentially able to take advantage of cyberspace as a vehicle for advertising, hiring, and organizing. Individual prostitutes and even customers have had web sites for years. Increasingly, brothels are getting their own web sites. For example, the brothels in Winnemucca have established a consolidated web site offering "brothels on line." For "only \$19.95 for three months" the member can have access via real time, real video to a "real Nevada cathouse," at www.nevadacathouse.com.

However, some counties are starting to impose restrictions. In ordinances crafted in 1997, Elko and Churchill Counties specifically prohibit any advertising within their jurisdictions via computer. It remains unclear how one might be able to advertise outside of the county via a web site without being accessible to anyone in the county. Donna's Ranch in Wells has found one way around the ordinance. Its site, www.donnasranch.com, claims:

This site is clean, classy, tasteful and amusing! Although our trademark, Donna, is a "hot babe," she is only a cartoon drawing. As there is plenty of smut on the internet already, there is none here. There is also no advertising. As long as we continue to have no pornography or solicitation, then this site has the approval of the local authorities and the Nevada Brothel Association.

The site contains the most thorough historical information on the past ownership and history of the brothel we have seen.

While it is unlikely that officials will expand brothels' right to advertise, the Internet revolution may well transform the interpretation, application, and enforcement of these laws. In this respect, the future is uncertain. What is certainly clear now, however, is that the kind of restrictions placed on brothel advertising indicates that legalized prostitution in Nevada has certainly not achieved the same legal rights as other legitimate businesses.

Health Regulations

Most local ordinances include health regulations that echo the state codes, and in fact, many existed before the state's. Local regulations mandate reporting procedures; most brothels must report test results weekly to the sheriff, and positive test results must be reported to the board. Regulations also contain provisions for reinstating certification of prostitutes and specify the responsibilities of brothel owners. Although ordinances allow for brothels to be shut down for almost any reason, a few communities allow only emergency closing because of a "health hazard." While this medicalized definition clarifies somewhat conditions for emergency actions, both "health" and "hazards" are open to interpretation and selective enforcement.

Just as with other legalized prostitution policies, the health issue is probably the single most cited justification for the continued existence of brothels. Regulating the spread of STDs among prostitute and "john" populations and only allowing brothels free of any "health hazards" to continue operation are powerful rhetorical devices that are regularly invoked by officials who support the brothel system. In a recent speech to the city council the mayor of Ely justified his veto of a bill to close the brothels as follows:

In the case of HIV or AIDS, there is no cure. It kills men, women or children. We have the opportunity to minimize the exposure of our population to this killer. This opportunity is in the form of controlling this potential problem through legal prostitution. It is our moral responsibility as elected and appointed officials, to limit to the best of our ability, the potential of this killer in our society. Our legal brothel ordinance is a reasonable effort toward the

realization of this potential. . . . You are telling me that my support in trying to stop a killer stalking our streets in the name of HIV that I am an immoral person. I take offense to that. (Miller 1999)

In the years since health regulations have been imposed, there has been a significant impact on the STDs. Between July 1, 1988, and December 31, 1993, more than 20,000 HIV tests have been conducted, and none of the women employed in any of the brothels have tested positive. A 1988 study found 5,000 cases of gonorrhea in Nevada but only 9 in legal brothels. Another study found that of the 7,000 tests conducted between 1982 and 1989 on 246 prostitutes in one brothel, there were only 2 cases of syphilis and 19 cases of gonorrhea, all reportedly contracted before the implementation of Nevada's mandatory condom law (Albert et al. 1995). All of these numbers are significantly below the rates of STDs for the population as a whole.

While prostitutes' rights advocates have criticized testing procedures, none of the workers we spoke to objected to them. Some complained that they had to pay for the testing themselves, although two counties mandate that the brothel should pay for testing. Others were sometimes frustrated by the two-day lag between initial testing and when they could start work. But overall the prostitutes we spoke to supported both condom use and testing.

