

Cell Count

curated by
Kyle Croft and Asher Mones

featuring work by
Jordan Arseneault
Barton Lidicé Beneš
Brian Carmichael
Chad Clarke
Chloe Dzubilo
Doreen Garner
Camilo Godoy
Frank Green
Shan Kelley
M. Lamar
Charles Long with Christopher Paul Jordan
Alexander McClelland
Laurie Jo Reynolds
Muhjah Shakir
Chris E. Vargas

and performances by
Jordan Arseneault with Mikiki
Timothy DuWhite

7	Foreword Esther McGowan
11	Introduction Kyle Croft and Asher Mones
15	Cell Count: Rendering harm in the face of HIV criminalization Kyle Croft and Asher Mones
47	We will not rest in peace: AIDS activism, Black radicalism, queer and/or trans resistance Che Gossett
63	Curation will not save us: Wrestling with the spaces between analysis and action Theodore (ted) Kerr and Risa Puleo
79	We are never the victims Timothy DuWhite
85	The New Equation Jordan Arseneault
89	Report Backs
91	Robert Suttle on the Sero Project
93	Barb Cardell on the Colorado Mod Squad
96	Thandi Harris and Craig Pulsipher on reforming HIV criminalization in California
100	Eric Paulk and Johnnie Kornegay on the Georgia HIV Justice Coalition
104	David Plunkett on being criminalized in New York
107	Alexander McClelland on the Canadian Coalition to Reform HIV Criminalization
111	Artist Biographies

Foreword

Visual AIDS' annual art exhibitions examine the deep cultural histories of the AIDS crisis and contemporary issues around HIV and AIDS today. Our exhibitions are a key part of our mission to support the work of HIV-positive artists, and Visual AIDS has a long history of collaborating with various galleries and art institutions, including La MaMa Galleria, The 8th Floor, Printed Matter, Artists Space, The Painting Center, Real Art Ways, Boston Center for the Arts, Fales Library and Special Collections, Aljira, P.S. 122, Transformer Gallery, and MoCADA, among others.

To coordinate these exhibitions, Visual AIDS periodically issues a call for curatorial proposals that highlight topics at the intersection of art, AIDS, and activism. We were thrilled when Kyle Croft and Asher Mones submitted a proposal for the exhibition that has become *Cell Count*, a thoughtful exploration of the underpinnings of HIV criminalization and creative responses to its attendant themes. We firmly believe that criminalization laws and their detrimental effects are essential to consider in any discussion of HIV and AIDS today. We were also excited by Kyle and Asher's ambitious proposal for this publication, envisioning commissions from a broad range of activists and writers working on the front lines of this issue.

2018 marks Visual AIDS' thirtieth year. As an organization founded during the initial years of the ongoing AIDS crisis, we have never stopped working to support HIV-positive individuals, create community, and educate the public about the changing issues around the global pandemic.

Our longstanding institutional history of activism has been affirmed by the many moments of victory and progress in the fight against HIV and AIDS since Visual AIDS was formed in 1988. While medical treatments are now capable of rendering HIV undetectable and untransmittable and have allowed many HIV-positive individuals to live longer, there is still very much an AIDS crisis, perhaps all the more insidious because

it is less visible in mainstream conversations. Poverty, racism, stigma, and homophobia—along with the outsized power of pharmaceutical companies, who control access to medications in what has become a billion dollar industry—have joined forces to create obstacles to equity, health, and social justice that are imperative to address.

In recent years, Visual AIDS has developed projects that respond to specific aspects of the contemporary crisis, highlighting the effects of HIV and AIDS on people of color, building community among women living with HIV, and now—with the exhibition *Cell Count*—HIV criminalization. We have been inspired by the significant strides made by activists working against HIV criminalization in the past several years, and hope that *Cell Count* will help to raise awareness, encourage dialogue, and spur people to take action.

Esther McGowan
Executive Director, Visual AIDS

COUNT ME OUT

COUNT OUT THE BODIES
THOSE STILL LIVING,
THOSE BURNED AND BURIED,
THOSE STILL YET UNACCOUNTED.

COUNT OUT THE FEARED, THE PROSECUTED,
AND THOSE ALREADY IMPRISONED.
COUNT OUT MY PLATELETS, MY CREATININE,
MY T CELLS, MY VIRAL LOAD.
COUNT OUT THE PILLS, THE NEEDLES,
THE SAMPLES, AND THE TESTS.
COUNT OUT THE COLD NIGHT SWEATS,
SOILED SHEETS, AND FEVERED NIGHTMARES.
COUNT OUT MY PARTNERS, MY MISTAKES,
MY MISSED STEPS.
COUNT OUT MY FUCKS, LICKS, AND BLOWJOBS,
MY COCKS, ASSES, AND PUSSIES,
THE WET SPOTS I'VE TOUCHED.

COUNT OUT MY FEARS, MY DREAMS,
AND FRUSTRATIONS.
COUNT OUT THE ODDS OF ME SURVIVING,
SUCCEEDING, THRIVING.
COUNT OUT THE CALENDAR
OF HAPPY TIME I HAVE LEFT.
COUNT ME OUT.

Introduction

Kyle Croft and Asher Mones

Who counts and who gets counted?

This question is at the heart of *Cell Count*, an exhibition that seeks to understand HIV criminalization in a long history of medically sanctioned violence and incarceration in the United States. While the title suggests an affinity between biomedical metrics (CD4 counts, viral loads) and systems of surveillance, policing, and incarceration, *Cell Count* hopes to make clear the deep incommensurability of health and criminalization.

Discussions about HIV criminalization are complex, often tinged with fear and stigma, obscured by murky ethical questions, and framed with references to prevention and public health outcomes. *Cell Count* begins with the understanding that HIV criminalization is inherently harmful, exacerbates the conditions that sustain the epidemic, and hinders honest and difficult conversations about the ethics of disclosure. In both the exhibition and this publication, we have sought to attend to the implicit and explicit evaluations that structure our understandings of justice, ethics, and harm.

The exhibition brings together artists who grapple with the discursive and material histories that underpin contemporary HIV criminalization in order to unpack and reconfigure the metaphors and assumptions that enable the incarceration and punishment of people living with HIV. The rhetorical maneuvers that characterize HIV-positive bodies as weapons are interrogated while questions of harm are reframed and reconsidered from the perspective of people living with HIV.

Seeking to place HIV criminalization in a broader context, *Cell Count* suggests that these laws are not unique to the AIDS epidemic but instead echo a long history of medically sanctioned violence and incarceration in the United States. Drawing together nineteenth century experiments on enslaved women, the medicalization of homosexuality, and the Tuskegee Syphilis Study with the emergence of HIV-specific

criminal statutes, *Cell Count* asks us to consider how medicine has been complicit with systems of surveillance and incarceration.

In conceptualizing *Cell Count*, we have tried to straddle the divergent but interrelated projects of political activism and curation. This publication has played a key role in the development of the project, as a way for us to include some of the voices of the many activists and scholars who have been working against HIV criminalization since its beginning. While we strongly believe that the work included in the exhibition bears its own political potency, it is also necessary to highlight and make space for the slow, hard work of legislative reform, movement building, and social change. We hope this book helps to explicate some of the thinking that is implicit in the gallery, clarifying the real and serious stakes at hand.

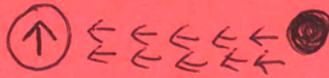
To that end, we have assembled and commissioned writing from a number of writers and thinkers who have been central to our curatorial process. Che Gossett's analysis of HIV criminalization uncovers a history of intersectional and abolitionist activism that speaks to the deep and ongoing relationships of power that connect the HIV/AIDS epidemic to the prison industrial complex and anti-black violence. Theodore Kerr and Risa Puleo discuss the affinities between institutions of classification like prisons, hospitals, and museums in order to consider the political stakes of curatorial work. Timothy DuWhite reflects on the experience of sexual assault in a society where, as a Black, HIV-positive man, he is "always the culprit, never the victim." In a biting brief poem, Jordan Arseneault reframes the stakes of disclosure of people living with HIV, speaking to the pervasive presence of serophobia. Finally, a series of commissioned report backs from activists and advocates speaks to a range of approaches to resisting HIV criminalization.

Cell Count would not have been possible without the advice, inspiration, friendship, mentorship, and critical responses of many people. In addition to all of the contributors to this book, we would like to especially thank all of the tireless activists and advocates whose work and conversation has informed this project: Cindy Stine, Sean Strub, Tami Haught, and Kamaria Laffrey from the Sero Project; Jennie Smith-Camejo and Arnetta Rogers from the Positive Women's Network; Edwin J. Bernard and Sylvie Beaumont from the HIV Justice Network; Shyronn Jones and Nina Martinez from the Georgia HIV Justice Coalition; Kathryn Boulton and Catherine Hanssens from the Center for HIV Law and Policy; Simone Dugal from the Sex Workers

Outreach Project LA; Charles Stephens and Marlon M. Bailey from the Counter Narrative Project; Quinn Tivey and Zakk Marquez from the Elizabeth Taylor AIDS Foundation; Reed Vreeland from Housing Works; and Gay Shame.

We would also like to thank Joshua Lubin-Levy, Ian Bradley-Perrin, Hugh Ryan, and Sur Rodney (Sur) for pointing us in the right direction from the very beginning; Cynthia Penter, Paul Couillard, Jordan Davis, Thomas Mulready, Bruce Edwards, Mike DeCapite, Jennifer Tobias at the MoMA Library, and Eleanor Blackman at Kelvin Smith Library in Cleveland for their incredible generosity and invaluable assistance in assembling and researching the work of Frank Green; T De Long for providing Chloe Dzubilo's drawings; JD Davids for putting us in touch with Brian Carmichael; Warren Beneš, Stefan Andersson, Kris Nuzzi, and Pavel Zoubok Gallery, for supporting our research on Barton Lidicé Beneš, as well as Joshua Rechnitz for generously loaning the work.

The exhibition would not have been possible without the support of Matt Nasser of La MaMa Galleria, Carl Saytor of Lux Lab, Rachel Mattson and Caroline Gil of the XFR Collective, Karl McCool, Conrad Ventur, and Brice Brown, nor would this publication be what it is without the discerning eyes of Leena Joshi, Nicholas D'Avella, and Sara Jane Stoner, or the assistance of Dan Imperato at G&H Soho, Christopher Burke Studio, Silvia Posocco, and Colin Perrin. We would particularly like to thank Aaron Fowler for his acuity and rigor in designing this publication. Finally, for granting us the opportunity to develop this project from an idea into reality, we would like to sincerely thank Alex Fialho, Esther McGowan, and Nelson Santos at Visual AIDS.



9

0

0

0

And I plant a scarlet petal on the lips of Steve Farmer, forcibly tested for HIV and serving seven years in a Seattle jail.

And I deposit petals on the tongue of Kenneth Jackson, serving two years in prison in Greenville, South Carolina for having unprotected sex with two women.

And I glide them over the breasts of Robert Stilinovich, committed to a mental institution in St. Paul, Minnesota for threatening to have sexual intercourse with others.

And I waft fragrant rose hips across the thighs of Leo B. Wells, quarantined in an Oklahoma state hospital because he might not understand the need for safe sex.

And I brush soft rosebuds against the vagina of Ann Hutchinson in Muskegon, Michigan, confined to an adult foster home for having sex with six men.

And I lick them over the penis of Alberto Gonzales, sentenced to five years of sexual abstinence and electronically monitored house arrest in Portland, Oregon.

And then I remember your young friend Jayson Wright, Nathaniel, and I feather silky, sweet-smelling rose petals into his uncombed hair, just as I have with the thousands of other inmates in our republic's jails who spend 23 hours a day in solitary confinement because they're branded with HIV.

--- CROSS-STITCH NORTH ---

Cell Count

Rendering harm in the face of HIV criminalization

Kyle Croft and Asher Mones

In 2013, the artist Camilo Godoy assembled five HIV-positive activists for a series of performances over the course of Visual AIDS' twenty-fifth anniversary exhibition *NOT OVER*. Jeton Ademaj, Reginald T. Brown, Cassidy Gardner, Robert Suttle and Michael Tikili each donated blood in front of a live audience and then used it as ink to re-inscribe the text of HIV-specific criminal statutes from across the United States. The nature of these laws varies from state to state, but the majority criminalize the act of HIV non-disclosure, placing people living with HIV at risk of prosecution and incarceration for consensual sexual activity if they don't notify their partner of their HIV status, regardless of condom use, viral load, or the actual risk of transmission.

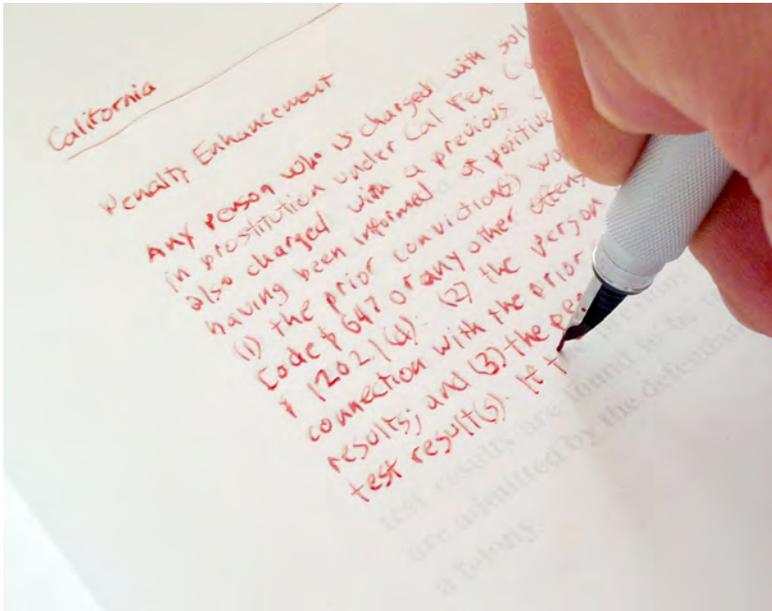
Taking these laws as a starting point, *Cell Count* grapples with mechanisms of surveillance and containment that presume guilt and intent, render bodies as weapons, and enable the incarceration of marginalized communities. Invoking both the medical and carceral in its title, *Cell Count* attends to historical and contemporary moments of collusion between these two institutions, providing an account of HIV criminalization that thinks broadly about structures of control and containment.

HIV-specific statutes were first enacted in the 1980s, when prevention was largely framed as a matter of personal responsibility and behavior modification. If high risk groups acted responsibly, the logic went, the epidemic could be held at bay. This framing suggested that people living with HIV who engaged in what was deemed high-risk behavior should be held liable for putting others at risk, but prosecutors found it difficult to apply existing assault laws to HIV because they were required to establish an intent to harm. Among the many representational battles of the culture wars was a struggle over how harm is defined. While the conservative right characterized queer sexuality and drug use as deviant and harmful behaviors, AIDS activists fiercely opposed frameworks that

suggested that engaging in such behaviors constituted criminal activity or malicious intent.¹

HIV non-disclosure laws, first enacted in Florida in 1986 and widely adopted across the United States over the next several years, short-circuited these debates by removing the requirement to establish an intent to harm and instead taking a person's serostatus as an indication of guilt.² Under non-disclosure laws, prosecutors only need to establish that a person was aware of their serostatus before engaging in sex in order to convict. The act of non-disclosure in and of itself is understood to constitute a harm, even in situations with negligible risk of transmission such as oral sex or sex with a condom. Such laws deem people living with HIV inherently guilty and culpable, providing a legal ground for discrimination, stigmatization, and incarceration, sometimes with sentences upwards of thirty years.³ Though consensual sex is always negotiated between two or more parties, these laws place the burden of responsibility on people living with HIV.

HIV criminalization also takes the form of sentence enhancement for crimes relating to sex work. In states with sentence enhancement statutes, misdemeanors related to sex work are heightened to felony



Jeton Ademaj inscribes California's sentence enhancement statute in his own blood as part of Camilo Godoy's performance, *Criminal Statutes on Human Immunodeficiency Virus "Transmission" U.S. Edition* in 2013. California passed legislation that removed sentence enhancement for crimes relating to sex work in 2017.

status when the defendant is HIV positive, resulting in up to three years of additional imprisonment. Such prosecutions are enabled by mandatory reporting laws, which require public health offices to maintain records of all HIV diagnoses that can then be shared with police and state prosecutors. As noted in a 2014 study conducted by the Williams Institute, sentence enhancement was the predominant form of HIV criminalization in California and was applied to solicitation charges even when there was no evidence of contact beyond a conversation or an exchange of money.⁴ In some states, even the possession of condoms can be used as evidence of solicitation.⁵ For trans women and other people who are already criminalized and routinely put into contact with law enforcement, merely being HIV positive and being in the wrong place at the wrong time can lead to a felony offense.

Chloe Dzubilo's *Untitled ("Don't use this corner")* (2008) illustrates the prevalence of police harassment for trans women with bitter irony. Dzubilo depicts herself being profiled as a sex worker, warned by a police officer not to use the street she's on. But Dzubilo isn't "working," as she explains in the drawing. She's doing outreach for the Positive Health Project, one of the first harm reduction organizations in New York to work directly with trans women. Practices that criminalize HIV are often framed as attempts to counter the epidemic, but the use of condoms as



Chloe Dzubilo, *Untitled ("Don't use this corner")*, 2008.
Ink on paper, 11 × 14 in.

evidence speaks to the fact that criminalization actually heightens risk and harm among people who are already facing economic and health disparities.

Pointing to this fundamental contradiction in its title, *Cell Count* centers the basic incompatibility of health and criminalization. We have approached HIV criminalization with an expanded view, understanding HIV non-disclosure laws and sentence enhancement statutes as elements of much larger systems of medicalization, surveillance, and incarceration. *Cell Count* aims to reveal HIV criminalization as absurd by unpacking and reconfiguring the metaphors and assumptions that enable it, such as the characterization of HIV as a weapon, the conflation of serostatus with guilt, and the framing of non-disclosure as harm. Linking HIV criminalization to the medicalization of homosexuality, nineteenth century experiments on enslaved women, and the Tuskegee Syphilis Study, the exhibition suggests that these laws echo a long history of medically sanctioned violence in the United States. In particular, *Cell Count* attends to moments of complicity and collusion between institutions of medicine and criminal justice to consider how biomedical metrics and epidemiological data can become grounds for incarceration.

