Notice of the Final Oral Examination
for the Degree of Master of Arts

of

BRYAN ERIC BENNER

BA Honours (University of Victoria, 2013)

“On the Criminalization of HIV Nondisclosure: HIV Vulnerabilities and Implications for HIV Testing among Survival Sex Workers in a Qualitative Study from Victoria, Canada”

Department of Sociology

September 14, 2017
11:30 A.M.
Human and Social Development Building
Room A373

Supervisory Committee:
Dr. Helga Hallgrimsdottir, Department of Sociology, University of Victoria (Supervisor)
Dr. Steve Garlick, Department of Sociology, UVic (Member)

External Examiner:
Dr. Susan Strega, School of Social Work, UVic

Chair of Oral Examination:
Dr. David Blades, Department of Curriculum and Instruction, UVic

Dr. David Capson, Dean, Faculty of Graduate Studies
Abstract

**Background:** In Canada, failure to disclose HIV+ status before sex can result in incarceration and status as a registered sex offender for life. In 2012, the Supreme Court of Canada ruled that there is no legal mandate for HIV disclosure before sex if (i) a condom is used and (ii) HIV viral loads are extremely low. There is very little known about how the legal mandate for HIV disclosure might inequitably affect the health and safety of sex workers.

**Purpose:** This study critically interrogates the interplay between the legal mandate for HIV disclosure and the routine health-conscious practices (e.g., HIV testing, condom use) of HIV-negative survival sex workers, with particular attention to inequitable health and safety outcomes. This study also qualitatively investigates the structural and social forces that mediate vulnerability to HIV infection and transmission among sex workers, their clients, and their non-commercial, intimate partners.

**Method:** This study employed an adapted grounded theory approach to conducting and analyzing (n=9) open-ended, in-depth interviews with a convenience sample of currently working and recently exited sex workers who were clients at PEERS, an NGO offering services and support to sex workers in Victoria, Canada.

**Findings:** The criminalization of HIV nondisclosure had no discernable influence on behavioural HIV risk factors or HIV testing. Participants lacked accurate knowledge of the legal mandate for HIV disclosure. HIV-related health literacy was low. Participants strongly supported HIV disclosure as a legal obligation – but only for exacting justice, and not for reliably offering protective health benefits. The uptake of high-risk sexual practices was driven almost exclusively by (i) extreme needs when servicing clients (e.g., drugs, childcare, money) and (ii) the rich symbolism of condomless sex in non-commercial, intimate partnerships. Participants reported differential degrees of entrenchment in the sex trade at various times in their working lives due to extreme needs. Participants emphasized the importance of ongoing HIV testing as a personal responsibility in order to monitor and maintain their sexual health. Participants identified increased uptake of HIV-related knowledge as affording the most significant protective health benefits against HIV infection.

**Implications:** Lower levels of HIV-related health and legal literacies in the sample call for greater scrutiny of the impacts of initiatives such as ‘Seek and Treat for Optimal Prevention of HIV/AIDS’ (or STOP HIV/AIDS®) which target vulnerable populations across British Columbia [BC]. Deeply entrenched sex workers have little recourse to exit the sex trade immediately upon receiving an HIV+ test result, especially in under-resourced social assistance milieux. Targeting this population for HIV testing facilitates the creation of a new caste of HIV+ potential criminals, despite the well-established, beneficial health outcomes at the individual and population levels from early commencement of antiretroviral treatment.

**Conclusion:** Survival sex workers require special considerations in HIV pre-test counselling. The empowerment of sex workers can come firstly through the enhancement of HIV-related health – and legal – literacies. Full knowledge of the advantages and disadvantages of HIV testing will allow the consent for HIV testing to be truly informed. New HIV testing guidelines make BC the first province to recommend regular HIV screening for all adults. These guidelines also recommend exclusion of discussions of the criminalization of HIV nondisclosure in pre-test counselling for all patients (BCCDC 2016). Re-thinking the consent for HIV testing among sex workers is crucially important for their immediate health and safety.

**Keywords:** HIV/AIDS; HIV non-disclosure; HIV testing; sex work; vulnerable populations; grounded theory; criminology.