Zoning and Limits to Growth

Zoning restrictions are among the more powerful mechanisms for separating and isolating prostitution from the rest of the community. However, contrary to the concerns of some prostitutes' rights advocates, the brothels are not completely isolated physically. While a few counties keep brothels outside city limits, most brothel districts are inside towns (see Table 1). The largest number of brothels are in districts a few short blocks from the major thoroughfares in the towns of Winnemucca, Battle Mountain, Elko, Ely, and Wells. They are not far from Carlin, Parahump, Carson City, and Fallon. The brothels located along the stretch of highway between Las Vegas and Reno are far from any amenities, but that is also true for residents in these areas. Anyone used to large cities will likely feel very isolated in many of these tiny western towns.

Zoning and licensing restrictions also serve to limit the growth of prostitution in towns that accept existing brothels but do not want to be perceived as encouraging prostitution. Brothel licenses are nontransferable and site-specific. County and city laws typically spell out precisely how many licenses there may be at any one time. By law, Churchill, Lander, and Wells can have only two brothels, Elko can have five, and Mineral County can have four. Other laws spell out the location in so much detail that they can exist only in one or two specific buildings. Not surprisingly, these are the very same buildings in which the brothels have been located since the towns were established. No county since the 1970s has promoted a dramatic expansion of the number of brothels. When counties started to draft ordinances, they institutionalized the practices that had always existed and legalized the brothels that were already there. It may be stating the obvious to say that the ordinances were not drafted in a far-sighted effort to create a new, vibrant,

and potentially large industry. Instead they were created to protect the interests of existing brothel owners and to insulate the tradition of brothel prostitution from modernization and the kinds of morals legislation that typically accompanied this process all over the country.

The Mineral County ordinances, for example, state that no operation may be:

1. Located within the geographical limits of any incorporated city or unincorporated town, except Mina, within Mineral County, Nevada;
2. Located within three miles of the boundary of any incorporated city or unincorporated town, except Mina;
3. Located within 300 yards of any public street, road or highway, except Mina;
4. Located within 300 yards of any private residence, except Mina;
5. Located within 300 yards of any other business establishment without written consent of the owner of such other business establishment; except Mina. (Mineral County Bill No. 56, Ordinance No 52A)

Mineral County ordinances also state that operations existing at the time of their adoption can continue to exist, even if this violates certain restrictions. The ordinances divide the county into four regions and specify that only one operation can exist in each area.

Other ordinances limit the brothels within towns. Lander County limits the number of brothels to two, both located in Battle Mountain, at locations just off the main street where brothels have existed since the turn of the century. Churchill County limits the number of brothels to two. Ely limits the brothels to High Street, one block off the main thoroughfare. In most counties, commissioners retain the right to specify locations. In towns or counties where the exact location is not specified, commissioners are extremely reluctant to license new brothels.

It is therefore virtually impossible to build a new brothel. The number of brothel licenses in the state has remained fairly stable: 33 in 1973 and 36 in 2000. Besides county officials who want to limit brothel growth—based on a conservative “leave well enough alone” principle—some brothel owners have also worked hard to limit competition by restricting new licenses. This was the case in the “Nye County Brothel Wars,” which actually incited violence among local brothel owners and local officials (Kasindorf 1985).

Tonopah County commissioners were recently embroiled in a debate over a brothel. Tonopah is the seat of the third-largest county in the United States: Nye County. It was here where an individual recently bought Bobbie’s Buckeye brothel, one of the oldest in the state, from the estate of the deceased owner. The new owner’s license application ignited a battle among the commissioners, some of whom agreed that the old brothel license was grandfathered into the current law while others argued that once the former owner died, the license and grandfather clause died with her. They denied the application, and the owner is filing a lawsuit (Thurlow 1998). In this case, as in others, challenges to any of the numerous ambiguities in the laws stir up debate over whether there should be brothels at all.

One notable way around restrictive regulations placed on would-be brothel owners is to be a local. The owner of Sharon’s Place, the only new brothel to open

since the Nevada state brothel law was passed, told us that the only reason he was able to convince the town board to let him open a new brothel is because he grew up in Carlin and had established himself as a serious businessman. Outsiders who attempt to enter the Nevada brothel industry as owners or managers are routinely subjected to scrutiny: after all, in this unique world, what could an outsider know about running a traditional brothel the "right" way? Given the informal, tradition-based and normative character of so many of the restrictions governing brothels, regulators are much more comfortable with owners they know will respect local authority and tradition and not challenge the numerous loopholes in the law.