The myth of the HIV predator

HIV criminalization is often justified through the invocation of an imagined HIV predator, a violent perpetrator who intentionally transmits HIV to unsuspecting victims. This culturally constructed archetype can be traced back to twentieth century characterizations of homosexuality as predatory and contagious.⁶ Homosexuality was pathologized as a psychiatric illness in the U.S. until 1973, “a sickness not visible like smallpox but no less dangerous and contagious—a sickness of the mind,” as one educational film described it.⁷ Anita Bryant’s 1977 “Save Our Children” campaign similarly suggested that “since homosexuals can’t reproduce, they must recruit, must freshen their ranks.”⁸ From the first reports of the epidemic, AIDS was understood to be associated with homosexuality and taken by some to confirm the contagiousness of homosexuality, lending credibility to the myth of the gay predator and providing a biological ground for notions of social hygiene.⁹

Gaëtan Dugas, better known as “Patient Zero,” is perhaps one of the most infamous incarnations of the HIV predator. In his 1987 chronicle of the epidemic, Randy Shilts attributed the outbreak of HIV in North America to Dugas, who was portrayed as a sex-obsessed flight

attendant that spread HIV wherever he went.¹⁰ This origin story, now understood to be inaccurate, suggested that the epidemic could be traced back to specific irresponsible and immoral actions.

A series of works made by Barton Lidicé Beneš titled *Lethal Weapons* (1994–96) plays off of fears surrounding such mythological predators. These works transform innocent toys and trinkets—a squirt gun, a perfume atomizer, a pacifier—into sinister weapons by arming them with the artist’s HIV-positive blood. Though they pose no actual threat (HIV cannot live outside the body for extended periods), the assemblages are presented behind wire-reinforced safety glass, mocking the often hyperbolic precautions taken around the virus in the early years of the epidemic. The title of the series suggests murderous intent, invoking



Barton Lidicé Beneš, *Lethal Weapons: Silencer*, 1994.
Mixed-media assemblage with the artist’s HIV-positive blood,
16 1/8 × 15 1/8 × 3 1/2 in.

the trope of the morally corrupt, irresponsible homosexual who knowingly spreads HIV.

Metaphorical renderings of HIV as a weapon were widespread in the first decades of the epidemic, and continue today in criminal cases where body parts and fluids are deemed deadly weapons. Prosecutors have even gone as far as considering saliva a deadly weapon, as in the cases of Gregory Smith, who Che Gossett discusses in the following essay (p. 53), and David Plunkett, who describes his own experience in the Report Back section of this publication (p. 104). These metaphors enable criminalization by overstating harm, implying intent, and assigning undue blame. By making these characterizations literal, *Lethal Weapons* was meant to render absurd discourses of criminality, contagion and guilt surrounding the virus.

When they were exhibited in Sweden, however, Beneš' humor was not well received. Local health authorities shut down the exhibition almost immediately after it opened in April 1994.¹¹ Inger Tornberg, the gallery's director, recalls that newspapers reported that the gallery was selling HIV-positive blood by the liter.¹² The official injunction from the health department echoed this emphasis on the sale of the work, acknowledging that the pieces posed no actual risk to visitors. Instead, the authorities took issue with the supposed commodification and weaponization of the virus, as if these toys might enable a heinous crime. Even Beneš' wry humor was not enough to disassociate HIV from nefarious, criminal, and murderous implications—the gallery became an armory for mythological gay killers.

Chris E. Vargas employs a similar humor in *Liberacéon* (2011), a video that revises the final days of Liberace's life to imagine how the iconic pianist might have joined the then-nascent struggle against the epidemic. Vargas tools Liberace's HIV-positive blood as a weapon in order to imagine how he might have wielded it for activist ends. After an accident in the kitchen, Liberace incorporates his blood into a glaze for a chocolate piano he makes for the Reagans, who were close friends of his. This attempt to "act up" is foiled when the chocolate piano melts in the afternoon sun, and the video ends with a morosely comedic lament from Liberace's death bed.

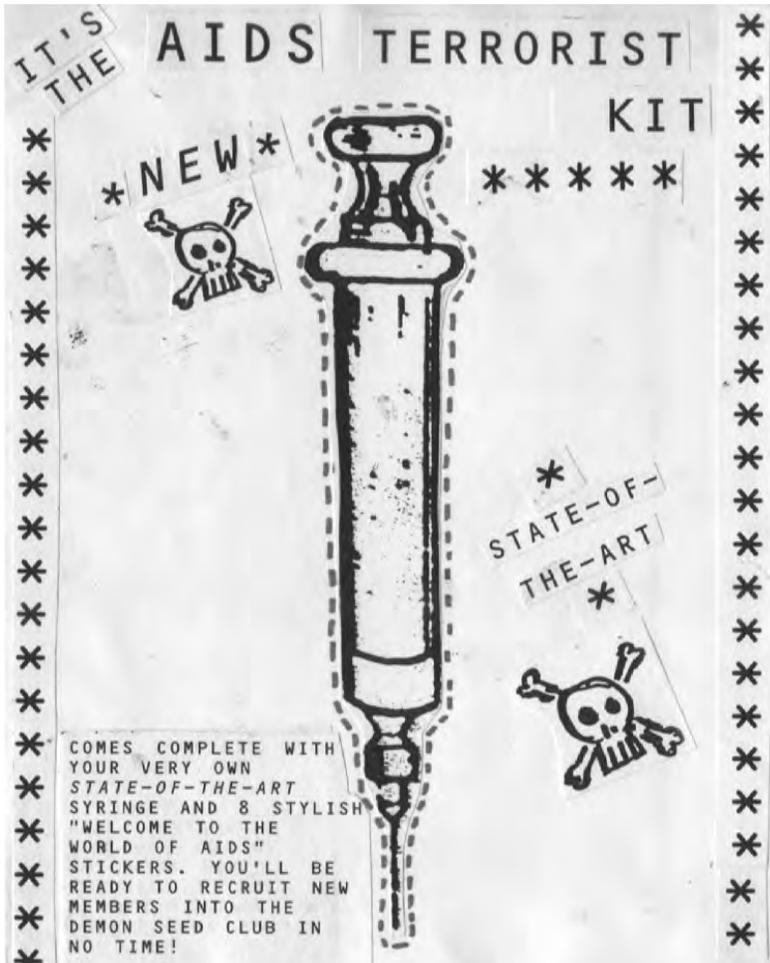
The weaponized body is further examined in Alexander McClelland's zine *Demon Seed* (1999), which fixates on the absurdity of sensationalist narratives surrounding HIV. McClelland collates headlines and newspaper clippings to demonstrate how the media and the law



Chris Vargas,
Liberación, 2011.
Video, 16 min.

collaboratively construct the mythology of AIDS predators by rendering the virus as a weapon. The zine also sardonically introduces an “AIDS terrorist kit” consisting of a “state of the art” syringe and a set of stickers to help “recruit new members into the demon seed club.” Here, however, the humor is undercut by the chilling accumulation of actual instances of punishment and incarceration of people living with HIV.

Among these headlines are several references to Nushawn Williams, a Black teenager who was accused of transmitting HIV to thirteen



Alexander McClelland, *Demon Seed*, 1999 (detail). Zine, 5 ½ × 4 ¼ in.

women in Chautauqua County, New York in 1997. Media coverage of the case depicted Williams as a “modern Typhoid Mary,” “one-man HIV epidemic,” and “superspreader,” referencing the racially tinged idea of “superpredators” prevalent at the time.¹³ This is no coincidence—as the framing of the epidemic has shifted over the past several decades to reveal its disproportionate effect on people of color, the character of the HIV predator has also shifted to incorporate racialized tropes. Williams’ trial drew attention to his race, drug use, and family history in order to characterize him as wilfully violent and morally corrupt. Little was said about the economic and social conditions of Williams’ life or the barriers he faced in accessing healthcare. Though his full twelve-year sentence was completed in 2010, Williams continues to be held in detention under the Sex Offender Management and Treatment Act, which allows the New York State Department of Justice the right to hold sex offenders indefinitely.¹⁴

In a similarly sensationalized and racially charged trial just outside of St. Louis, Missouri, Michael Johnson was sentenced to thirty years in prison for transmission of HIV in 2015.¹⁵ Johnson’s absurdly long sentence and Williams’ ongoing detention speak to recent research conducted in Nashville, which found that Black defendants were more likely to be convicted of HIV-specific crimes and more likely to receive significantly longer sentences than their white counterparts.¹⁶

As Stephen Thrasher has chronicled in his thorough and critical reporting on Michael Johnson’s trial, the prosecution emphasized Johnson’s race and the fact that the majority of his sexual partners were white, echoing racist tropes that characterize Black men as aggressive, predatory, and hyper-sexual in order to justify violence and punishment. Graphic descriptions of Johnson’s sexual encounters and even images of his penis were presented as evidence to a primarily white jury.¹⁷ Johnson himself used the nickname “Tiger Mandingo” on social media, recalling the 1975 blaxploitation film *Mandingo* about an enslaved Black man who is punished and ultimately killed for his overt virility, a narrative with unsettling parallels to Johnson’s own life. There is a long history of punishment against Black male sexuality in the United States, tracing back to lynching and anti-miscegenation laws, which outlawed interracial marriage and sex.¹⁸ Longstanding racist discourses about Black masculinity have easily adopted the rhetoric of the HIV predator, providing a new vocabulary for accusations of harm and violence.





M. Lamar, *Re-capitation or Re-membling Towards a Negro Cyborg*, 2010.
Collage on paper, 20 × 11 ½ in.

Left: M. Lamar, *Yo My Cracka*, 2016.
Video, 6:26 min.

In his video and collage work, M. Lamar scrutinizes the racialized sexual imaginaries employed in these trials, considering how photography has framed and displayed Black bodies as sexual objects. Robert Mapplethorpe's 1980 photograph *Man in Polyester Suit*, for example, has received much criticism for cropping out its Black subject's head and instead focusing attention on his large penis, perpetuating a white supremacist imagination that displaces Black subjectivity by emphasizing supposedly inherent biological traits.¹⁹

In a 2010 collage titled *Re-captitaton or Re-memembering Towards a Negro Cyborg*, M. Lamar undoes Mapplethorpe's decapitation by collaging his own head onto the photograph and replacing the figure's penis with a bullwhip. The whip, an instrument of discipline and punishment deeply associated with slavery, appears throughout Mapplethorpe's photography and in leather subcultures more broadly. Lamar's "re-memembering" collapses the iconography of slavery and the fantasy of Black male virility, gesturing towards a complex relationship between gay sexual culture, BDSM, and the afterlife of slavery.

In the video *Yo My Cracka* (2016), a young white man conducts research in a collection of photographs by Miles Everitt, a white photographer who shot hundreds of nude portraits of Black men in Los Angeles during the 1960s–1990s.²⁰ *Yo My Cracka* stages a scene in which an objectifying and white supremacist gaze is replicated and perpetuated by photography, reproducing sexual fantasies born out of slavery. Instead of condemning sexuality, though, Lamar playfully explores its potential as a field of reparation, centering his own agency in response to Everitt's photographs, which project white fantasies onto Black bodies. Lamar apprehends the young researcher, again substituting a whip for his penis and, in a nod to Mapplethorpe's famous self-sodomizing self-portrait, gives him what he's looking for.

The discourse of disclosure

A common refrain among the plaintiffs in Michael Johnson's trial was the question: "Are you clean?"²¹ This vague question functioned as a euphemism for disclosure, and was taken by the prosecutor as evidence of HIV non-disclosure. The invocation of cleanliness precludes direct and honest conversations about serostatus and safer sex practices. This conflation of hygiene and serostatus is not unique to Johnson's trial, and speaks to the fundamental binary evaluations—dirty and clean, guilty and innocent, positive and negative—that enable HIV criminalization.

Both Charles Long and Camilo Godoy note the prevalence of hygienic metaphors in their work. Long's small, intimate paper sculpture *Defined?* (2016) speaks to the conflated connotations of serostatus and cleanliness. A plus and minus sign are outwardly visible, denoting "positive" and "negative," but when opened, the tri-folded paper object reveals the meaning often given to these signs: "dirty" and "clean." The definition for "dirty" reads: "relating to sex in an indecent or offensive way," speaking to how quickly hygienic metaphors slip into evaluations of wrongdoing and guilt, pitting the safety and purity of the public against the threat of the "unclean."

Camilo Godoy's *Criminal* (2013) similarly troubles euphemisms of cleanliness by juxtaposing signifiers of hygiene with material traces of HIV. The work, a light pink bar of soap, presents itself unassumingly in the gallery. Only its wall label discloses its stakes—along with lavender and lye, the soap contains HIV-positive semen collected by the artist. Like Beneš' *Lethal Weapons*, *Criminal* stages an unexpected encounter



Charles Long, *Defined?*, 2016.
Letterpress on Arches, 3 × 5 × 3 ½ in.

with HIV that poses no actual risk of transmission. In some states, however, this work may constitute a criminal offense. In Illinois, for example, a person commits criminal transmission of HIV when:

he or she ... transfers, donates, or provides his or her blood, tissue, semen, organs, or other potentially infectious body fluids for transfusion, transplantation, insemination, or other administration to another knowing that he or she is infected with HIV.²²

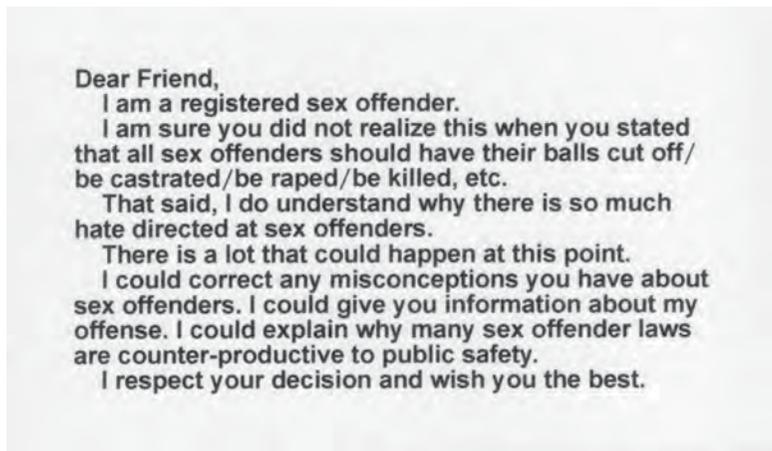
Without any consideration of intent, risk of transmission, or actual harm, such laws define people living with HIV as inherently guilty and dirty. Just as hygienic metaphors leave no room for a person with HIV to be “clean,” HIV-specific statutes frame these conversations with presumptions of criminal intent.

In his poem *The New Equation* and its accompanying poster *Silence = Sex* (p. 85), Jordan Arseneault extends this analysis of stigmatizing language, reframing HIV disclosure as a catch-22, “wherein [it] is required by law, but often leads to immediate rejection.” Centering the experiences of people living with HIV, Arseneault suggests that, in some cases, non-disclosure might be a more prudent approach. The rhetoric of HIV criminalization imagines harm originating from those living with the virus, but Arseneault speaks here to the slow violence of rejection and stigma that faces people living with HIV.

In considering the stakes of non-disclosure, Arseneault also gestures to the shifting role of visibility in the HIV and AIDS epidemics. Visibility was a key tactic of early AIDS activism, which sought to counter a deafening silence around AIDS from the federal government. In the United States, the fight against the epidemic was understood to be a fight for recognition by the government, a struggle for people living with AIDS to be seen and to count as part of the “public” of public health. But as Theodore Kerr and Risa Puleo discuss in their contribution to this catalog (p. 67), the stakes of disclosure have changed over the course of the epidemic. As HIV has become a “manageable” or “chronic” condition for those who have access to healthcare, disclosure has become a demand of the state, with little regard for the social, emotional, and economic complexities of living with HIV. Mandatory HIV disclosure unfairly places the burden of responsibility on people living with HIV while depriving them of the ability to negotiate between visibility and privacy.

In her series *Calling Cards* (2016), Laurie Jo Reynolds addresses another burden of visibility that is placed on people who have been criminalized for living with HIV—the sex offender registry. In Louisiana, Ohio, South Dakota, Tennessee, Arkansas and Washington, HIV-related offenses warrant registration on sex offender registries, making housing, employment, and travel near impossible, as well as complicating access to care for people living with HIV.²³ Registered sex offenders are made hyper-visible: they are labeled as such on their drivers licenses, their mugshots are published online, and they are required to notify their neighbors of the nature of their conviction, exposing people who are already marginalized to further violence and discrimination.²⁴

Each of Reynold's small works confronts the viewer with short statements disclosing a hypothetical subject's status as a sex offender. The cards draw attention to the stakes of perception and visibility, giving form to heavy and consequential speech acts.²⁵ Through a personal and articulate appeal, each card challenges the recipient's assumptions about people who have been labelled sex offenders by the state. Reynolds draws attention to the conditions and situations that lead to sex-related convictions, to the harsh and inhumane restrictions that sex offender registries enforce, and to the unending nature of these punishments that are imposed on people who have served their sentences. Reynolds' cards call on viewers to think critically about stigma, labeling, and the lived realities of the formerly incarcerated.²⁶



Laurie Jo Reynolds, *Dear Friend*,
from the series *Calling Cards*, 2008–ongoing.
Text on union-printed business cards, 2 ½ × 3 in.

Doctors of deceit

In addition to the mandate of HIV non-disclosure laws and sex offender registries, disclosure is enforced by public health officials through policies of mandatory reporting and contact tracing. In a case study of publicly funded health clinics in Michigan, Trevor Hoppe describes how public health officials maneuver around patient confidentiality laws in order to investigate people living with HIV who they suspect might not have disclosed their status. Contact tracing, a public health strategy that seeks to identify and contact the sexual partners of people recently diagnosed, is technically voluntary, but patients are often pressed for this information while still processing the news of their diagnosis. Though confidentiality is protected on both the state and federal level, restricting doctors from notifying their patients' sexual partners without consent, Hoppe notes how healthcare providers use coercive language and even direct threats to pressure patients into disclosure. In at least one case, such forced disclosures have led to criminal prosecution, suggesting that medical surveillance can easily shift from epidemiological data gathering to an extension of the prison industrial complex.²⁷

In his 1993 performance *The Scarlet Letters*, Frank Green considers these practices and his own experiences with public health authorities. In an early scene, a public health official harangues Green, whose name had been submitted to the department on a list of sexual contacts by a person who had tested positive for HIV. When Green refuses to subject himself to testing, the public health officer threatens to place restrictions upon him to "protect the public's health." Mandatory reporting and contact tracing were relatively new public health strategies at that point, becoming a key part of the CDC's agenda against the epidemic in 1990.²⁸ These policies were uneasily received among AIDS activists, who understood that a government registry of HIV-positive people would enable containment and punishment.²⁹

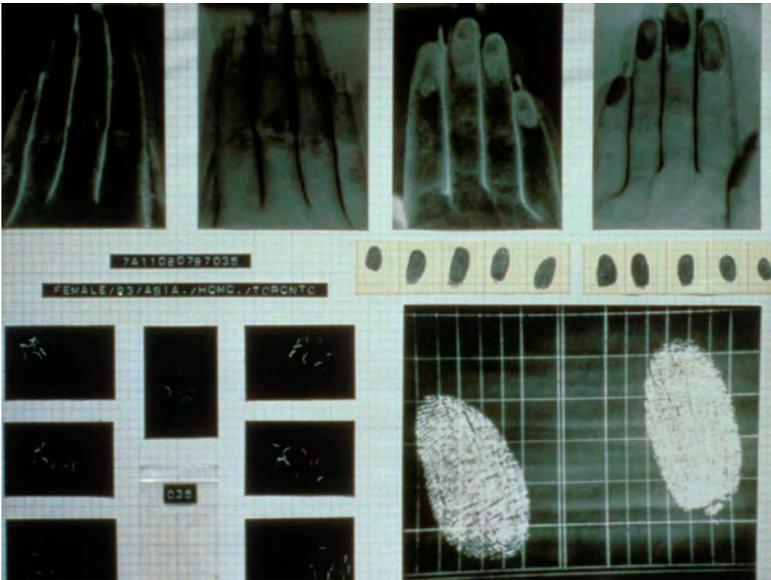
Calling upon Nathaniel Hawthorne's critique of puritanical and hypocritical American values in his novel *The Scarlet Letter*, Green suggests that HIV testing functions similarly to the badge of shame that Hester Prynne, Hawthorne's protagonist, is forced to wear after being convicted of adultery. Green was painfully aware of the social and legal consequences of disclosure, having tested HIV positive in 1988. He conducted extensive research during the development of this performance, collecting over fifty published reports of legal action

taken against people living with HIV between 1990 and 1992. The cases he notes range from employment discrimination, denied travel visas, criminal transmission, forcible testing, enforced abstinence, and the refusal of medical care. *The Scarlet Letters* couples Green's distrust of medical authority with his research on early HIV criminalization to suggest that the very institutions charged with ending the epidemic sometimes ultimately punish those living with HIV and AIDS.



