

sex talk.

answers to your questions about sex and relationships

wildfact

SexTalk Week 2/7-2/11, Free Condoms + Lube!
Go to facebook.com/campushealth for the details.

Q If it's illegal to pay for sex, how do porn stars get paid?

A. The short answer is that while prostitutes are paid for sexual gratification, porn stars are paid to act. Believe it or not, this is the slight distinction that makes porn legal, unlike sex for hire.

According to the law, actors who engage in pornography are actors first – the fact that sex is part of the role is incidental. The First Amendment protects free speech, which over time has been extended to include the freedom of expression and a wide range of “artistic” pursuits, including films that depict graphic sex.

In fact, the law has even shaped where porn is produced. Just as California is home to Hollywood and the motion picture industry, the 1988 California Supreme Court ruling of *California vs. Freeman* afforded additional protections in the Golden State, thereby leading to the proliferation of adult films there. In the case, Harold Freeman, an adult film producer/director was convicted of pandering (pimping) while hiring adult film actors, but appealed the sentence. When the California Supreme Court overturned his conviction on the

grounds that the purpose of the film was not for the sexual gratification of himself or the actors involved, the charges were dropped on the basis of rights afforded by the First Amendment. Arousal on the part of the film's consumers, however central to its production, was not deemed relevant to the case.

An attempt to appeal this decision to the United States Supreme Court was denied, allowing the 1988 ruling to stand, and with it, the open production of pornography in California. Porn purveyors outside of California have, in turn, viewed the ruling as evidence that they face little risk of prosecution, and so far this has largely gone unchallenged.

The Freeman case was not the first to address pornography and will not likely be the last. Back in 1964, the topic of what constitutes porn yielded perhaps the most famous quote ever uttered by a member of the Supreme Court, when Justice Potter Stewart acknowledged the subjective and elusive definition of obscenity, by simply stating “I know it when I see it.”



Have a question? Send it to sextalk@email.arizona.edu

SexTalk is written by Lee Ann Hamilton, M.A., CHES, David Salafsky, MPH, and Carrie Hardesty, BS, health educators at The UA Campus Health Service.