It is not just county officials who resist industry growth. Existing brothel owners are sometimes the strongest opponents of new licenses, to minimize competition and maintain the status quo. One entrepreneur who hoped to get a new brothel license in a rural county through a county loophole told us that most of his politicking has been with other brothel owners who have been reluctant to support his bid. Referring to one big brothel owner, he said, "No way was he going to let me get a license. Then I charmed him into inviting me to lunch. We had a very good conversation." But he did not get the license. Another owner referred to the rules on the brothels' hours of operation as a way to level competition: "That's part of the city ordinance here. It does give you some break. All the brothels have to comply with the same rules and regulations. So it's not like it's got to open or you lose the business." In short, it is widely perceived that the restrictions on industry growth benefit more than restrict current owners.

Restrictions on Workers and Customers

Formal restrictions on workers focus on limiting the age and even sex of workers and customers. These reflect traditional sexual norms about the sexual needs and abilities of men, the availability of women, and the enforcement of heterosexual relations.

For many years men were forbidden from working in the brothels at all. The justification given to us was that community leaders wanted to protect women from men who would undoubtedly seek free sex from the working girls. Unfortunately, one of the major complaints from the working women is that too many male owners do seek to take advantage of the women's services. The two or three offenders are well known among the prostitutes, and most seasoned women avoid these houses.

Nonetheless, most counties have changed the rules prohibiting male owners, managers, and bartenders. A few counties still have rules forbidding men from residing on the premises, including maintenance or security guards. Other rules dictate that no men, other than customers, are allowed on the premises except for repairmen, and they must leave before 5:00 P.M. Wells specifies that all security guards must be female.

Many brothels prohibit nonworking women from entering. Brothel owners consistently justified this by saying they feared irate wives or irrational girlfriends constituted a serious hazard for potential customers. While some said it was local

law, the only codified version of this was Elko's rule that it is unlawful for anyone who is not an owner, employee, potential customer, or medical or city employee to enter a brothel. This is interpreted and enforced at will, at the discretion of management and owners.

In every county except Storey and Mineral, brothel prostitutes must be twenty-one. Customers must be at least eighteen in Churchill, Carlin, and Mineral Counties, and they must be twenty-one in the rest.

All counties require prostitutes to get work cards. These are the same cards issued to hotel and casino employees. Work cards are issued by either the county sheriff's offices or the city police departments. They often require minimal background checks and a small fee and must be renewed periodically. Importantly, the registration procedure is therefore not distinguishable from that for other workers and serves to protect the privacy of prostitutes. We know of no recent incidents in which work cards were denied to women who passed their health tests and wanted to work in a brothel.

Beyond this, most other regulations regarding the sex of workers or customers are imposed by brothel owners themselves and reflect community norms that clearly reproduce heterosexual privilege. This is manifested in two ways: first, owners hire women prostitutes only; and second, customers can only be men, although some brothels allow a male and female couple to purchase services together. When asked why there were no male prostitutes, the most common answer was that it would not be profitable. "Women can get it free at any bar, why would they pay?" One local official joked with us, "As Beverly down at the Cottomtail used to say, she just never met a man that could put in an eight hour shift." Finally, most owners acknowledged that the only profitable customer base is men, and local governments would absolutely not tolerate male homosexual services being offered in the brothels. The restrictions against homosexuality also extend to patriarchal interpretations of lesbian sex. One owner justified the lack of female customers of women prostitutes this way, "There are certain technical reasons why the ladies don't often party with other women, and that's because it is very difficult to check another woman for diseases." At the same time, some brothels typically do not allow women to purchase services without a man being part of the "party." However, most all the brothels offer male customers the option to "party" with two or more of their own house prostitutes.

There are also informal racial norms. There are far more women of color working as prostitutes than there are customers of color. This pattern reflects the stereotypes of the availability of women of color and the taboo against men taking white women. Some of the women reported discriminatory practices among the prostitutes. For example: "I know some girls that won't do black guys . . . they're like, 'because you've got a whole bar full of cowboys that are white, they might not want you because you were just with a black guy.' " There appears to be much more racism against black men than Hispanic or Asian men. This reflects the racial composition of northern Nevada and the accompanying racist attitudes.