Frank Green, *The Scarlet Letters*, 1993.
Performance at the Cleveland Public Theater, 1997.





Frank Green, *Anonymous Test Site*, 1997.
Participatory performance and installation,
Cleveland State University Art Gallery, 1997.

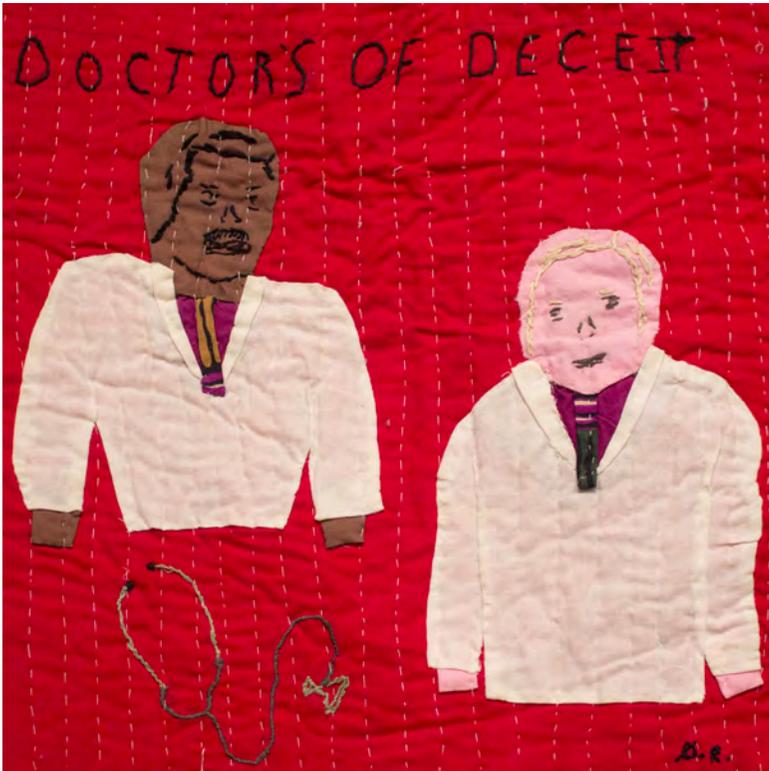
With a later participatory performance and installation project titled *Anonymous Test Site* (1997), Green further considers how HIV testing functions as a form of surveillance. The work ushers audiences through the testing process for an imagined disease, a thinly disguised analogue for HIV that is transmitted by touch. Each participant is subjected to fingerprinting, imaging, nail clipping, and counseling by a doctor. Tired prevention slogans are recast for the new disease: “safe touch” is emphasized, patients are encouraged to make latex gloves “fun!” and reminded that “when you touch someone, you touch everyone they ever touched.” When audience members are finally presented to the doctor for counseling, they are forced to kneel before him while their hands are shackled and presented for inspection. Ostensibly working in the interest of each patient’s health, the doctor (performed by Frank Green himself) is scripted to casually shame and admonish. By recontextualizing the morality of sex, drug use and “risky behavior” through the benign act of touching, Green depicts the clinic to be a place of forced confession, discipline, and surveillance, where patients are routinely patronized, castigated, shamed.

Similar experiences are addressed in two autobiographical illustrations by Chloe Dzubilo that depict care providers violating physical and ethical boundaries. In one drawing, a nurse mentions patient confidentiality protections, which are meant to restrict healthcare providers from speaking to others about their patients. Dzubilo’s written commentary in response to her nurse’s gossiping—boy oh boy can they—speaks to the failure of such restrictions to actually protect marginalized bodies. As a trans woman living with HIV, Dzubilo’s ability to navigate visibility, disclosure, and privacy carried high stakes, especially in institutions that continually medicalized and pathologized trans identity.

Frank Green and Chloe Dzubilo’s characterizations of the clinic as a space of compulsory disclosure and forcible exposure are echoed in a recent campaign by the New York City Department of Health. Titled “Bare It All,” it speaks to an admirable effort to empower queer people to find healthcare providers that they are comfortable with. As an imperative, however, it echoes the mandate that many states and care providers place upon people living with HIV to disclose their status. In a country where people are routinely apprehended by the state for their sexual activity, drug use, and serostatus, baring it all isn’t always worth the risk.

The work of Doreen Garner and Dr. Muhjah Shakir speaks powerfully to the roll of medicine in histories of slavery and white supremacy. As both artists note, race heavily mediates access to and quality of healthcare in the United States. Their work makes visible the ongoing and historical racial violence carried out under the auspices of medicine.

Doreen Garner dissects the career of J. Marion Sims, the “father of modern gynecology” who developed surgical techniques through gruesome and often public experiments on enslaved and purposefully unanesthetized women.³⁰ The institutions of slavery and white supremacy rendered these women as flesh, property from which labor, knowledge, and life itself could be extracted. Histories of medicine and race in the United States are deeply entwined, not only because slavery provided raw flesh for medical experimentation, but also because medicine provided white supremacy with the illusion of objectivity and



Muhjah Shakir, *The Tuskegee Bioethics Community Quilt Project*, 2006 (detail). Quilt made in collaboration with women in Tuskegee, Alabama, 84 × 84 in.

empiricism. Biological accounts of race, now understood to be scientifically false, argued that racial difference extends from discrete genetic differences. These accounts, drawing on evolutionary theory, justified slavery by perpetuating racist beliefs that people of African descent have a higher threshold for pain and are capable of more physical labor.³¹

Garner's sculptures depict the Black body torn open and rendered flesh, presenting forms that are both meticulously adorned and viscerally evocative. Even as she forces direct confrontation with the carnage and violence of white supremacy, Garner attends to the bodies she displays with exquisite craft. In *Bondage* (2016), pearls and Swarovski crystals luxuriate, and the impeccable craftsmanship of these sculptures draws viewers in while reminding them of the violence of their gaze. Beyond representing harm, Garner's work seeks to make space for resistance and agency, allowing bodies to become more than objects of medical experimentation. In *Untitled (Strange Fruit)*, a fleshy mass is suspended by rope, recalling the violence of lynching. This body is armed, though, with needles, providing it with a form of defense that shifts the terms of its display. It is no longer merely a victimized object, vulnerable to further dissection.

The violence that Garner identifies at the heart of medical knowledge and practice in the nineteenth century has continued to be perpetuated in the United States. Perhaps one of the most widely known instances of scientifically sanctioned racial violence is the Tuskegee Syphilis Study, conducted between 1932 and 1972. The study subjected over 600 men, most of whom had been diagnosed with syphilis, to medical surveillance in order to observe the natural progression of the disease. Though penicillin was found to be an effective treatment for syphilis in 1945, none of the men enrolled in the study were ever treated over the following twenty-seven years of the study—some were even stopped from accessing nearby syphilis treatment programs. When the unethical practices of the study were brought to light in 1972, only seventy-four of the original test subjects were alive. In 1997, President Clinton offered an official apology and a settlement of ten million dollars was awarded to participants of the study and their families.³²

In 2004, Dr. Muhjah Shakir began the Bioethics Quilt Project to bring together women in Tuskegee to consider the lingering impact of the study in their community. Responding to the silence surrounding the study in Tuskegee, Shakir's project aimed to share stories among community members and to collectively produce objects from their

Doreen Garner, *Untitled (Strange Fruit)*, 2016.
Silicone, dressmaker pins, hair weave, surgical
instruments, twine, 20 × 11 × 15 in.



experiences in order to stimulate public dialogue about the history of the study and the current state of medical inequality in communities of color in the American South.³³

Though Garner and Shakir address instances of medical violence that predate the AIDS epidemic, their insights into the relationships between race, gender, medicine, and violence provide a critical context for contemporary practices that criminalize people living with HIV. As early AIDS activists argued, institutions of medicine and public health are neither objective nor apolitical, and social biases are reflected in the way that medical knowledge is produced, disseminated, and administered. Garner and Shakir ask questions about who benefits from medical knowledge, linking slavery to contemporary medical practices that count some bodies as valuable and others as disposable. This historical perspective helps explain why both the HIV epidemic and practices of HIV criminalization disproportionately impact people of color, exposing institutions of medicine as complicit in the containment and punishment of Black bodies.

Practices of resistance

Though it is often framed with references to prevention and public health outcomes, there is little to suggest that HIV criminalization has had any positive impact on public health. To the contrary, the prison industrial complex has exacerbated the HIV and AIDS epidemics. Prisoners are routinely denied medication and safer sex supplies, subjected to mandatory HIV testing, and segregated from other inmates or placed in solitary confinement simply because of their HIV status.³⁴ The incommensurability of health and incarceration has been a rallying point for incarcerated AIDS activists such as Brian Carmichael, who achieved significant victories by organizing with fellow prisoners to demand treatment and care while incarcerated in Vacaville, California in 1992.³⁵ Carmichael was one of several prisoners who organized medical boycotts, writing campaigns, and hunger strikes in response to deplorable conditions for people living with HIV. Carmichael recalls that all prisoners living with HIV were segregated into a separate wing, and with little to no care from prison staff or healthcare professionals, deaths were a daily and public ordeal. Through continued campaigning and organizing, Carmichael and his fellow prisoners eventually succeeded in establishing the first federally funded hospice in a U.S. prison in 1996.³⁶

Now held at the Elmira Correctional Facility in upstate New York, Carmichael continues to advocate for prisoners living with HIV and hepatitis C as a peer educator.³⁷ Carmichael's creative practice transforms the limited materials at his disposal—toilet paper, highlighters, and pads of paper—into intricate paintings and sculptures that he sends to friends and loved ones on the outside.

In a parallel practice of reclamation and transformation, Chad Clarke's *Throwing Stones* (2018) speak to rebuilding life after incarceration. These sculptures recall the First Nations tradition of building inukshuk, or stone stacks, as a form of communication and wayfinding. He has built hundreds of these stone structures and understands the act as a meditative and ritualistic practice of balancing, grounding, and rebuilding in the wake of incarceration. Clarke was convicted and incarcerated for HIV non-disclosure in 2008. Since his release, he has become an outspoken activist, working alongside Alexander McClelland and other advocates in the Canadian Coalition to Reform HIV Criminalization.³⁸

In December 2017, after persistent advocacy work by Clarke and other activists, the Ontario attorney general released new guidelines that

advise against prosecuting people with undetectable viral loads for non-disclosure.³⁹

The coalition continues to seek deeper and broader reforms to limit prosecutions to cases of actual, intentional transmission, but this incremental progress speaks to the growing success of the movement against HIV criminalization. As discussed in the Report Back section of this publication, advocates in California and Colorado have also recently had success in reforming and modernizing HIV-specific statutes in their states, and organizations such as the Sero Project and



Chad Clarke, *Throwing Stones*, 2018.
Balanced stones, dimensions variable.

the Positive Women's Network have done much to build a nationwide movement against HIV criminalization.

By considering the long history of the medicalization and containment of marginalized bodies, we have aimed to understand HIV criminalization as intrinsically linked to larger systems of surveillance and incarceration. *Cell Count* interrogates institutions of medicine and public health in order to highlight historical patterns of complicity and collusion that have enabled the containment and control of bodies deemed to be harmful or unhealthy, noting that these evaluations often fall along racialized lines. While this expansive account suggests, on the one hand, that HIV criminalization is nothing new and not easily dispelled, it also speaks to the myriad forms of resistance and activism that can be leveled against it. Beyond utilizing visual practices to think through the legal, rhetorical, and medical conditions that enable HIV criminalization, *Cell Count* champions the determined and unflagging work of activists and advocates who are fighting HIV criminalization and related practices of policing and containment.



Kyle Croft is the Programs Assistant and Day With(out) Art Project Manager at Visual AIDS and a Curatorial Project Assistant at the Whitney Museum of American Art. He is a graduate student in Art History at Hunter College, where he researches the role of visibility and imperceptibility as political tactics during the 1980s and 1990s. He has assisted with exhibitions at the Museum of Modern Art, the Whitney Museum of American Art, the New Museum, and the MIX Queer Experimental Film Festival.

Asher Mones is the Special Events Coordinator for Development at Housing Works, where he works with a community of people fighting to end the dual crises of AIDS and homelessness. He holds a BFA from the Cooper Union School of Art (2015) and has assisted with curatorial projects at P!, Project Projects, Locust Projects, and Visual AIDS, in addition to developing his own video and sculpture practice.

Notes

- 1 Besides HIV-specific statutes, a number of juridical processes were developed by the conservative right at this time to criminalize people living with HIV and practices believed to be associated with the epidemic. Take, for example, the shuttering of bathhouses, gay bars, and porn theaters by city administrators in San Francisco and New York in 1985, or the attacks on the National Endowment for the Arts and "obscene" art by Republicans such as Jesse Helms.
- 2 For a detailed account of the development of HIV criminalization laws, see Trevor Hoppe, *Punishing Disease: HIV and the Criminalization of Sickness* (Oakland, California: University of California Press, 2017). For more on Florida House Bill 1313 (1986), see Lacey A Satcher, "Positively Criminal: Examining Florida's HIV Criminal Law" (Vanderbilt University, 2017), <https://etd.library.vanderbilt.edu/available/etd-08102017-152233/unrestricted/SatcherL-1.pdf>.
- 3 Both Michael Johnson, discussed later in this essay, and Kerry Thomas, who is on the Board of Directors of the Sero Project, were sentenced to thirty years in prison for acts of consensual sex. Jacob Anderson-Minshall, "Breaking: Kerry Thomas HIV Criminalization Appeal Dismissed," *Plus*, May 5, 2016, <http://www.hivplusmag.com/stigma/2016/5/05/breaking-kerry-thomas-hiv-criminalization-appeal-dismissed>.
- 4 The study found that ninety percent of HIV-related convictions in California between 1988 and 2014 took the form of sentence enhancement. As Thandi Harris and Craig Pulsipher discuss in the Report Back section of this publication, after continued advocacy efforts, California passed legislation that removed sentence enhancement for crimes relating to sex work in 2017 (p. 96). See Amira Hasenbush and Brian Zanoni, "HIV Criminalization in California: Evaluation of Transmission Risk" (The Williams Institute, University of California School of Law, 2016), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/HIVCriminalization.EvaluationofTransmissionRisk.2016.pdf>.
- 5 A 2012 study by the Human Rights Watch outlines how police in New York, Washington, D.C., Los Angeles, and San Francisco use condoms as evidence in order to arrest and prosecute people believed to be sex workers. The study notes that such arrests are often the result of the profiling of marginalized bodies, particularly trans women, and found that fear of arrest deterred some sex workers from carrying condoms altogether. In 2013, the No Condoms as Evidence Coalition successfully passed A2736, a bill prohibiting the use of condoms as evidence, in the New York State Assembly. The bill stalled in the state Senate, but continued organizing resulted in a statement from the New York Police Department announcing that it would no longer seize condoms as evidence of sex work, while allowing the practice to continue for cases involving alleged trafficking. See Human Rights Watch, "Sex Workers at Risk: Condoms as Evidence of Prostitution in Four US Cities," 2012, <https://www.hrw.org/report/2012/07/19/sex-workers-risk/condoms-evidence-prostitution-four-us-cities>; Sienna Baskin and Andrea Ritchie, "No Condoms as Evidence Bill Passes New York State Assembly," June 21, 2013, https://swp.urbanjustice.org/sites/default/files/20130621-no-condoms-as-evidence-release_1.pdf; Marc Santora, "New York Police to Limit Seizing of Condoms in Prostitution Cases," *The New York*