The politics of sexuality imposes restrictions on workers and customers alike, and brothel owners are motivated by the need to maintain a conservative, traditional, noncontroversial profile in their communities. The patchwork of formal

and informal, state and local regulations governing the structure of the brothel industry results in the always tenuous nature of brothel businesses, which reflects the most traditional and restrictive sexual stereotypes and norms and racial stereotypes. This is further evidenced by the role of local police and sheriff's departments in the regulation and operation of brothels.

Police Regulations

Most previous studies of Nevada's legal system have paid a great deal of attention to the rules and regulations imposed on prostitutes by local sheriffs and police chiefs. In an analysis of local regulations in 1983, Pillard analyzed the informal rules and customs imposed on both the workers and the brothels. At that time Winnemucca police enforced a variety of unwritten rules, including the following: the prostitute's family could not live in the community, the prostitute was required to be back in the brothel by 5:00 P.M., and a prostitute's vehicle had to be registered with the police, who limited its use. Any violation could result in the revocation of her work card. Pillard found that in Ely prostitutes could go to the movies but not to a bar, and if they went to a restaurant with a bar it must have a side entrance; moreover, they could not have a male escort (Pillard 1983:45).

Today only three counties give police or sheriff's departments the right to impose additional written rules and regulations. Most counties cited in previous research have done away with the more egregious informal regulations. Brothel owners and officials in Ely, Elko, and Winnemucca told us that no one enforced rules like these anymore. Carlin was the only town we could find that actually issued written sheriff's rules. These cover health requirements and work card fees. They also cover prohibitions on seminude sunbathing in public view, requirements that prostitutes must be done with their personal business in town by 7:00 P.M., and rules against loitering at public dances or ball games.

Brothel Contracts and House Rules

Most of the rules and restrictions on prostitutes' activities come from the brothels themselves. Prostitutes work as independent contractors and are subject to the conditions they negotiate in their contracts and the house rules of the brothel. These specify working hours, mobility, room and board charges and requirements, grievance procedures, and the income splits. They can also specify meal hours and dress requirements.

The most common restrictions we found were as follows. Most brothels require three weeks' work with one week off, although in the smaller brothels women can negotiate work hours. Most brothels require workers to live on the premises, although one very small brothel allowed a longtime worker who lived nearby to return home when not working. This practice is relatively rare as most prostitutes are not locals. The smaller houses allow women to leave when they are not on duty, but they are required to notify other staff. In general, the smaller houses are much more informal and flexible. The larger brothels have more bureaucratic regulations, and some have severe restrictions on mobility, work hours, time off, and

so on. The larger houses have specific days when workers can shop, run errands, and conduct other personal business. If workers leave, they must have health checks before they can begin working again.

Some brothels allow customers to take prostitutes on dates. But most of the women take advantage of this on very rare occasions with known reliable customers. Many of the women prefer the safety of the brothel.

Workers usually split their take 50/50 with the house. On top of this they pay room and board and in the larger brothels must tip the bartenders, cleaning staff, and food servers. Some brothels waive room and board if a woman makes no money in a particular evening or if she does exceedingly well. Because workers are independent contractors they receive no health insurance, benefits, sick leave, or retirement benefits from their employer. They are responsible for paying their own taxes. And they are exempt from many labor laws. In Nevada, more and more workers in the service industries generally are independent contractors, and workers in other parts of the sex industry are often independent contractors. The brothels are not alone in avoiding paying workers benefits or in avoiding employee protections.

Local Politics and Informal Brothel Regulations

While official regulations have slowly been updated to include more specifications for cause of license revocation, due process, and so on, there is still a great deal of leeway in the interpretation of official regulations, which informal practices they enforce, and how closely they monitor brothel businesses. This means that the informal relationship with the local community is crucial in the brothel business. As a former county district attorney told us, "The secret to doing this is good relations with law enforcement." The politics of brothels is based on very local, very delicate, very informal arrangements and relationships.

Communities can impose legally questionable regulations because brothels fear protests will endanger their enterprise. For example, rules regulating advertising of brothels are undoubtedly unconstitutional, but, as one owner said, "I'm not sure I would want to get involved and bring criticism." Many of the regulations on the prostitutes themselves violate their civil liberties, but neither the workers nor the owners want to upset the delicate balance necessary to run a legal house of prostitution in a small, traditional community. The prevailing mindset is to simply leave well enough alone; any other course of action may bring unnecessary and unwelcome scrutiny into the traditional, but far from totally secure, prostitution industry.

One owner exemplified the delicate nature of politics. He and his partner had been approached about filming the brothel's storefront and bar for an adult video by a production company in California. The owners knew there were strict rules about advertising but were unsure about how they applied to filming.

So [my partner] just simply asked the question about it to one of the local law enforcement agencies. . . . Suddenly the chief of police felt we were to blame for producing pornographic films here in Ely. And the city council got involved in it, and the newspaper got involved in it, and it just got completely

out of hand. There were two articles. The first came out in July. So I went to the next city council meeting, and it never came up. Then there was another article that came out, and I called the editor of the newspaper, and I called the chief of police, and I called the city attorney. I said, "Look, what's going on? All we did was ask a simple question, and the last thing we want to do is have problems." . . . I told the guy at the newspaper, and he wrote a retraction. (Jim Walker, interview, July 1998)

George Flint, spokesperson and lobbyist for the Nevada Brothel Association, is one of the most vociferous proponents of a conservative approach to advertising and running brothels. Anything that draws attention, let alone controversial or morally provocative attention, is detrimental to the industry as a whole and the flimsy web of laws and statutes that protect it.

To maintain a good relationship with community leaders and local regulators, brothel owners strive to uphold a good image in the community by donating scholarships to high schools, buying jackets for fire departments, donating uniforms to sports teams, generating funds for local families in need, participating in various local parades, carnivals, and holiday festivities, and organizing town events. By supplying the Little League kids with uniforms, organizing the 4th of July parade, and making regular donations to the local Rotary Club, several brothel owners have become respectable members of their community. When perceived as just another hardworking, honest businessperson, a brothel owner is more likely to be integrated into the community, accepted by locals, and supported by regulators and officials. While prostitutes come and go, community members will support their right to work. But they certainly do not integrate them into the community.

CONCLUSION

On the one hand, social analysts could view the state of legalized commercial sex in Nevada as progressive and innovative. The system allows small counties and incorporated cities to respond to the perceived needs and interests—economic, sexual, and otherwise—in their own communities. This legalization model is flexible, with minimal state oversight. Local officials are free to regulate as they see fit in a fairly decentralized system. Our analysis shows that many of the concerns of prostitutes' rights advocates are not entirely borne out. On the other hand, social scientists could view the state of legalized commercial sex in Nevada as regressive and outmoded. Nevada's sexual politics and regulatory policies in many ways reflect the same politics that has informed most legalized systems of prostitution. Regulations take care to separate and render prostitution invisible. Policy rests on a medicalization of sexuality. The very same decentralization that libertarians celebrate also results in a highly traditional system that reinforces patriarchal, homophobic, and racially stratified standards. It also restricts the basic constitutional rights of both owners and legal prostitutes. While the rights of workers are not violated as much as they used to be, workers are still stigmatized and isolated and certainly not well integrated into the community.

What works for the brothels in Nevada will not be easily adaptable to other communities because of the strong influence of indigenous tradition and histori-

cal norms. However, amid the regulatory haze of Nevada's anachronistic brothel system there are some findings of merit. While we are not advocating legalization as the best option for prostitution policy, ignorance of the lessons of Nevada's model is sure to further obscure the discussion. The following principles are worth ongoing analysis and further consideration.

First, health regulations are effective, not unduly restrictive, and widely accepted among members of Nevada's brothel culture. Confidential health testing practices and mandatory condom use are important regulatory innovations in the Nevada system. The lesson of the successes of this system, as well as insights into the need to offer health benefits and services to workers who are exposed, should be noted by those interested in considering what innovative prostitution policy might entail.