- Times*, May 12, 2014, <https://www.nytimes.com/2014/05/13/nyregion/new-york-police-to-limit-seizing-of-condoms-in-prostitution-cases.html>.
- 6 In the early twentieth century, sensationalized criminal cases such as the trial of Leopold and Loeb in 1924 set the stage for the rest of the century, casting homosexuals as criminal, duplicitous, and even murderous. Nathan Leopold and Richard Loeb, two young gay men in Chicago, were tried for murdering a fourteen year old boy in 1924. The prosecution cited their homosexuality in arguing for the death sentence, suggesting that their violence extended from their homosexual tendencies. Tom Kalin's 1992 film *Swoon* is a fascinating revisitation of the Leopold and Loeb case and queer criminality in the midst of the AIDS epidemic. Stuart Marshall's 1986 video *Bright Eyes* investigates the historical use of phrenology in constructing queerness and AIDS as criminal traits. For an account of the development and impact of criminal queer archetypes, see Joey L. Mogul, Andrea J. Ritchie, and Kay Whitlock, *Queer (In)Justice: The Criminalization of LGBT People in the United States* (Boston, Mass; Enfield: Beacon Press, 2012). On the pathologization of homosexuality, see Jack Drescher, "Out of DSM: Depathologizing Homosexuality," *Behavioral Sciences* 5, no. 4 (December 4, 2015): 565-75.
 - 7 Sid Davis, *Boys Beware* (Sidney Davis Productions, 1961).
 - 8 Mogul, Ritchie, and Whitlock, *Queer (In)Justice*, 31.
 - 9 This rhetoric of predatory homosexuality is evident in *Bowers v. Hardwick*, the 1986 Supreme Court case that upheld the constitutionality of sodomy laws, which found that homosexual sex could not be protected as a private act because it posed a threat to the population at large, propagating a social illness. In some states, sodomy remained illegal until 2003, when the Supreme Court found such laws to be unconstitutional. Mogul, Ritchie, and Whitlock, *Queer (In)Justice*, 72.
 - 10 Randy Shilts, *And the Band Played on: Politics, People, and the AIDS Epidemic* (New York: St. Martin's Press, 1987).
 - 11 The exhibition was held at Anders Tornberg Gallery in Lund, Sweden. The case went to court, with a ruling in favor of the gallery, but the court's decision stipulated that the work be sterilized in an autoclave. After being heated to 160 degrees for two hours, a certificate was presented to the gallery guaranteeing that the blood was benign. Barton Lidicé Beneš, *Curiosa: Celebrity Relics, Historical Fossils, & Other Metamorphic Rubbish* (New York: Harry N. Abrams, 2002), 126; Barton Lidicé Beneš, "Cremation Sensation," *POZ Magazine*, January 1, 1997, <https://www.poz.com/article/Cremation-Sensation-12445-3969>.
 - 12 Kelsey Padgett, *Blood*, Radiolab, August 1, 2013, <https://www.podtrac.com/pts/redirect.mp3/audio.wnyc.org/radiolab/radiolab073113.mp3>.
 - 13 Lisa Kennedy, "The Miseducation of Nushawn Williams," *POZ Magazine*, August 21, 2000, <https://www.poz.com/article/The-Miseducation-of-Nushawn-Williams-1380-9216>; Thomas Shevory, *Notorious H.I.V.: The Media Spectacle of Nushawn Williams* (Univ. of Minnesota Press, 2004), 16.
 - 14 Melinda Miller, "Nushawn Williams Loses Bid to Be Released from Civil Confinement," *The Buffalo News*, May 7, 2016, <http://buffalonews.com/2016/05/07/nushawn-williams-loses-bid-to-be-released-from-civil-confinement/>.
 - 15 For context, voluntary manslaughter carries a maximum prison term of fifteen years in Missouri, half of Johnson's original sentence. In late 2016, an appeals court ordered that Johnson be retried due to the state prosecutor withholding evidence until the first day of the trial. In 2017, Johnson accepted a plea deal reducing his sentence to 10 years. In April 2018, he was granted parole and he is expected to be released in October 2019. Steven Thrasher, "'Tiger Mandingo,' Who Once Faced 30 Years In Prison In HIV Case, Gets Parole," BuzzFeed, April 9, 2018, <https://www.buzzfeed.com/steventhrasher/tiger-mandingo-hiv-michael-johnson-parole>.
 - 16 Carol L. Galletly and Zita Lazzarini, "Charges for Criminal Exposure to HIV and Aggravated Prostitution Filed in the Nashville, Tennessee Prosecutorial Region 2000-2010," *AIDS and Behavior* 17, no. 8 (October 2013): 2624-36.
 - 17 Steven Thrasher, "'Tiger Mandingo' Found Guilty In HIV Case, Faces Life In Prison," BuzzFeed, May 14, 2015, <https://www.buzzfeed.com/steventhrasher/tiger-mandingo-found-guilty-in-hiv-case-faces-life-in-prison>.
 - 18 As Thrasher notes, "the last anti-miscegenation law, outlawing marriage or sexual relations between different races, was not struck from the books until 2000, when more than 40% of Alabama voters cast

- their ballots to keep the law in the state constitution.” Steven Thrasher, “How College Wrestling Star ‘Tiger Mandingo’ Became An HIV Scapegoat,” BuzzFeed, July 7, 2014, <https://www.buzzfeed.com/steventhrasher/how-college-wrestling-star-tiger-mandingo-became-an-hiv-scap>.
- 19 Kobena Mercer, “Reading Racial Fetishism: The Photographs of Robert Mapplethorpe,” in *Welcome to the Jungle* (London: Routledge, 1994), 171–220.
 - 20 Everitt’s archives are housed at the ONE National Gay & Lesbian Archives at the USC Libraries in Los Angeles, where the video was shot. *Yo My Cracka* was also exhibited at ONE alongside photographs by Everitt hung backwards, “denying the fetishist’s gaze.” “M. Lamar: Funeral Doom Spiritual,” ONE National Gay & Lesbian Archives at the USC Libraries, April 15, 2016–July 30, 2016, <https://one.usc.edu/exhibition/m-lamar-funeral-doom-spiritual>.
 - 21 Steven Thrasher, “How College Wrestling Star ‘Tiger Mandingo’ Became An HIV Scapegoat.”
 - 22 “HIV Criminalization in the United States: A Sourcebook on State and Federal HIV Criminal Law and Practice” (The Center for HIV Law and Policy, 2017), <https://www.hivlawandpolicy.org/sourcebook>, 139.
 - 23 “Sex Offender Registration,” The Center for HIV Law and Policy, accessed April 22, 2018, <https://www.hivlawandpolicy.org/issues/sex-offender-registration>.
 - 24 For full breakdown of state by state requirements, see “Fifty State Survey of Adult Sex Offender Registration Requirements” (American University, Washington College of Law, 2009), <https://www.hivlawandpolicy.org/resources/fifty-state-survey-adult-sex-offender-registration-requirements-brenda-v-smith-american>.
 - 25 The cards reference Adrian Piper’s *My Calling (Card)*, first produced in 1986 to allow the mixed-race artist to quietly and powerfully disclose her racial identity to people who understood her to be white.
 - 26 Human Rights Watch, “No Easy Answers: Sex Offender Laws in the US,” 2007, <https://www.hrw.org/report/2007/09/11/no-easy-answers/sex-offender-laws-us>.
 - 27 Hoppe, 74–77.
 - 28 Peter Baldwin, *Disease and Democracy* (University of California Press, 2007), 67.
 - 29 The gay hookup app Grindr has recently come under similar criticism for sharing users’ HIV status and location data with marketing companies. For a powerful reflection on Grindr’s failure to protect users privacy and the experience of being surveilled, tracked down, and confronted by public health authorities, see Abdul-Aliy A. Muhammad, “Grindr of Gears: An App for the Surveillance State,” The Gran Varones, April 2, 2018, <https://thegranvarones.com/post/172539390721/grindr-of-gears-an-app-for-the-surveillance>.
 - 30 Deirdre Cooper Owens, *Medical Bondage: Race, Gender, and the Origins of American Gynecology* (Athens: University of Georgia Press, 2017), 69.
 - 31 Rutledge M. Dennis, “Social Darwinism, Scientific Racism, and the Metaphysics of Race,” *The Journal of Negro Education* 64, no. 3 (1995): 243–52.
 - 32 James H. Jones, *Bad Blood: The Tuskegee Syphilis Experiment* (New York: Free Press, 1981); Harriet A. Washington, *Medical Apartheid: The Dark History of Medical Experimentation on Black Americans from Colonial Times to the Present* (New York: Anchor, 2006).
 - 33 Ira Flatow, “Black Americans and Medicine,” *NPR*, March 23, 2007, <https://www.npr.org/templates/story/story.php?storyId=9105953>.
 - 34 Michelle Potts, “Regulatory Sites: Management, Confinement and HIV/AIDS,” in *Captive Genders: Trans Embodiment and the Prison Industrial Complex*, by Eric A. Stanley and Nat Smith (AK Press, 2011), 105.
 - 35 Victoria Law, “‘Out of Flames and Fear’: How People With HIV Forced California to Reform HIV Care in Prisons,” The Body, May 24, 2017, <http://www.thebody.com/content/79948/out-of-flames-and-fear-how-people-with-hiv-forced-.html>.
 - 36 John F. Linder et al., “Prison Hospice and Pastoral Care Services in California,” *Journal of Palliative Medicine* 5, no. 6 (December 1, 2002): 903–8.
 - 37 Victoria Law, “AIDS Activist Brian Carmichael Reflects on Prison Health Care Then and Now,” The Body, August 2, 2017, <http://www.thebody.com/content/80277/aids-activist-brian-carmichael-reflects-on-prison-.html>.
 - 38 For more on the work of the Canadian Coalition to Reform HIV Criminalization, see Alexander McClelland’s report back on page 107 of this publication.
 - 39 Canadian Coalition to Reform HIV Criminalization et al., “An Important, Modest Advance on World AIDS Day,” December 1, 2017, <http://www.hivcriminalization.ca/download/123/>.

We will not rest in peace

AIDS activism, Black radicalism, queer and/or trans resistance

Che Gossett

We are living in a time in which more than ever, as James Baldwin presciently wrote in his beautifully moving open letter to then imprisoned Black radical Angela Y. Davis, “Americans ... measure their safety in chains and corpses”.¹ We are living in a time of “chains and corpses,” death, loss and mourning, of outrage and activism in response to mass incarceration, mass detention and deportation, HIV criminalization, AIDS phobia and the ongoing AIDS epidemic, anti-queer and anti-trans police violence. Mass incarceration is the normalized backdrop on which the ideological screen of “post-racial” neoliberalism is projected. The carceral and military industrial complexes are figured as necessary institutions safeguarding the American neoliberal scene and as providing a haven for “diversity” through the enforcement of



Members of ACT UP Philadelphia marching during Pride, c. 1990.

“hate crime” legislation and Don’t Ask, Don’t Tell. Is this the dream of inclusion?

The prison industrial complex and the persisting AIDS epidemic are tied together within a broader history of criminalization of and medical malign neglect towards our communities—of color, queer, transgender, gender non-conforming, poor, and disabled. I make the case that in the face of continued HIV criminalization, the war on drugs and the rendering of the political, along with the just, captive to the carceral, HIV/AIDS prevention and treatment are best addressed in the register of PIC abolitionism. In particular, I highlight how inside/outside organizing against homophobia and for medical services by ACT UP members such as Gregory Smith and Kiyoshi Kuromiya force us to rethink AIDS activism, Black and queer liberation, and anti-prison activism as interlaced. Thus, queer and/or trans liberationist, AIDS activist, and prison abolitionist critiques converge in the struggle for the decriminalization of HIV/AIDS as a crucial component of AIDS and abolitionist activism. Inside/outside AIDS activism, including by queer and/or trans activists of color, is one important optic through which to examine this legacy. The inside/outside history of AIDS activism seems especially relevant if we consider past forms of criminalization and securitization—from the HIV prison camp at Guantanamo during Clinton’s presidency to the Jesse Helms-inspired HIV travel ban—and considering the present moment in which segregation of HIV-positive prisoners continues in South Carolina as well as emergent scholarship on the ways in which mass incarceration, criminalization of sex work, and drugs have all escalated HIV/AIDS. While scholarship about AIDS activism is often retrospective, there is also a need for scholarship that addresses the (con)temporality of AIDS and ongoing AIDS activism.

HIV: the history of a criminalization

Thanks to powerful media activism and journalism by AIDS activists and advocates we now have a clearer picture of the history of the criminalization of HIV. In June 1988, the Presidential Commission on the HIV epidemic published a report calling for legislation on criminal non-disclosure (not disclosing HIV status before sexual activity) that should contain HIV-specific criminalization laws. The commission recommended HIV-specific statutes that would “provide clear notice of socially unacceptable standards of behavior specific to the HIV epidemic and tailor punishment to the specific crime of HIV transmission.”²

The report recommendations were echoed in the 1990 Ryan White Care Act, which stipulated that states have the “affirmative responsibility” to implement laws around criminal disclosure in order to receive federal money for HIV/AIDS care and education:

Two years later, Congress added its voice to the call for criminalization when it passed the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (the CARE Act), which mandated that states prove the adequacy of their laws for criminal prosecution of intentional transmission of HIV before they could receive federal funding for HIV/AIDS prevention. By 1993, almost half the states had HIV-specific criminal legislation.³

Interestingly, HIV criminalization model legislation (proposed legislation and/or legal frameworks/paradigms for state and jurisdictions) was created by the American Legislative Exchange Council (ALEC) which pushed for voter ID and stand your ground legislation that was put in the media spotlight after the police killing of Trayvon Martin. As investigative journalist Todd Heywood reports, HIV criminalization laws emerged at the nexus of political conservatism, AIDS panic, and corporate power:

In the late fall of 1988, state lawmakers and representatives from major insurance and pharmaceutical companies were hard at work addressing the looming AIDS crisis for the American Legislative Exchange Council, a conservative-leaning think tank that produces state-based business-friendly model legislation. The efforts of ALEC’s AIDS policy working group were published that year in a 169-page book containing thirteen HIV-specific legislative recommendations. Some of those model laws would, after becoming real state laws, go on to effectively criminalize the behavior of people living with HIV and perpetuate a lasting stigma against HIV-positive people.⁴

The war on drugs—as a moral, racialized, classed and police-militarized enterprise—intensified and escalated the AIDS epidemic through zero-tolerance policies, mandatory minimum sentences, and by creating unsafe and vulnerable conditions for injection drug users. As the 2012 report by the Global Commission on Drug Policy attests, the war on

drugs effectively led to a situation in which resources are now being used for law enforcement instead of HIV prevention, where syringe sharing has increased, and where resources have been divested from public health interventions.⁵ It has fueled the AIDS epidemic and been a central mechanism driving what might be understood as both mass (in terms of sheer volume) and hyper (in terms of concentration) incarceration rates facing poor Black communities throughout the United States. As Steve Martinot argues, the war on drugs “is a metaphoric war since a war cannot be fought against substances but only against people.”⁶

The carceral as a site of struggle

The United States is not only the world’s leading “prison nation” but it is also a leader in HIV criminalization. HIV criminalization has also resulted in another harmful phenomenon often referred to as “take the test and risk arrest,” which describes how many people are now avoiding HIV testing so as not to be penalized under HIV disclosure laws.⁷ Revisiting the legacies and genealogies of queer and/or trans resistance and inside/outside AIDS activism, including organizing against the prison industrial complex by incarcerated AIDS activists, Black queer and transgender liberationists, we can see how the carceral has always been a site of struggle.

Incarcerated AIDS activists—from David Gilbert of the Weather Underground, who co-founded an HIV peer education program following the death of queer Black Liberation Army member Kuwasi Balagoon, to the 1992 medication strikers at CMF Vacaville—have courageously fought for AIDS services and medical care within penal institutions across the United States (and the world).⁸ AIDS is framed as a threat to the internal order of the total institution of the prison, as opposed to a threat to the survival of those struggling to survive within its confines.⁹ The history of inside/outside AIDS activism speaks to the resistance that continues to thrive even as the prison industrial complex continues its abysmal aim of extinguishing civic life and enacting of “social death,” even as structures of sociality and survival are repressed and denied within as well as outside the prison, through the racist architecture of what Michelle Alexander refers to as the “new Jim [and I would add Jane] Crow.”¹⁰ Collaborative efforts by AIDS activist groups and anti-prison organizations represent a dual mode of political response to the prison and medical establishment as well as advocacy for immediate implementation of standards of care, on the one hand, and resistance to

the historical and institutionalized forces that produce prisons (racism, ableism, heteropatriarchy, classism, transphobia, homophobia, etc.), on the other.

These intersections are well reflected in the overlaps between radical social movements on the issue of AIDS. The fact that in most historiography, queer, Black liberationist and decolonial movements are considered parallel but separate constitutes an act of epistemic and archival violence that invisibilizes the contributions and theorizations of queer of color activists—especially political formations (however short lived) such as “Third World gay revolutionaries.” Kiyoshi Kuromiya participated in and was radicalized as part of the Black freedom struggle during the period of the Civil Rights Movement—a chrono-political designation that James Baldwin called a “misnomer” (a more accurate description for him was “the latest slave rebellion”)—as well as in anti-war activism and queer liberation.¹¹ In March 1965, Kuromiya, while marching with Martin Luther King Jr., Fred Shuttlesworth, and countless others, was attacked by the volunteer mounted posse of Montgomery, AL Sheriff Mac Sim Butler and hospitalized. Underlining the continuity of anti-Black police violence in that historical moment, and illustrative of how such violence travels and concretizes in white supremacist institutional memory, the current Montgomery, Alabama jail is named the Mac Sim Butler Detention Facility. Placed under FBI surveillance during COINTELPRO, a government program aimed at infiltrating and disrupting activist organizations, Kuromiya’s file is over 100 pages long and he was included on the Security Index because of “anarchist tendencies.” Kuromiya’s name is listed in the papers liberated from an FBI field office by the concerned citizens collective that exposed the existence of COINTELPRO in March 1971.¹² The 1970s Gay Liberation Front and 1980s ACT UP collectives were also monitored by the FBI.¹³

Both Kuromiya and Ortez Alderson attended the Black Panther Revolutionary People’s Constitutional Convention in Philadelphia in 1970, as part of a queer people of color contingent. Following the People’s Convention, Ortez Alderson was arrested for breaking into an Illinois draft board and was incarcerated for a year. After being at Peoria County Jail for three months, he was transferred to a prison in Ashland County, Kentucky.¹⁴ While imprisoned in Kentucky, Alderson and three other queer men of color attempted to form a gay liberation chapter. As a result of this, as Alderson described in his 1972 Motive magazine interview (appropriately titled with an excerpt of his

commentary “On Being Black and Gay in Prison: There Is No Humanity”), they were all “immediately arrested by the goon squad and put in the hole.”¹⁵ In a moving essay in the anthology *That’s Revolting: Queer Strategies for Resisting Assimilation* edited by Mattilda Bernstein Sycamore, AIDS activist and former Los Angeles AIDS city coordinator Fred Eggan recounted how Alderson, following his release from prison for anti-war activism, organized a protest against police violence in response to the killing of a Black “drag queen” (and/or trans woman) by Chicago police officers in the 1970s.¹⁶ Alderson would go on to become a central figure in both NYC and Chicago ACT UP chapters, as well as a main organizer of a people of color HIV/AIDS conference in Chicago. He passed away in December 1990. His partner, Arthur Gursch, carried Alderson’s ashes to the political funeral action at the White House in 1992.¹⁷

For queer AIDS activists of color involved in ACT UP Philadelphia, issues of AIDS, securitization, and anti-Blackness were inseparably intertwined. In the 1990s, in an act of radical performance against the securitization of AIDS and anti-Blackness, ACT UP Philadelphia members Jon Paul Hammond, Kiyoshi Kuromiya, and David Acosta imprisoned themselves in a makeshift barbed wire concentration camp in front of the United States courthouse in downtown Philadelphia in solidarity with HIV-positive Haitians incarcerated at Guantanamo.¹⁸ Yet the securitization of AIDS continues. Since Congress mandated the creation of the US military HIV research program in 1986, military HIV/AIDS research has expanded. As several scholars in security studies have pointed out, infectious disease and HIV/AIDS treatment provided under the aegis of the US military is directly related to the management of social unrest and other perceived threats that have the potential to undermine neoliberal governance and geopolitical order.¹⁹ Military HIV/AIDS research and treatment occur within a context of humanitarian violence and securitization and thus, despite profound success in HIV research, remain inextricably intertwined with military aims and geopolitical security objectives. The United States Africa Command, responsible for all US military operations in African nations, has implemented HIV/AIDS prevention programs and drone bases along with traditional military installations—measures designed to safeguard mutual security interests.²⁰ Securitization and criminalization have been two major state responses to HIV/AIDS, from the Jesse Helms-inspired HIV travel ban to the incarceration of HIV-positive Haitians during the Clinton administration in an HIV prison camp at Guantanamo Bay, to the

segregation of incarcerated people living with HIV/AIDS in Mississippi at Parchman Prison/plantation Unit 28 and in Alabama at Limestone, which is still ongoing in South Carolina.²¹ While the use of torture in Guantanamo and other offshore prisons has been rightly scandalized, a less exceptionalist framework might treat torture as a carceral technology that has been naturalized and normalized across the domestic prison landscape.²² Thus, the force-feeding that has been reported at Guantanamo, in response to the ongoing hunger strikes, has precedent in prisons across the US as a means to “preserve order.”²³ This intertwining of securitization and racism is also brought home by the legacy of Gregory Smith.