Second, if regulatory and legal systems were going to make prostitution a legal enterprise, it is essential that both the owners and the workers be offered the same constitutional protections that they would be afforded in other legally operated and licensed businesses. While this is not the case in the Nevada brothel system when it comes to advertising, due process, and workers' rights, the tradition-based, informal limitations that are placed on workers and owners fail to protect their interests and establish licensed brothels as second-tier members of their communities.

Third, regulating brothels by way of privileged licenses—much like legally operated gaming businesses throughout Nevada—affords screening of potential owners to minimize the role of larger syndicate activity or illegalities within the brothels. This has proven to be a source of power for communities who allow brothel prostitution in Nevada, as well as a source of comfort. However, without proper oversight this system also allows informal standards, unstructured and unspoken rules, and even discriminatory screening of owners that may violate their rights as legal business owners. The merits and drawbacks of privilege licenses must be investigated further to establish their legality and their use in developing community-based, flexible, but fair systems of legalized prostitution.

Fourth, better and fairer work standards and conditions are essential. Women working in Nevada's legalized brothels are subject to both formal regulations and informal norms that constrain their movement and activities and force them to negotiate their private and professional lives in a manner that is uncharacteristic of any other legal service industry occupation. This is a remnant of social norms and values that treat prostitutes as deviants. For any legalized system to be successful and beneficial to the women whose labor makes it possible, a more systematic but flexible, fair, and progressive system for empowering legal prostitutes is absolutely necessary. Without such changes, it is questionable whether Nevada brothels will be able to continue to recruit (especially without advertising!) working girls. Wise women who refuse the unfair regulatory practices they are subjected to in many brothels may be the *de facto* downfall of Nevada's historical brothel system. Any other municipality or analyst interested in legalization must recognize this challenge.

Fifth, legalized brothels can become normalized components of otherwise typical, all-American communities. As is the case in Nevada, brothels can become

respectable and well-integrated members of communities, especially where citizens understand that their presence may well be the best alternative to that which exists everywhere: the ongoing practice of the world's oldest profession. If prostitution is unlikely to disappear through criminalization but can be regulated and taxed, communities like Ely, which recently decided to retain its brothels, may well find legalization a viable option.

Sixth, the public regulation of prostitution is contentious and heavily influenced by regional and local norms and traditions. The decentralized model of legalized prostitution that Nevada has adopted de facto may well be useful as a de jure principle of legalization. This model encourages the institutionalization of informal norms that are often sexist, racist, and homophobic. It is imperative to balance this with more centralized protections from discriminatory practices.

In closing, perhaps the only sure way to summarize the structure of the brothel industry today is to recognize the contradictions: brothels are legal but treated differently than any other service industry business; the prostitutes are legal employees who are often still subjected to limitations and restrictions on their lives and freedom of movement because of their occupational choice; brothel owners are operating legally regulated businesses but are required to meet and respect informal, traditional community practices and restrictions to keep their licenses. Tradition and informal politics of the Old West has met the bureaucratic regulatory inclinations of the New West, and brothels exist in a tenuous balance at the interface. From this anachronistic position, the Nevada model offers insights into the ongoing debate over criminalizing prostitution.

What is clear is that the patchwork of formal and informal, state and local regulations requires constant negotiation on the part of communities, brothel owners, and, perhaps most notably, brothel workers. What is being negotiated is a legal and regulatory system that operates at the crossroads of public policy: part modern, official, and bureaucratic and part traditional, unofficial, and old-boy informal. At this unusual crossroads, however, the Nevada system offers a vista from which we might view alternate prostitution policies.

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Nevada County Codes

- Carlin Brothel Code, Chapter 9
- Churchill County Code, Chapter 5.20, Prostitution
- Elko City Code, Chapter 9, Prostitution
- Ely City Code, Chapter 10A
- Esmeralda County, Bill No. 72-2, Ordinance No. 124
- Lander County Code, 5.16, Prostitution
- Lyon County Code, 5.03
- Mineral County, Bill No. 56, Ordinance No. 52A
- Nye County Code, Chapter 9.20, Prostitution
- State of Nevada, Counties and Townships, Opinions of Attorney General, 244.345
- Storey County Code, Chapter 5.16, Houses of Ill Fame
- Wells Brothel Code, Chapter 6
- White Pine County Code, Chapter 10.36, Prostitution

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