“We will not rest in peace”: the legacy of Gregory Smith

On May 18, 1990, in New Jersey’s Camden County Superior Court, Gregory Smith, a Black HIV-positive gay man, was sentenced to twenty-five years in prison for attempted murder. He had allegedly bitten a police officer—a charge which Smith denied.²⁴ Smith, who was taking AZT at the time of his sentencing, was denied the drug once he was incarcerated at Camden County Jail in April 1989.²⁵ On June 10, Smith collapsed in his cell, injuring his back. When he got to the hospital and his requests to be x-rayed were denied, he refused to leave and was taken by one of the guards to an adjacent room and beaten. In the process of this attack, the guard’s hand was cut and then “later claimed [the cut] was a bite wound inflicted by Smith.”²⁶ ACT UP and other local Philadelphia groups organized protests and forums in Smith’s defense. AIDS activists including Judy Greenspan of California Prison Focus and ACT UP Philadelphia members including Kiyoshi Kuromiya, as well as the ACLU, organized in support of Smith. Cindy Patton wrote passionately about Smith’s case in POZ magazine, highlighting prison as an HIV/AIDS issue.²⁷ ACT UP Philadelphia produced a fact sheet about HIV criminalization: “Biting, Spitting and Other Murderous Acts: Greg Smith and the Criminalization of HIV.”²⁸

Smith’s HIV status aggravated his punishment. Assistant prosecutor Harold Kasselmann described him as wielding his HIV status as “his own personal weapon of misery.”²⁹ He was convicted and sentenced by Judge Mariano to the maximum of twenty-five years for aggravated assault and attempted murder. Smith was one year away from his release when he received this new sentence.³⁰ A 1992 study by the Harvard School of Public Health showed that AIDS-related prosecutions



Gregory Smith's brother protests with ACT UP Philadelphia during Smith's sentencing on May 18, 1990.

disproportionately resulted in harsher sentences and reinforced moral panic, AIDS phobia, and misinformation. “While the public health services long have said the only way to transmit the HIV virus is through blood, sex or needles, judges are perpetuating the belief that AIDS can be spread casually, through spitting or biting,” said Larry Gostin, chief author of the Harvard School of Public Health study. “We like to think judges are leaders of public opinion, but in this case, they have been perpetuating some of the fears that are prevalent in society.”³¹

An incarcerated AIDS activist, Smith regularly contributed to the *Critical Path* newsletter and advocated for AIDS education and treatment inside. Rather than exemplary, criminalization, as ACT UP Philadelphia activist Jose De Marco states, “is not new for our communities.”³² As Jared Sexton argues, Black people have always figured as “perennial threats to national security.”³³ Anti-Black violence has been central to safeguarding the security of a white supremacist sociopolitical and psychic order. Being Black, as poet and critic David Marriott argues, is so often “a fatal way of being alive.”³⁴ The Black body is situated in an anti-Black world saturated in the violent and white supremacist affect of what the incomparable public intellectual and freedom fighter Frederick Douglass named an “anti-Black feeling” in his 1848 *North Star* article “Prejudice Against Color.”³⁵ Black people are especially targeted by the material violence of racism, which Critical Resistance founding member and geography professor Ruth Wilson Gilmore so aptly and influentially theorizes as “the state-sanctioned and/or extralegal production and exploitation of group-differentiated vulnerability to premature death.”³⁶ Ultimately, as Fred Moten ever poetically and illuminatingly states, “what is inadequate to Blackness is already given ontologies.”³⁷

While incarcerated, Smith organized people living with HIV/AIDS (PWAs), published a newsletter about prison and HIV/AIDS issues and also started writing a memoir. He remained public about his sexuality and his HIV-positive status, despite the threat of institutional and personal, psychological and physical violence that this entailed. Gregory Smith passed away on Monday, November 10, 2003 at the St. Francis Medical Center in Trenton, New Jersey.³⁸ He was 40 years old. “Greg did not have to die. AIDS bigotry and hysteria took his freedom, and now medical neglect has killed him,” Asia Russell, of ACT UP Philadelphia, stated following his untimely death.³⁹

ACT UP has always spoken for the living and the dead. Gregory Smith was murdered by the state but held in collective memory by ACT UP Philadelphia members. In an act of radical performance designed to both keep Gregory Smith's memory alive and draw attention to the continued need for better medical care for incarcerated people in New Jersey's prisons, ACT UP Philadelphia members traveled on buses in January 2004 to retired Superior Court Judge John Mariano's home, where they held a funeral procession and placed a black coffin and flowers on his front yard.⁴⁰

ACT UP Philadelphia members have organized as a collective over the past two decades, operating outside the non-profit industrial complex as a network of PWAs and their allies to make sweeping changes to the political landscape of the city. In addition to decriminalizing condoms in Philadelphia jails, fighting for condom availability in schools, securing nursing homes, advocating for enhanced AIDS budgets and services, as well as for adherence to ethical and humane standards of treatment and care, ACT UP members conducted numerous protests and helped to organize an (extra-legal) needle exchange. Extending the political aspirations of queer liberationist movements, ACT UP Philadelphia members have radicalized the city's politics of public health, HIV/AIDS prevention and treatment. Yet as the recent release of the "Ending and Defending Against HIV Criminalization" advocacy manual by the Center for HIV Health Law and Policy and the Positive Justice Project makes abundantly clear, the struggle against murderous policy continues—whether it is against the criminalization of HIV-positive sex workers in Pennsylvania who face felony charges regardless of disclosure and/or condom use or for housing justice for HIV-positive Philadelphians currently living on the streets of a neoliberal city.⁴¹

ACT UP Philadelphia's campaigning for Gregory Smith is particularly relevant today, at a time when HIV/AIDS and Black queer and transgender people are actively criminalized and stigmatized. Daniel Allen, a Black gay Michigan resident who allegedly bit his neighbor during a fight in 2009, was initially charged with "bio-terrorism."⁴² The historical practice of segregating incarcerated people living with HIV/AIDS in abhorrent conditions within penal institutions in Mississippi and Alabama continues today in South Carolina.⁴³ The imperative voiced in 1993 by incarcerated and long-time AIDS activist Yusuf Shakoor, who assisted in building the Prisoners Educating Prisoners on AIDS (PEPA) project at Auburn Correctional Facility, still holds true:

“Action needs to be taken in order to stop the genocidal actions this state has implemented by withholding adequate treatment and care for HIV/AIDS prisoners.”⁴⁴ A critical genealogy and social history of organizing against the prison industrial complex by incarcerated AIDS activists, Black queer and transgender liberationists is all the more essential.

Envisioning abolitionist responses to HIV/AIDS

There is a pressing need for queer and/or trans abolitionist socio-political formations to face the lethality of anti-Black, anti-queer and/or anti-trans interpersonal violence. In the place of, to repurpose a phrase coined by Rob Nixon, the “slow violence” often reproduced within neoliberal non-profits, including AIDS service organizations, that valorize multiculturalist market rhetorics of “diversity” and expert credentials while maintaining rigid staff hierarchies within which poor trans people of color mainly comprise the lower order, with little room for upward mobility, we need to expand forms of horizontal governance and consensus based organizing in the spirit of prefigurative politics and collective liberation.⁴⁵ Why do so many non-profit structures—even those which are politically progressive—resemble vertical/top down hierarchies of corporate power? How can we create more HIV/AIDS resources in anti-oppressive and decolonial ways?

The politics of racial uplift and rescue are prevalent in the social service and risk rhetorics that dominate AIDS activism in the United States. Such rhetorics promise to “overcome” AIDS for Black communities through an individualizing neoliberal logic of choice and responsibility (as in the injunction to “use a condom”). This forecloses a systematic analysis of forces structuring choice and responsibility, including blame and gay shame. Centers for Disease Control interventions that target Black queer and/or trans people often unfortunately reinforce uplift ideology through measures such as “role model stories,” that retell how reformed neoliberal subjects and members of “high risk” populations—the “highest” being Black, queer and/or trans people and youth—have come to transcend their old problematic behaviors, sex work and drug use especially. “The primary purpose of the role model stories was to model risk-reducing behaviors, suggest solutions to risky situations, and illustrate positive outcomes of taking steps toward protecting oneself.”⁴⁶ The politics of racial uplift saturate AIDS risk rhetorics in sex negative, objectifying and abjectifying ways.

Both the MSM (“men who have sex with men”) discourse and the dominant regime of risk categorization always already mark Black people (youth, non-trans men, trans women) as “vulnerable,” “at risk,” a “statistic.” We arrive again, circuitously, through another “vector” of anti-Blackness—in this case the disease frame—to W.E.B. Du Bois’s question, which he argued perennially confronts Black people: “How does it feel to be a problem?”

As long as we have prisons we will never have “universal” health/care. Prisons exacerbate public health crises by increasing Hepatitis C and HIV on the inside and on the outside. Following “release” formerly incarcerated people face disproportionate rates of homelessness—one of the key social drivers of HIV/AIDS—and joblessness. What is the meaning of “healthcare” within the context of a carceral system designed to foster death, despair, destitution and depoliticization? How can we organize healing and care for those who are incarcerated in ways that do not further the dehumanizing and decaying capacities (body and soul) of the carceral? Carceral “healthcare” stands in stark contrast to the legacy of radical health activism – ranging from the detox acupuncture clinic that the Young Lords and Black Panthers established at Lincoln Memorial Hospital in the Bronx to the clinics and sickle cell campaigns of the Black Panthers.⁴⁷ Professor Ruth Wilson Gilmore often speaks of—following Andre Gorz—“non-reformist reform,” i.e. aiming for socio-political changes which do not ultimately reinforce carceral violence and prison expansion. AIDS activists fighting for harm reduction services and anti-prison activists lobbying for decarceration and re-entry services that put more resources into education than incarceration are working to create a socio-political landscape in which the prison is not the readymade and given answer to complex social problems.

We might extend our notion of abolition as HIV prevention and treatment not only for those in the nominally “free world”—whose “freedom” anyway is rendered ephemeral by stop and frisk, “walking while trans” and other everyday conditions of criminalization and profiling—but also for those who are currently incarcerated. Solitary confinement, along with being a form of psychic torture, disrupts AIDS med routines.⁴⁸ Incarcerated trans people are often automatically placed in forms of solitary “for their protection,” which means more vulnerability to violence from prison staff. For HIV-positive people held under the policies of mass detention and mass deportation, medications are

often irregular, destabilizing “health” and “care.” As the Human Rights Watch reported in its 2007 report *Chronic Indifference*, when detained HIV-positive people do not regularly receive medications, it increases the possibility for drug resistance.⁴⁹ Conditions are harrowing for detained HIV-positive and queer and/or trans people, who are especially targeted. We should note how incarcerated people face higher rates of disabling health conditions more generally. The prison industrial complex is indeed designed to bring about death and extinguish life. Prisons impose ableist violence and general trauma, including attacks on disabled people by guards and little to no resources for infirm older incarcerated people or people with dementia. “Elderly” has been set at fifty-five for incarcerated people because of the levels of trauma and violence that increase illness conventionally seen in people over sixty-five and thanks to mandatory minimums this is the fastest growing group within prisons.⁵⁰ While the struggle to decriminalize condoms and needles continues on the outside, they are prohibited on the inside. Furthermore, what constitutes the carceral “inside” has been dramatically expanding over the past three decades. It is the expansion of the (im)moral calculus and penal economy of innocence into everyday life that has been the subject of organizing for alternatives for transformative justice and abolitionist forms of accountability.⁵¹ Such abolitionist politics resist these penal logics that make the prison seem necessary and natural—but which are as historically produced as the prison itself.

Che Gossett is a Black trans femme writer and archivist at the Barnard Center for Research on Women as well as a graduate student in Trans/Gender Studies at Rutgers University. They have written for the Verso press blog, the LA Review of Books and most recently contributed to the anthology *Trap Door: Trans Cultural Production and the Politics of Trans Visibility* (MIT Press, 2018) edited by Reina Gossett, Johanna Burton and Eric Stanley. They are a 2017–18 Palestine American Research Center Fellow and a 2017–18 New York Queer Arts Mentor.

Notes

“We will not rest in peace: AIDS activism, Black radicalism, queer and/or trans resistance” by Che Gossett was first published in *Queer Necropolitics* (Routledge, 2014), edited by Jin Haritaworn, Adi Kunstman, and Silvia Posocco. It is reprinted here in condensed form by the permission of Routledge and appears with minor revisions.

- 1 James Baldwin, *The Cross of Redemption: Uncollected Writings* (New York: Vintage Books, 2011), 255.
- 2 Presidential Commission on the Human Immunodeficiency Virus Epidemic, *Report of the Presidential Commission on the Human Immunodeficiency Virus Epidemic* (Washington, DC: U.S. Government Printing Office, 1988): 130, <http://archive.org/details/reportofpresiden00pres>.
- 3 James McArthur, “As the Tide Turns: The Changing HIV/AIDS Epidemic and the Criminalization of HIV Exposure,” *Cornell Law Review* 94, no. 3 (January 1, 2009): 715.
- 4 Todd Heywood, “The Crime of Being Positive,” *The Advocate*, 1 April 2013, <http://www.advocate.com/print-issue/current-issue/2013/04/01/crime-being-positive>.
- 5 Global Commission on Drug Policy, *The War on Drugs and HIV/AIDS: How the Criminalization of Drug Use Fuels the Global Pandemic* (Soros Foundation, 2012), https://globalcommissionondrugs.org/wp-content/themes/gcdp_v1/pdf/GCDP_HIV-AIDS_2012_REFERENCE.pdf.
- 6 Steve Martinot, *The Machinery of Whiteness: Studies in the Structure of Racialization* (Philadelphia: Temple University Press, 2010): 76.
- 7 Sean Strub, “Take the Test and Risk Arrest?” *POZ Magazine*, 26 June 2012, <https://www.poz.com/blog/take-the-test-and-ri>.
- 8 Esther Kaplan, “Organizing Inside,” *POZ Magazine*, 1 November 1998, <https://www.poz.com/article/Organizing-Inside-1656-9407>; Elihu Rosenblatt, ed., *Criminal Injustice: Confronting the Prison Crisis* (Boston, MA: South End Press, 1999): 120.
- 9 Erving Goffman, *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates*, 1st edition (New York, NY: Anchor Books / Doubleday, 1961).
- 10 Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: New Press, 2010).
- 11 Baldwin, *The Cross of Redemption*, 194.
- 12 Citizen’s Commission to Investigate the FBI, *The Complete Collection of Political Documents ripped-off from the F.B.I. Office in Media, Pa., March 8, 1971*. (New York: WIN Magazine, 1972).
- 13 Duncan Osbourne, “ACT UP and the FBI,” *The Advocate*, June 29, 1993, 60–61; Brett C. Stockhill, *Activism Against AIDS: At the Intersections of Sexuality, Race, Gender and Class* (Boulder, Col: Lynne Rienner Pub, 2002).
- 14 Liz Highleyman, “Peace Activism and GLBT Rights,” *The Gay and Lesbian Review Worldwide* 11, no. 5 (2004), 22.
- 15 Ortez Alderson, “On Being Black and Gay in Prison: There Is No Humanity,” *Motive Magazine* 32, no. 2 (1972), 26.
- 16 Mattilda Bernstein Sycamore, *That’s Revolting: Queer Strategies for Resisting Assimilation* (Berkeley: Counter Point Press, 2008), 8.
- 17 Deborah Gould, *Moving Politics: Emotion and ACT Ups Fight against AIDS* (Chicago: University of Chicago Press, 2009), 8.
- 18 T.J. Acosta, interview by T. Jaynes, *Works in Progress*, 12, no. 2/3 (1999): 16–19, 23–24.
- 19 See Stefan Elbe, *Virus Alert: Security, Governmentality and the AIDS Pandemic* (New York: Columbia University Press, 2009); David Ingram and Jane Sutton, “Analysis: In force-feeding detainees, Obama has courts on his side,” *Reuters*, April 26, 2013. www.reuters.com/article/2013/04/26/us-usa-guantanamo-forced-feeding-idUSBRE93P04N20130426; Ricardo Pereira, “Processes of Securitization of Infectious Diseases and

- Western Hegemonic Power: A Historical-Political Analysis," *Global Health Governance* 2, no. 1 (2008).
- 20 David Wiley, "Militarizing Africa and African Studies and the U.S. Africanist Response," *African Studies Review* 55, no. 2 (September 26, 2012): 147–61, <https://doi.org/10.1353/arw.2012.0041>; Danielle Skinner, "Stability Through Health: U.S. AFRICOM Hosts First HIV/AIDS Program Management Training," *U.S. AFRICOM Public Affairs*, August 2011, <http://www.africom.mil/media-room/article/8548/stability-through-health-us-africom-hosts-first-hi>.
- 21 ACLU and Human Rights Watch, "Sentenced to Stigma – Segregation of HIV-Positive Prisoners in Alabama and South Carolina," *ACLU*, April 2010, <https://www.aclu.org/sentenced-stigma-segregation-hiv-positive-prisoners-alabama-and-south-carolina>.
- 22 Ibid.
- 23 Ingram and Sutton, 1.
- 24 Mary S. Petty, "Social Responses to HIV: Fearing the Outlaw," *Sexuality Research and Social Policy* 2, no. 2 (2005): 76–88.
- 25 J. McKnight, "Is Saliva a Murder Weapon?" *Gay Community News* 17, no. 40.
- 26 Ibid.
- 27 Cindy Patton, "Concealed Weapon," *POZ Magazine*, 1 November 1998, <https://www.poz.com/article/Concealed-Weapon-1657-8008>.
- 28 ACT UP Philadelphia, *Biting, Spitting and Other Murderous Acts: Greg Smith and the Criminalization of HIV*, 1999.
- 29 Patton, 1.
- 30 Sean Strub, "Prosecuting HIV: Take the Test and Risk Arrest," *Achieve: A Quarterly Journal on HIV Prevention, Treatment and Politics* (Summer 2011): 1.
- 31 F. Hopkins, "Study: Courts Often Harsh in AIDS Cases," *AP Press*, 20 January 1992.
- 32 Todd Cross, *In the Life: Perpetuating Stigma*, American Public Television, 2012, <https://vimeo.com/73352925>.
- 33 Sexton Jared and Lee Elizabeth, "Figuring the Prison: Prerequisites of Torture at Abu Ghraib1," *Antipode* 38, no. 5 (November 14, 2006): 1014.
- 34 David Marriott, *On Black Men* (New York: Columbia University Press, 2000), 15.
- 35 Frederick Douglass, *Frederick Douglass: Selected Speeches and Writings* (Chicago: Chicago Review Press, 2000): 99.
- 36 Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (University of California Press, 2007): 28.
- 37 Fred Moten, "The Case of Blackness," *Criticism* 50, no. 2 (2008): 187.
- 38 ACT UP New York, "Gregory Dean Smith, noted New Jersey HIV-positive political prisoner, dies at age 40," *ACT UP New York*, 10 November 2003, <http://www.actupny.org/reports/gregsmith.html>.
- 39 Ibid.
- 40 Joseph A. Gambardello, "Activists Protest at Judge's Home ACT UP Demonstrated over a 1990 Sentence given to an HIV-infected Inmate who Died in November," *Philadelphia Inquirer*, 30 January 2004.
- 41 Positive Justice Project, *Ending and Defending Against HIV Criminalization: State and Federal Laws and Prosecutions* (New York: Center for HIV Law & Policy, 2010): 168.
- 42 Cristina Gonzalez, "HIV isn't bioterrorism," *POZ Magazine*, 27 February 2012, <https://www.poz.com/article/Bioterrorism-HIV-Michigan-21949-9989>.
- 43 ACLU and Human Rights Watch, 1–50.
- 44 John Greenspan, "The Good Fight," *HIV+*, January 2000.
- 45 Rob Nixon, *Slow Violence and the Environmentalism of the Poor* (Cambridge, MA: Harvard University Press, 2011).
- 46 CDC Divisions of HIV/AIDS Prevention, "Role Model Stories," 13 April 2007, www.cdc.gov/hiv/topics/prev_prog/acdp/intervention/rmodel.htm.
- 47 Richard Pates and Diane Mary Riley, *Harm Reduction in Substance Use and High-Risk Behaviour: International Policy and Practice* (Chichester: Wiley-Blackwell, 2012): 373; Alondra Nelson, *Body and Soul: The Black Panther Party and the Fight against Medical Discrimination*, 1 edition (Minneapolis: University Of Minnesota Press, 2013).
- 48 Gay Men's Health Crisis, *Fenced In: HIV/AIDS in the Criminal Justice System* (New York: Gay Men's Health Crisis, 2012), 1–32.
- 49 Human Rights Watch, *Old Behind Bars: The Aging Prison Population in the United States* (New York: Human Rights Watch, 2007).
- 50 Ibid, 1–110.
- 51 Critical Resistance, "Life After the Prison Industrial Complex," *The Abolitionist* 16, no. 14 (2012); Ching-In Chen et al., *The Revolution Starts at Home: Confronting Intimate Violence within Activist Communities* (Chico, CA: AK Press, 2016).

Curation will not save us

Wrestling with the spaces between analysis and action

Theodore (ted) Kerr and Risa Puleo

Ted We've been tasked with one broad question: What is the place of art in the face of HIV criminalization? We had a discussion a few weeks ago on how we would respond and both of us were quite clear about who and what we are in relationship to this fight. Let's start by talking about who we are, what our stakes are, and our boundaries and limits in this conversation.

Risa I am really open about saying that I am not an activist, for a couple of reasons. First, to claim status as an "activist" at this moment has become a way of engineering social capital, often while doing very little. To curate *Walls Turned Sideways: Artists Confront the American Justice System*, I worked with artists who employ activist strategies and activists who employ aesthetics, both groups composed of people working in the world, inside and outside of systems and making actual change happen.¹ In that process I can say that I spent a lot of time sitting behind a desk and talking to people and thinking about how art has been used as a means of seeking justice. My curatorial approach came by thinking about the artists who are utilizing their mediums and creative perspectives to push forward new ways of thinking: how can I reflect upon my own curatorial practice and use it to think differently about a problem?

Ted I agree. Being socially active is a way of life. I also would not call myself an activist, nor am I a person living with HIV. So what am I? In our previous conversation you said something that was really helpful: it's really important that artists and curators take responsibility for who and what they are and do that job. I think of myself as a booster. I see people doing the groundwork and my

job is to help circulate, support, and translate as needed. I think that's what a writer and an organizer does. So that is me.

Risa For both of us, there is an aspect of what we do that is about bringing issues, as mediated by artists, into visibility. Part of the problem we're here to discuss today relates to disclosure and the need to not be visible.

Ted In the essay I wrote for your catalog, I discuss how visibility was once a tactic of AIDS activism and then, because of stigma, discrimination, and criminalization, it has become a demand. When visibility is state enforced, the means of disclosure is all that a person has when it comes to self-representation.²

Risa And even then, disclosure may not save you. Once you are living with HIV you are both perceived to be a problem, and fully responsible for everyone else's health and well being. There are countless cases in which someone's disclosure is used against them, often after a relationship has turned sour; we have heard of situations when an ex will go to the police and say that the person they had been previously dating is living with HIV and put them at risk. That is what happened to Robert Suttle, as he shares in the Sero Project's short film about HIV criminalization.³ In other cases, as Trevor Hoppe's research shows, someone living with HIV is charged with another crime, and once the police find out about their positive status they add additional HIV-related charges.⁴ In a lot of these cases, the truth around disclosure is debated, talk of actual risk is absent, and both the burden of proof and the virus is placed solely upon the person already living with HIV.

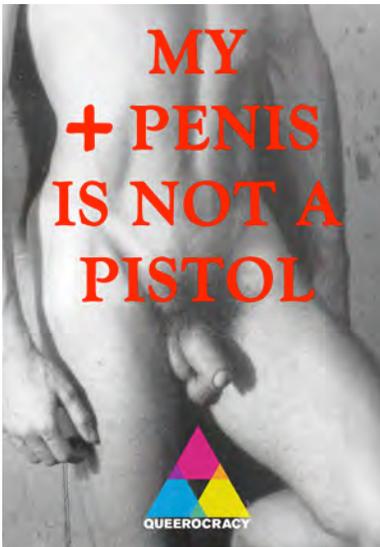
Ted And in some states, upon receiving your positive diagnosis, you may have to sign a copy of the HIV-related laws proving that you understand and will take responsibility. Surveillance and culpability start on day one. Once you have HIV, in many ways, you become hyper-visible within state systems, including the law. This is frustrating because the very people being made visible by the state are also the people that the state has previously neglected. Money is spent to punish and contain, but not to care.

- Risa I'd like to spend more time with this idea. A lot of the work that I have done with Visual AIDS has been about the systems of support and care networks that happen around HIV. For the Day With(out) Art 2013 project I did for Visual AIDS' 25th anniversary, called "for the record," I worked with fierce pussy, a group of artists who had lived through the moment as primary caretakers, to think about how Visual AIDS stewards this history as well as its own history of stewardship. My work often departs by thinking about how the individual is framed by institutions, formal bureaucracies, and informal care networks.
- Ted Similarly, for me it's important that any discussion about HIV is rooted in the lived experience of people living with HIV, especially those living with HIV who are already understood to be marginalized.
- Risa Right, and I think rooting ideas in real life illustrates the urgency and communicates that people's life and freedom are at stake. I saw a lot of people began to take HIV criminalization seriously when they learned about former wrestler, vogue ball competitor, and college student Michael Johnson and his case. He was initially sentenced to over thirty years on felony charges related to Missouri's HIV criminalization charges, which after a plea bargain have since been reduced to ten years.⁵ I think seeing a person that they knew, or could know, be punished, has helped people better grasp the stakes. And maybe that is where people like us come in?
- Ted Movements need translators and circulators. Michael Johnson's case is a powerful example. I think most of us came to know about Johnson and what he was going through via Steven Thrasher's *BuzzFeed* article.⁶ He set the tone for the discussion. By including the fact that Johnson is a Black gay man, Thrasher was able to communicate that justice was denied not only because of Johnson's HIV status, but also due to anti-Black racism and homophobia. From there, people like Charles Stephens in Atlanta, Ryan Conrad in Canada, and Gay Shame in San Francisco were communicating with Michael Johnson and were able to begin community discussions around his

case and HIV criminalization in culturally engaging and urgent ways.⁷

Risa Yes. When our work is about bringing visibility, as a form of attention—to artists, events in history, issues as they affect people—this task is in tension with the need for privacy and non-disclosure for those targeted for criminalization. And that has to do with the ways in which the virus been constructed as a weapon. I am thinking here specifically of the posters that QUEEROCRACY made a few years ago that read, “My + Pussy is Not Poison.”

Ted Yes, definitely. There are cases in New York and elsewhere, in which people living with HIV have been constructed as a biohazardous threat, charged with spitting for example, which poses no risk of HIV transmission. In these cases, it is clear that the crime in the eyes of the arresting officer is the person’s HIV status. Their body is what has been constructed as the threat. So this brings us back to the perils of visibility. When there was not even a name for HIV, visibility was important to sound the alarm. Then, almost as soon as HIV became known and



QUEEROCRACY, *MY + PENIS IS NOT A PISTOL* and *MY + PUSSY IS NOT POISON*, 2013. Poster, 24 × 18 in. each.

eventually testable, it also became stigmatized. Visibility was coupled with the possibility for discrimination. But for people in AIDS-aware communities, there was a bit of a stigma buffer. If you were attending an ACT UP meeting with hundreds of other people, you maybe had a sense that community had your back. Visibility was shared. But since the introduction of life saving medication, the collective experience of HIV has changed. It is more individualized now, both in terms of the burden and the responsibility. I think about the multi-year campaign from the CDC which features people living with HIV with the tagline, “HIV Stops With Me.” It is propaganda from the government telling the US public that the AIDS crisis could be over if people with HIV take on personal responsibility through safer sex practices and adherence to medication. It is a cruel trick in which the focus is on the person already dealing with the deadly virus, while disappearing the role of biased and violent state systems that reduce life chances for people living with HIV. What these ads communicate is that being visible and living with the virus is only acceptable when coupled with culpability and taking on more than full responsibility.

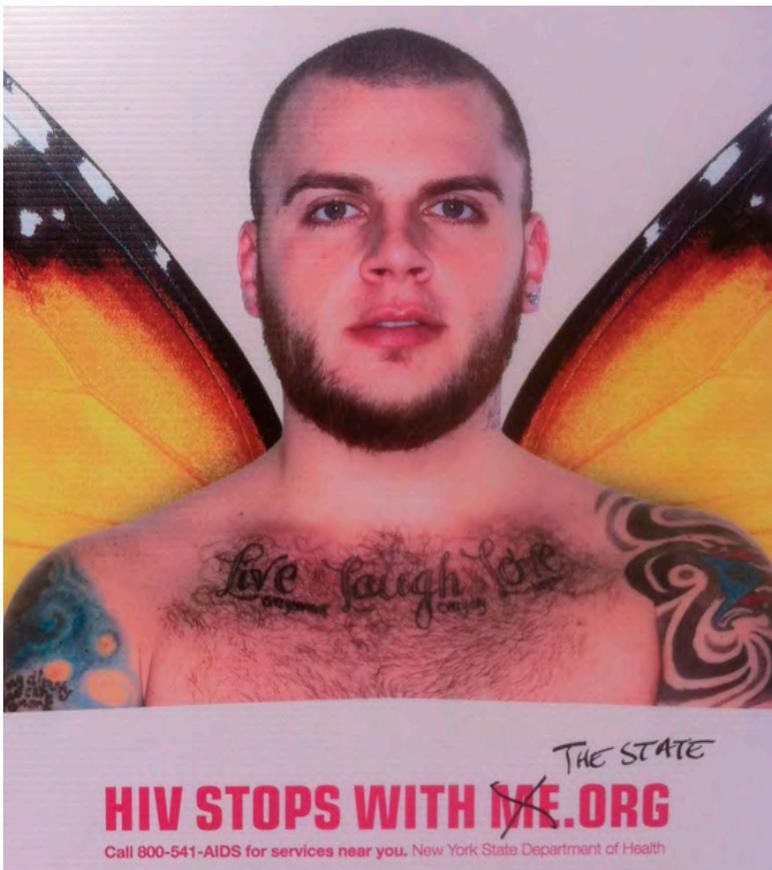
Risa It’s kind of like the politics of respectability for HIV-positive people.

Ted Yes, and we see artists living with HIV responding. Mikiki’s 2012 AIDS Action Now! poster made in collaboration with Scott Donald reads: “I Party, I Bareback, I’m Positive, I’m Responsible.” It rejects a rigid notion of respectability not by denouncing responsibility, but by opening up what it can mean through a harm reduction lens. While “HIV Stops With Me” is an attempt to placate the general public around fears of HIV positive people, *I Party...* is a clarion call to other people living with HIV that you can be the best version of yourself and still be a “responsible” person within society.

Risa The recently released movie *The Cured* (2018) is a great visualization of the fear behind the criminalization and stigmatization.⁸ HIV becomes a rogue force that can’t be controlled unless somebody assumes full agency for it at every moment of every day. Within the politics of respectability, it is a call for self-policing.

Ted And what that does is it deflects from the real problems. By always putting the onus on people living with the virus, attention is deflected from the structural reasons we still have an epidemic. AIDS is a crisis of not caring and of marginalizing people; of spending money on containment rather than care. Even if it doesn't understand itself to be about HIV/AIDS, *The Cured* is commenting on the problems of public health. Who is the "public" in public health?

For me this tension began when the HIV test was introduced in 1985. Before that, many people within targeted groups understood themselves on some level to be living with HIV.



Activist intervention on a New York State Department of Health "HIV Stops With Me" poster.

Community was created from there. And even in the first few years of the test, people refused to take the test because they either didn't trust it or they were not sure what was to be gained with the results. That changed with the introduction of life saving medication in 1996. If you had the virus, the meds could save your life. And then, as I was getting at earlier, that's when we saw the real change around visibility. As activist Jason Walker points out, people often like to say that the crisis shifted after 1996, but actually some people were able to self-selectively shift out. Those were the people for whom HIV was their greatest barrier to health. Once they could get their meds, a community built around life chances was no longer needed. But for people for whom HIV was just one of many health factors, the crisis and the need for support remained and remains. The politics of respectability intensified once some people could "go stealth" with their HIV status, to borrow a phrase I know from trans culture.

Risa Did medication also widen the divide then? Between people who could care for themselves in a more neoliberal, Republican "independence" model, and the people who are what this model would call "dependent on the state."

Ted Yes. One of the impacts of medications is that if you are living with HIV and get on treatment that works for you, your viral load can be suppressed to the point of being undetectable, meaning non-transmittable. This is one of the pillars of the "HIV Stops With Me" campaign, this idea that if people with HIV just take their meds, then we can end the virus. But of course nothing is that simple. This push for people to become undetectable does not always take into consideration the realities of living with HIV. If you don't have proper housing, food, access to mental and physical health care, a supportive community and so on, getting and staying on meds is not easy. Getting to undetectable is about more than medication, it is about access to ongoing support systems.

Risa We keep circulating around this idea that the people who are "able" to take care of themselves get to be integrated into

I PARTY
BAREBACK
I'M POSITIVE
I'M RESPONSIBLE



Miki with Scott Donald,
I Party / Bareback / I'm Positive / I'm Responsible, 2011.
Offset printed poster, 18 × 12 in.

society and people who aren't have to be contained. And in this equation, the latter group gets subdivided into smaller and smaller units that ultimately results in one person in a cell, in solitary, by themselves.

Ted The tools of containment are prisons, but we could also make an argument about medical surveillance. If you're living with HIV, part of your schedule is having your numbers monitored. From early on, people living with HIV have had their CD4 counts monitored as a measurement of health: how you are doing, how you are fighting off infection. With the introduction of life saving medication, the numbers became more about looking at viral load and so the rate of transmission. There are many reasons for this, and not all of it is evil. But as activist and academic Eli Manning once shared with me, the shift from how well a person living with HIV is doing, to how transmittable the virus is in their body, is a shift from health to containment. The medication becomes less about the person who is living with illness, and more about this idea of the public. So the question is, who is being served. This of course relates to your work, no? The art world is often thought of as a place of liberation, but as you explore in your curatorial and art historical work, this is not always true.

Risa A basic observation is that the museum, since the inception of the Black Lives Matters Movement and the mobilization of people around the deaths of Trayvon Martin, Michael Brown, Eric Garner, and innumerable others by the police, has become increasingly a place for us to have conversations about justice. But then if you think about the museum through its history of collection, which is deeply imperial and colonial, the museum historically is also not the place where justice is served. My art historical work starts in the early modern period, and I think about the collection of bodies that are considered monstrous, how classification systems structure institutions and the people entangled with those institutions, and how we can think about institutions like the prison and the museum as siblings organized to order bodies.⁹ Implicit in that ordering is a hierarchy. For me the monstrous and the criminal are two categories that

exist outside of classification systems, and because of their categorical boundlessness they are the bodies that society seeks to contain. *Walls Turned Sideways* starts by interrogating the ground upon which the museum is built first, suggesting that questions of justice now taking place in museums should also include reparations of cultural objects, including human remains. To bring in a famous example, Sarah Baartman's body, more widely known as the Hottentot Venus, who was displayed in London and Paris in the early nineteenth century, was only taken off view in 1974 and repatriated to South Africa in 2002.

- Ted Which is meaningful because it points to how Baartman was “collected” and became an object of a moment. There’s a way in which people constructed as oddities or outsiders by the prison or the museum are never allowed to march with time. They get stuck in a context not even of their own making. I heard academic Kyla Schuller speak last week about her new book, *The Biopolitics of Feeling: Race, Sex, and Science in the Nineteenth Century*.¹⁰ She shared an insight that one way white supremacy works is that white people get to have history and thus progress while Black people and people of color are witnessed and maintained in ahistorical fantasies. We see this often when there is a shooting of a Black person in the US. There is often a cop whose alibi is some horrible claim around how they failed to see the person in front of them as human, and instead saw a hulk or monster primed for attack.
- Risa The other way that Baartman is held in time is that she was entered into a linear history of evolution and her body became representative of the space between the “highest ape,” which was figured as the orangutan, and the “lowest human,” which was at that moment in the nineteenth century assumed to be the Black woman. She was literally positioned on a moment of time and in an evolutionary scale.
- Ted Making someone into a spectacle is dehumanizing, which is what criminalization does and I think what you are saying is that it is what museums do, too.

- Risa Totally. We've talked about curious bodies, monstrous bodies, criminal bodies as collected by the museum and the prison and museum. The other bodies that are historically collected are animal bodies, in the zoo. The virus is often characterized as being a rogue force that can't be contained. That is also how animality is defined. So, what is being asked of people with HIV is that they have to police this virus, defined as "uncontainable, uncontrollable" within them, or else the state has to police you. HIV has a different DNA structure, which actually then just gets us back to the "monstrous," which I define as the collision of categorical binaries, like animal and human, in one body.
- Ted What you're reminding us is that the museum is actually just doing work for the state. When does the idea that a museum or a gallery or even the world of art is a place for justice develop?
- Risa But I also think that there's something else going on. For example, photography was an important part of how the Civil Rights movement functioned. Leaders recognized that it wasn't just about changing the laws, it was also about changing the image of Black Americans within public perception, and so that meant literally changing the image. Building on this longer history, art and activism came together to bring visibility around HIV in the 90s. Posters and broadsheets moved through the world like a virus. You can't untangle HIV activism from the methods of artmaking after a point. And activism that does exist outside of the art world has less visibility both in and outside of the "canon." There's also a way in which once something is tagged as "art," it has a different life and it can circulate much longer. There's video work made by activist visual culture in the '80s and '90s that had literally almost no relationship to the art world and it's in danger of being forgotten. There is a really important part in all of these histories about imaging, visualization, visibility, and art being the vehicle to get new images out into the world.
- Ted This then gets us back into the stickiness of the politics of respectability, right? Part of that change was to show that the person marginalized is not whatever negative stereotype the

dominant culture was holding up of them. There are other ways of being. And yet, binaries still get crafted within the main-stream culture of respectable and non-respectable marginalized people. We see this dynamic when it comes to undetectability and detectability for people living with HIV. The person who is best able to hide that which scares or offends the dominant gaze is welcomed and applauded. Everyone else becomes subject to containment and erasure.

Risa This is about classification. There's a way in which survival is predicated on being good, good as in adhering to the norms and laws of the culture and the state, and those terms are deeply entangled with Christian concepts.

Ted That's directly related to HIV. HIV is a virus often transmitted through moments of attempted pleasure.

Risa You're already *not* containing yourself.

Ted Absolutely. There's a way in which at times HIV is proof that we're human beings and proof that that we need desire, pleasure. Ideas of risk or what's considered reasonable go out the window when pleasure or intimacy are on offer. And if our bodies are deeply regulated by the state, then those moments of intimacy and pleasure are constructed as fugitive. And so HIV speaks to that.

Risa Certainly, and historically museums have not been places where uncontained feelings could be hosted. Yet we are in a moment where that is changing. The recent foray of justice in the museum is building on a longer history of art and activism. Since Trayvon Martin's murder as well as the emergence of Black Lives Matter, museums have increasingly fashioned themselves as forums where people can come together to have conversations. Art is constructed as a space of freedom.

Ted This is another example of Black Lives Matter's influence. The movement has gotten into the heads of curators and trustees, leading them to understand that museums have a role to play in

this bigger project towards justice. This is interesting because this is also Visual AIDS' history. It was formed by art world professionals who felt that the capital A art world was not doing enough in the face of AIDS, not only because of the impact of the epidemic within the art world, but also because art had a role to play within society in addressing the plague. Visual AIDS' Day With(out) Art, approaching its thirtieth anniversary, can be understood as a call for museums and galleries to marshal their resources towards health, healing, and activism.¹¹

Risa And I guess the change that I'm noticing is the difference between Visual AIDS being its own stand-alone organization that intervenes within the structures of larger institutions, and the museum doing that programming for themselves and that being an un-interrogated role that they have assumed, a role that isn't making structural changes.

Ted Recently I took my students to see Visual AIDS' *LOVE POSITIVE WOMEN* exhibition, for which women living with HIV and others within the community came together and made valentines to be sent out to other women living with HIV around the world.¹² One student put the display into conversation with the section on AIDS within the exhibition *An Incomplete History of Protest* (2017-18) at the Whitney Museum of American Art. For her, seeing the two exhibitions together brought up questions of value and what we may call containment. In the *LOVE POSITIVE WOMEN* exhibition, all of the individuals works will end up in someone's home, as an act of care. They will have a personal impact on the subjects of the actual exhibition. With the works on view at the Whitney, their value is wrapped up in being collected by the museum, and after the exhibition they will return to storage. In drawing the two exhibitions together, the student was not saying one method was good, and the other bad, but for her it did bring up issues of circulation and how value is amassed, contained, or shared.

Risa Right. What I'm also hearing is how museums are set up to steward objects and that they are trying to steward people, forces, and movements, in order to reflect how artists are

engaging with the world. But that isn't necessarily thinking about the ways in which the museum has also made people into objects.

Ted And how museums, for better or worse, attempt to calcify movement into digestible arguments and images. What's great about *Cell Count* is the way in which Asher and Kyle are trying to steward HIV criminalization through art and culture, but are wrestling with how to make sure it's not calcified. *Cell Count* is illuminating this thread that's long existed. The contained other has long existed, as you show in your work, Risa. And as we both know, HIV criminalization is nothing new. The laws were put in place starting in the late eighties. As Che Gossett discusses in this publication, people were protesting these laws before many of them were even signed into the books, and that work has been ramped up in the last five to ten years on a grass-roots level across the US (p. 50). This exhibition is joining in on that work, doing the best of what a museum or an art institution can do, making space for visibility and education, while also not replicating the violence.

Risa Puleo is an independent curator and critic. Her exhibition *Walls Turned Sideways: Artists Confront the American Justice System* opens at the Contemporary Arts Museum in Houston in August 2018. Her exhibition *Monarchs: Brown and Native Contemporary Artists in the Path of the Butterfly*, curated for Bemis Center for Contemporary Art during her year as curator-in residence there will open at MOCA North Miami in June, before traveling to venues in San Antonio, Kansas City, and Minneapolis. Her exhibitions have been hosted by the Leslie Lohman Museum in New York City, Franklin Street Works in Stamford, CT, ArtPace, San Antonio, Charlotte Street Foundation in Kansas City, and more. Puleo has Master's degrees from the Center for Curatorial Studies at Bard College and Hunter College and is a Ph.D. candidate at Northwestern University. She has written for *Art in America*, *Art Papers*, *Art 21*, *Asia Art Pacific*, *Hyperallergic*, *Modern Painters* and other art publications.

Theodore Kerr is a Canadian born, Brooklyn based writer, organizer and artist whose work focuses on HIV/AIDS, community, and culture. Kerr's writing has appeared in the *Village Voice*, *Women's Studies Quarterly*, *The New Inquiry*, *BOMB Magazine*, *CBC*, *Lambda Literary*, *POZ Magazine*, *The Advocate*, *Cineaste*, *The St. Louis American*, *IndieWire*, *Hyperallergic*, and other publications. In 2016, he won the Best Journalism award from *POZ Magazine* for his *Hyperallergic* article on race, HIV, and art. Kerr was the editor for an AIDS-focused issue of the *We Who Feel Differently* journal, and the upcoming HIV/AIDS focus issue of *ON Curating*. He is a founding member of the *What Would An HIV Doula Do?* collective, a community of people committed to better implicating community within the ongoing response to HIV/AIDS.

Notes

- 1 *Walls Turned Sideways: Artists Confront the American Justice System*, Contemporary Arts Museum Houston, 2018.
- 2 Theodore Kerr, "From Tactic to Demand: The Shifting Function of Visibility for People Living with HIV in a Culture of Criminalization," in *Walls Turned Sideways: Artists Confront the American Justice System* (Miami: Name Publications, 2018).
- 3 Sero Project, *SERO Stories - Robert Suttle*, <http://www.seroproject.com/videos/sero-stories-robert-suttle/>.
- 4 Trevor Hoppe, *Punishing Disease: HIV and the Criminalization of Sickness* (University of California Press, 2018).
- 5 Mayo Schreiber and Kate Boulton, "Michael Johnson Bypasses Trial, Enters No-Contest Plea" (The Center for HIV Law and Policy, September 21, 2017), <https://www.hivlawandpolicy.org/news/news-release-michael-johnson-bypasses-trial-enters-no-contest-plea>. To read a statement from Michael, see Michael Johnson, "A Letter from South Central Correctional Center," *QED: A Journal in GLBTQ Worldmaking* 3, no. 3 (2016): 177-81.
- 6 Steven Thrasher, "How College Wrestling Star 'Tiger Mandingo' Became An HIV Scapegoat," *BuzzFeed*, July 7, 2014, <https://www.buzzfeed.com/steventhrasher/how-college-wrestling-star-tiger-mandingo-became-an-hiv-scap>; Steven Thrasher, "HIV Conviction Of 'Tiger Mandingo' Has Been Thrown Out," *BuzzFeed*, December 20, 2016, <https://www.buzzfeed.com/steventhrasher/tiger-mandingos-hiv-conviction-has-been-thrown-out>.
- 7 Charles Stephens, "Black Gay Male Criminalization and the Case of Michael Johnson," *Rewire.News*, August 28, 2014, <https://rewire.news/article/2014/08/28/black-gay-male-criminalization-case-michael-johnson/>. Ryan Conrad, "An Introduction to a Different Kind of Conversation," *QED: A Journal in GLBTQ Worldmaking* 3, no. 3 (2016): 174-76, https://www.academia.edu/31266635/HIV_Criminalization_Forum; Michael Johnson, "More on Michael," *Free Michael Johnson*, February 19, 2016, <https://freemichaeljohnson.org/more-on-michael/>.
- 8 David Freyne, *The Cured*, 2018.
- 9 Risa Puleo, *Walls Turned Sideways: Artists Confront the American Justice System* (Miami: Name Publications, 2018); Risa Puleo, "How to Look at Monsters: Staging Female Bodies from the Periphery of the Seventeenth-Century Spanish World in Baroque Portraiture and Hapsburg Collections" (Theses, CUNY Hunter College, 2015).
- 10 Kyla Schuller, *The Biopolitics of Feeling: Race, Sex, and Science in the Nineteenth Century* (Duke University Press, 2017).
- 11 Day With(out) Art is a day of mourning and action in response to the AIDS crisis, started by Visual AIDS on December 1, 1989 for World AIDS Day. For more information, see <http://www.visualaids.org/projects/detail/day-without-art>.
- 12 LOVE POSITIVE WOMEN is an ongoing project established by Visual AIDS artist member Jessica Whitbread in 2013. In 2018, Visual AIDS organized a pop-up exhibition of over 500 handmade Valentines cards made by artists, activists, and HIV-positive women at Abrons Art Center.

We are never the victims

Timothy DuWhite

My intentions weren't to have sex—though I could get the assumption. Or at least I could rationalize it. We were alone at dinner. I did invite him to my hotel room. There was a bed. He was white—with needs. I was Black—and appealing. I know it's wrong to justify abuse, but the writer in me just cannot ignore significant plot points.

When he reached for my waist I should have anticipated the script. His trite comment, "I knew this is what you wanted!" came as no surprise. I could tell while hovering over our food that he was nothing but a two-dimensional character. Yet still. I unlocked the door with my key card. I fiddled with the TV remote. I opened up my mouth. I held back my tears. I laid on his chest afterwards. If there ever was God, or is a God currently, I pray that he/she/they were not at the LGBTQ Christian conference I attended in Washington D.C. in the Fall of 2015. I don't think my faith would be able to withstand it.

I had been recently hired working with an "affirming" Christian network that aimed to bridge the gap between LGBTQ people and the Christian community when I was enlisted to attend the conference. This was my first "industry" outing, and I was determined to make a good impression. All the big names in Christian inclusivity were there. I smiled, laughed, head-nodded, and pondered myself to and fro. It was a four day convening, and I prepared my body for the marathon—at least I thought I did.

On day two they held identity-based panel discussions in different designated rooms. They had a Latinx panel, an Asian Pacific Islander panel, a white "ally" panel, and so on and so on. Naturally, I was prepared to go wherever the niggas were (or African Americans, if you're into that), but oddly the Black panel and the intersectionality panel were held at the same time in different rooms. I realized then that this conference was a farce, because what fruitful conversation about

intersectionality does not include the Blacks? Needless to say, I did not stick around to find out, and just went to the Black room instead.

When I arrived, the four panelists seated behind a table in the front of the room all sported a different shade of brown that made my ears tingle with joy. Yet I was quickly joined in the audience by a sea of whites that made my stomach turn. Big up to balance? The wax and wane of shit? The panel discussion centered around the Black church, and “what needs to be done” around it.

The remarks were typical of an “inclusive” crowd. *Black folks need to stop pretending like their choir director ain't gay. Black folks need to realize that we're being discriminatory just like the white folks.* Black folks need to do this. Black folks need to do that. Conversations I am used to (read: exhausted with) but generally willing to communally struggle over—as long the room is filled with my community.

The aforementioned white boy raises his hand to make an inquiry—and of course they call on him. He said something about some shit, I don't remember, but I didn't like it and I still don't. The entire room nods as I shake. And I think this is some bullshit, so I say, “This is some bullshit,” to myself, but the white boy is listening. I would say eavesdropping but, to be honest, I was less inclined to paint a white boy as a villain those days. Though I def peeped game, I still hadn't reached my “wits end” with white folks the way my baptist mother often spoke about reaching herself. That point would come after the conference.

The white boy catches my scent and agrees with me that *this is some bullshit*—starts trying to relate. He says things like, “This scope is so limited” and “Where's the nuance?”. I nod because, again, I was less honest back then. He asks me my name, I say Timothy, he looks surprised, like he expected something he could more confidently hang a durag off of. He tells me his, or I guess it, I can't remember. It was something hella Tuesday though. Mad regular. Like lukewarm, monosyllabic, BillBillBillBillBobBobMike—something as white as the name my Black mother gave me.

He tells me about his job in Harlem, how our organizations' missions are alike, how we should connect. I think *networknetworknetworknetwork*. I've ran out of my business cards so I give him my personal one, with my personal cell number because *networknetworknetworknetwork*. Yet, he took this to mean something differently, which explains his use of hands later. He texted me after the panel to meet him for dinner, and I said yes, because *network*? I'm not sure. Either way, here I am at dinner

with this white boy talking about nothing really, but very much invested because of network? I'm no longer convinced, but what else could it be?

Hours after the incident in my hotel room, I called my then sort-of-kind-of boyfriend at the time, crying. I told him that my intentions were never to have sex. How I felt scared and small and guilty, like I did this to myself. He responded by saying that none of this was my fault. And that even if a part of me did want to go to the room for the possibility of something happening, if that desire changed once I got there, that is my right. But those words just made me cry harder. No part of me wanted this. I need him to believe me. I need everyone who hears (reads) this story to believe me. I didn't want sex. I didn't want sex. He was white. He was white. He was white. Right?

It begins to rain, we had been sitting at the dinner table for over an hour, it was time for us to make a decision on next moves. It could have been as simple as, "I'll see you at the next break out session." But it wasn't, because we were still talking, and I enjoyed the talking. Mainly because it was my first time in DC, I didn't know anyone at the conference and I was lonely. I wanted this to keep going so I suggested we go to my hotel room which was only a block away. My rationale was that it was both dry and quiet there. He agreed. We paid the bill and were off.

Usually when I tell this story (which I've only done a handful of times) I note that the implications of inviting a strange boy to my hotel room didn't dawn on me until we were standing in front of my door. As I searched for my key card a warm current wafted over me. My body said wait, this feels familiar, like a movie, a scenario you've seen dozens of times, you are opening the door to your hotel room, this boy is behind you, he has just eaten but is clearly still hungry. What are you doing? What are you actually doing? But all the rising water receded as I remembered that he told me he was a pastor. What is there really to fear?

We get into the room and his eyes are scaling every dimension. He comments on the wallpaper, my jeans, the terrace, the gait of my walk. He is curious in a way that leaves a white boy's hands bloody. It is as if I'm under anesthesia but can still feel the amputation. My body now running slow with the rigor of anxiety stifling each bone. I do not remember what television show we were watching when it happened—if it were a comedy or a true-crime investigation—either way there I was sprawled out on the bed. His red hands sopping up every inch of me as he pries my teeth open with his tongue. I begin to giggle, because

maybe this could be a joke? I laugh, “Hey, ain’t you a pastor?” His whole body on top of me is a warm-damp-breathing-hum. He says, “Yeah, but you have no business being so fine,” or something to that effect.

He moves so quickly, from my lips to my neck, from my neck back to my lips. All I could do is giggle and stiffen. I think, if I am a stone surely he’ll notice—surely he’ll stop. He begins to unbuckle my belt and release me from pants. I grab his hand as he does it, but he snatches them off of me anyway. In this bed I am the weakest I have ever been. My body is limp—unable to respond. He licks his finger and begins to press circles into my asshole. I recoil at his touch but my resistance seems to only excite him. He says, “Oh, I got something for you.” He drops his pants and arches up his pink penis like a ladder. I manage to audibly say, “I don’t know,” at the sight of it, and I am the proudest I have ever been. He responds, “You can just suck it,” and pushes my head into his crotch.

This white boy’s penis is in my mouth, and I am terrified because I do not know what this all means. Am I experiencing rape? I know for sure my body, mind, and spirit do not want this, yet, I still have not fought. At least, not fought in the way I would be expected to. I feel completely responsible. I am twenty-something years old, surely I know the implications of bringing a strange boy to my hotel room—pastor or not.

His hand is on the top of my head navigating it like a faulty compass. Up, down, this way, that way, I assume he is searching for the warmest place to rest. Eventually he allows me up for air. I exaggerate my pant, try to make it seem like he broke something in me. Something physical and not spiritual, something that’ll make it less fun for him to continue. Instead he says, “Damn, you gonna need more training. But that’s for later.” He flips me over to my stomach, and begins to peck his penis towards the middle of my cheeks (again, searching for the warmest place). As I lay I think to myself this is going to happen, this is really going to happen, and there is nothing I can do to stop it. Finally, he finds where he is looking for and presses hard, but before he can enter I make a sound. I cannot tell you exactly what the sound was, or my intent while making it. I just remember opening my mouth as if to start a prayer, and suddenly he is off of me standing aside the bed. His eyes are bulging, and begins, “What the fuck’s wrong with you?”

I just start unloading. I didn’t mean to lead you on. I really thought we could just talk. I have a problem voicing discomfort when in these sort of situations. I really do think you’re nice. I just wasn’t trying to have sex. I’m sorry. I’m so dumb. I’m so fucking dumb. This is all my fault.

As he puts on his clothes I can see him wilting. He has shrunken two sizes smaller wearing the kind of hurt that makes a white boy lethal. He is looking over his body, taking in every inch, second by second his self-consciousness blooms into a plant splintering everything in the room. I can feel the heat fanning from his anger as he silently moves to and fro. And suddenly, while watching him from atop the bed it strikes me, “I never told him about my HIV status.” I didn’t think disclosure was necessary before because I didn’t plan on us being intimate.

But now, as I watch his anger I think about all the ways it could happen. Maybe he’ll be scrolling through Facebook and see a poem of me discussing my disease. Maybe he’ll stumble upon an article I have written. Maybe a mutual friend of ours in Harlem mentions the work I do. And then. And then. And then. He’ll have his chance. His revenge. He’ll claim reckless endangerment. He’ll say I fucked him and never said anything. He’ll say it’s a miracle that he didn’t contract—but I should still be taken off the streets. That I am a threat to public health. That I’m *gonna need more training*.

I heard stories that even an accusation of endangerment has the potential to land you in prison. And I am the perfect suspect—harboring all this sick blood like I do. So before he walks out I stop him. I put my hand on his chest, and say that I am sorry. That I’m just buggin. That I really do like him. That I want us to take this slow. After some coaxing finally he says, “Okay baby.” Lies back on the bed, and places my head on his chest. He kisses my forehead and softly whispers to me all the things he wants to do with me when we get back to New York. He wants to properly court me. I just nod, because I cannot be honest.

Now, years later I think about that time I spent on his chest. Smiling—while the most afraid I have ever been. I think about everything that brought me there: the law, God, his white skin. How they are all one in the same. All punitive in their affection. How in that room they all would have sooner seen me dead, than to have seen me free.

After the conference weekend I never responded to any of his texts like I promised I would. I spent the rest of that year waiting for the day the police would come to my door. Tell me everything the white boy said, and escort me into my cage. When it comes to the criminalization of HIV, I am always the culprit, I am never the victim.

I should’ve known better.

Timothy DuWhite is the Program Director at New York Writers Coalition, a non-profit dedicated to providing writing workshops to underserved communities, and much of his work is about being Black, queer, HIV positive and having to either navigate or evade varying state apparatuses to remain alive. His writing has been featured at the United Nations/UNICEF, Apollo Theater, Nuyorican Poet's Cafe, La Mama Etc., and Dixon Place, and he has made appearances and keynote speeches at San Diego State University, Columbia University, Oregon State University and Columbia College Chicago.

The New Equation

Jordan Arseneault

It's that awkward moment when...

You're naked in bed with a boy you've just made out with on a rooftop.

Looking up at the little toy cross

On top of the big, dark mountain.

That awkward moment where you bring in the Greek chorus

Of Angels in America characters

And the dump truck of dead bodies and

News segments of ashes actions

And Diamanda Galas howling over Fire in My Belly.

That awkward moment when you decide to cough it up

To rip the band-aid off the unhealed wound

And tell him:

I just need to tell you something that's really not easy to say and

I'm legally required to tell you before we take this any further:

I have been shortlisted for a very special prize.

I am on the shortlist for those who didn't win the bet.

I am biopolitically pegged for a lifetime of awkward moments.

There's 50 parts per millilitre of me

That are Having It Very

difficult; that are too late for a vaccine,

That didn't do their due diligence

And that echo a Harsh Interior Voice

Saying "stay away,"

Even though any other combination of bodies in a moment like this

Would just be getting it on right now.

It's that awkward moment where you look up at the
SILENCE = DEATH poster
On his cluttered bedroom wall
And say the words
I AM HIV POSITIVE
Only to see him freeze, lose his boner, sigh,
And explain trippingly that he has an anxiety disorder
And "just can't take it right now."

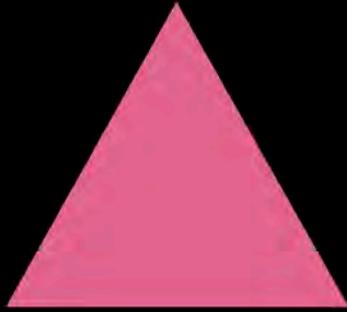
It's that awkward moment when you want to rip a hypocritical poster
off someone's wall
Or at least half of it:
SILENCE = riiiiiiiiiiiiii crumple crumple
SILENCE =
SILENCE = SEX
All those posters say THAT to me now:
Silence equals sex.

If you just keep your mouth shut
And don't talk about cells and replication and undetectability
And minor cuts or abrasions
And rinsing with lemon juice
And tests every three months
And how you ever got it in the first place...

"Oh," you ask "you were in a video PSA about serophobia too?"
"Yes, I'm sure you are very open-minded.
Thank you for showing me that," you say,
As you put your clothes back on.

SILENCE = SEX
Get used to the new equation,
Cause these bastards just don't know the math.

Jordan Arseneault is a performer and film curator in Montréal. Arseneault employs song, cello, drag, and original/found text in his performance work. His collaborative performances *Serocene* (MIX NYC, 2014, with Matthew-Robin Nye) and *Propositions for the AIDS Museum* (projets hybris, 2014-2017) and his participatory works address issues of criminalization, stigma, HIV/AIDS, addiction, queerness, and community.



SILENCE = SEX

AIDS
ACTION
NOW

The criminalization of HIV+ people perpetuates stigma and prevents prevention. HIV+ people are often caught in a "Catch 22," wherein disclosure is required by law, but often leads to immediate rejection. Inform yourself: overcome stigma and get laid!

Report Backs

Cell Count would not have been possible without the numerous conversations we had with organizations and individuals involved in resisting and undoing HIV criminalization. In this section, we asked eight advocates to discuss and reflect on their experiences with fighting criminalization. Their responses cover a range of geographic locations and activist strategies, from lobbying state lawmakers to building power among people living with HIV. Because there are no HIV-specific federal laws in the United States, the struggle against HIV criminalization has primarily been fought on a state-by-state basis, each with its own unique challenges and legal obstacles.

The biennial HIV is Not a Crime conference, organized by the Sero Project and the Positive Women’s Network, has been a key site for building a national movement to tackle HIV-specific laws in each of the 34 states where they are currently in effect. In his report back, Robert Suttle discusses his work in organizing the conference and centering the voices and leadership of people living with HIV. Barb Cardel also reports her experience at the first HIV is Not a Crime conference in 2014 as a formative moment for the Colorado Mod Squad, a coalition of advocates who were successful in modernizing all of Colorado’s HIV-specific statutes in 2016. In 2017, activists in California were successful in passing similar legislation—Thandi Harris and Craig Pulsipher speak to their roles in California’s reform in their joint report back.

In Georgia, where legislative support is still being developed, Eric Paulk and Johnnie Ray Kornegay III describe a number of strategies that the Georgia HIV Justice Coalition uses to eradicate stigma and build power. David Plunkett’s report back recounts his own experience of serving time for an HIV-related conviction and his fight to appeal his case, which eventually set a legal precedent against criminalization in New York state. Finally, Alexander McClelland reflects on his research

and advocacy work in Canada, where, unlike the US, prosecutorial guidelines for HIV criminalization are set at a federal level.

The fight against HIV criminalization is part of a much larger struggle to dismantle unjust systems of policing, surveillance, and incarceration. While these report backs represent just a fraction of the collective effort against HIV criminalization, they speak to the growing momentum and continued urgency of this work.

Robert Suttle on the Sero Project

Sero Project is a national network of people living with HIV and allies known for its reform work to end the inappropriate criminal prosecutions of people with HIV. Sero's work includes raising public awareness through statewide and local community education efforts as well as outreach to mobilize and advocate for HIV criminal law reform.

Over the last several years, it has been remarkable to witness the coming together of national networks of activists and advocates, particularly a coalition of people living with HIV, social justice groups, community organizers, as well as public health, criminal justice, medical and scientific professionals, political and public policy leaders. In 2014, we participated with allies from across the country for the first HIV Is Not a Crime Training Academy, a three-day workshop and practical training to develop strategies and best practices for changing laws that criminalize people with HIV. The training builds skills with an emphasis on grassroots organizing, advocacy, coalition building, and campaign planning, providing concrete tools and resources to work on state-level strategic planning.

In the context of organizing around HIV criminalization, I believe the conference compels us to use an intersectional lens and reminds us the importance of centering the voices and leadership of people living with HIV and other communities disproportionately impacted by criminalization in all its forms. One of Sero's strategies is to build networks with people living with HIV in a number of states. Networks are persuasive and powerful advocacy tools, and have led to the growth of organizing around HIV criminalization in many states.

It's quite an undertaking to collaboratively plan HIV Is Not a Crime and to ensure that the right people are involved, represented, and able to actively participate. I'd say the biggest surprise and win for us all would be the support from our funders. The Elizabeth Taylor AIDS

Foundation was willing to take a risk on an area of advocacy that few others had undertaken. We brought the issue to them and educated their program officers. They were interested in hearing directly from people with HIV about what priorities we saw. We brought this important issue and need to their attention through community advocacy from grassroots activists with HIV and networks of people with HIV, rather than top-down from policy organizations or governmental directive. They have stayed engaged, followed our work, asked questions, offered advice, broadened awareness, and encouraged us—and other grantees—to work collaboratively.

In addition to organizing HIV Is Not a Crime, my role at Sero has been to oversee community outreach and education and coordinate Sero's HIV Criminalization Survivors Network through support and engagement with those who have been prosecuted or at greatest risk of prosecution. This work is important to me specifically because my life was nearly destroyed by a grossly unjust HIV prosecution and conviction. Instead of retreating, I have embraced social justice work with a passion and clear-eyed conviction with an understanding that our level of awareness determines our destiny.

Robert Suttle is the Assistant Director of the SERO Project, a network of people living with HIV and allies fighting for freedom from stigma and injustice. He oversees the community outreach and education and coordinates Sero's HIV Criminalization Survivors Network.

Barb Cardell on the Colorado Mod Squad

One of the most difficult conversations to have about the AIDS epidemic is around HIV criminalization. At first, punishing people who fail to disclose their HIV status or who expose others to HIV by locking them up and throwing away the key fits our sense of injustice, anger, and betrayal. However, such policies ignore the impact of pervasive racism, homophobia, transphobia, poverty, and unequal access to education and healthcare in vulnerable populations. By focusing on individuals, HIV criminalization fails to address the root causes of HIV transmission: systemic institutional violence and stigma. Prosecution never solves social issues.

When we call people living with HIV who transmit their virus “criminal” or treat them worse than HIV-negative people who engage in the same behavior, we perpetuate the very stigma that we challenge. Ending the HIV epidemic takes more conversation, more support for marginalized groups, more education, and more creative, inclusive solutions. We will never be able to prosecute or legislate the end of HIV.

In Colorado, we had three criminal laws and outdated state statutes that targeted people living with HIV dating back to the early 1990s, a time when many states adopted HIV criminalization laws. In 2014, activists living with HIV came together at the first HIV Is Not a Crime conference in Iowa. Upon our return home, we started talking with our fellow Coloradans and discovered that these laws were rarely used—not because they were forgotten, but because they were used to threaten the most marginalized. Youth, trans people, homeless people, sex workers, and women of color were being threatened with felony sentence enhancement based on assumed HIV status. They were then convinced to plead guilty to lesser charges to avoid this possible felony. This denial of due process and the assumption of guilt due to perceived HIV status deeply offended our sense of justice and sparked our HIV criminal reform efforts, leading to the creation of the Colorado Mod Squad.

It was good that we had a powerful sense of outrage as our road to HIV modernization was tough. We had many advantages: legislative champions, supportive community partners, a visionary ally at the State Health Department, and a determined group of people living with HIV. But we also faced groups that misunderstood our modernization efforts, had to sit through ignorant and uneducated testimony, and redrafted our fifty-four pages of legislation twelve times. In the end, we succeeded in modernizing all of our HIV-specific statutes, repealed two of the criminal laws, and significantly revised the third. Every step of the way, from drafting the original language to reviewing amendments and negotiating compromise, we were led by people living with HIV. While failure was always a distinct possibility, we believed this was our collective responsibility to our community. On the last day of the 2016 Colorado General Assembly session, in the last hour, SB 146, the STI Modernization Act, passed by one vote. Colorado proved that archaic laws criminalizing people based solely on HIV status may be difficult to repeal, but not impossible.

Without the leadership of people living with HIV, this modernization would have never occurred. We have stepped away from the early days of AIDS activism. Scientific advances have allowed us to return to “normal” lives, working, raising families, and living long, healthy lives. But we sometimes forget that this presumes access to HIV-specific medical care, medications, and family support—and this is still not the experience of many people living with HIV. Stigma, discrimination, and even emotional and physical violence continue to shame and frighten us into silence about our status.

In Colorado, we believe that we changed the world. It sounds paradoxical to us, that a small group of people living with HIV and our allies were able to implement groundbreaking policy change. But we did just that, supporting a public health response to HIV, challenging stigma, and demanding respect and compassion for communities at risk of acquiring HIV as well as people living with the virus.

There is still so much work to be done across the US and globally to modernize and reform laws that target people living with HIV. These are our lives and our bodies. If we don’t lead this effort, who will? We are not criminals, we are people living with a virus who have been unjustly targeted and labeled as such due to fear and stigma. We must continue to rail against this stigma and inequity, working to change the world for ourselves and our communities.

Barb Cardell is a woman openly living with HIV in Boulder, Colorado. She is an educator, activist, and advocate, engaged in local, statewide, national, and global HIV issues and currently serving on the Governor-appointed statewide Colorado Alliance for HIV Prevention and Education. Barb co-founded PWN CO, a Colorado based advocacy group for ALL women living with HIV in the state of Colorado and is the Chair of the Positive Women's Network USA Board of Directors. She is also the Vice-Chair of the US Persons Living with HIV Caucus. Barb is the Legislative Chair of Colorado Organizations Responding to AIDS and led HIV criminalization reform in Colorado, modernizing HIV statutes and repealing two criminal statutes that targeted people living with HIV. She is currently interested in grassroots mobilization, The Stigma Index, the Denver Principles, and working with white women to dismantle racism in HIV fields.

Thandi Harris and Craig Pulsipher on reforming HIV criminalization in California

In October 2017, California passed Senate Bill 239 to modernize their HIV-specific criminal laws, requiring the state to prove intent to harm, acknowledging safer sex practices, and removing felony penalty enhancements. Below, Thandi Harris from the Positive Women's Network (PWN) and Craig Pulsipher of APLA Health discuss how these reforms were won.

Craig Pulsipher: During the 1980s and 1990s, California enacted several laws that criminalized the behavior of people living with HIV or added penalties to existing crimes for those living with the virus. These laws were based on fear and a limited medical understanding of HIV and its transmission routes. In 1988, when most of these laws were passed, there were no effective treatments for HIV and discrimination towards people living with HIV was rampant. None of these laws required actual transmission of HIV and, in some cases, they did not even require exposure or conduct that would be likely to transmit the disease.

California's HIV criminal laws had a disproportionate impact on vulnerable communities. According to the Williams Institute at the UCLA School of Law, 800 people came into contact with the California criminal justice system from 1988 to 2014 under either an HIV-specific law or under another law pertaining to all communicable diseases. The vast majority, some ninety-five percent, of all HIV-specific criminal incidents impacted people engaged in or suspected of engaging in sex work. California's HIV criminal laws also disproportionately affected people of color, women, and immigrants. Though law enforcement does not routinely collect information regarding gender identity for those who are arrested and convicted, there is good reason to believe that

transgender women, especially transgender women of color, were also disproportionately affected by these laws.

Beginning in 2014, California advocates and community members began meeting regularly to discuss how to go about changing the state's outdated HIV laws. This group, which soon became known as Californians for HIV Criminalization Reform, drafted bill language, developed fact sheets and other educational materials, held community forums, and met with state lawmakers to identify legislative champions. The work was difficult, to say the least, as coalition members spent an enormous amount of time helping community members and legislators understand this complex issue.

In 2017, nearly three years later, Senator Scott Wiener (D-San Francisco) and Assembly member Todd Gloria (D-San Diego) emerged as the legislative champions for HIV criminalization reform. Together they introduced Senate Bill 239 and worked tirelessly alongside coalition members such as Thandi Harris from the Positive Women's Network to ensure the bill's success. This included responding forcefully to negative opinion pieces in local newspapers, meeting repeatedly with misinformed legislators concerned about public safety, and battling health officials who believed the legislation would make it more difficult to do their jobs. As a testament to the group's hard work, Governor Jerry Brown signed Senate Bill 239 into law in October 2017.

Thandi Harris: As a woman living with HIV, I represent a hidden portion of the population that has been highly impacted by the epidemic. Many women of color have been disproportionately impacted by the old HIV criminalization laws in California, which were created in the late '80s early '90s during the early days of the HIV epidemic. California's former HIV criminalization laws were based on stigma and did not reflect current advances in HIV medicine.

I have been blessed with the wonderful opportunity to work on the policy team and be a part of the Policy Fellowship at Positive Women's Network-USA. Positive Women's Network is a national membership organization of women living with HIV and allies that advocate for social justice issues that affect all women affected by the HIV epidemic. PWN was one of many organizations in a statewide coalition to support bill SB 239, which just became a law in January 2018. SB 239 updated California's HIV criminalization laws which penalized women of color for being HIV-positive. Advocating for this bill was important to me because

no one should be penalized because they have HIV. The California's old state laws needed to be reformed because it was discouraging high risk individuals from getting tested and knowing their status out of fear of penalization and discrimination.

By the time I became involved with advocating for SB 239 in April of 2017, the bill had a new champion—Senator Wiener of San Francisco—and started gaining momentum in the California state legislature. I was totally new to advocacy but had a desire to be a part of something that would make an impact. Since the epidemic affects me personally, and I know so many other women who are living in fear and shame because of the stigma associated with HIV, I was more than excited to advocate for a bill that would change laws rooted in HIV stigma. My first time going to Sacramento to advocate for SB 239, I sat in on a testimony hearing with the Assembly Health Committee. It was an exciting experience just watching those brave souls give their testimony for the bill. I was also shocked and disappointed when an Assembly member on the committee vocally spoke out against the bill. According to him, “there are HIV positive people intentionally going around spreading the virus to other people, and they must be punished.” That statement hurt me because I know the pain that an HIV diagnosis comes with and I, nor would anyone I know affected by HIV, intentionally go out of their way to hurt anyone else. Those comments made by that senator were rooted in fear, stigma, and ignorance of modern medicine. Despite that, the bill managed to pass the Assembly Health Committee and move on to the Assembly Public Safety Committee.

Craig Pulsipher: Under the new law, HIV is treated similarly to all other significant communicable diseases and criminal penalties cannot be imposed unless a person acts with the intent to harm another person. To convict someone of a misdemeanor, the government must prove that a person who knows they are living with a communicable disease acted with the intent to transmit that disease to another person and that their conduct posed a substantial risk of transmission. The law also makes clear that anyone who has taken precautions to reduce the risk of transmission—including using a condom or taking medications to eliminate the risk of transmission—does not have the intent to transmit. The bill also completely eliminated the felony penalty enhancement for engaging in sex work while living with HIV and vacated

all previous convictions under this discriminatory statute. California has now become a model for HIV criminalization reform across the country.

Thandi Harris: When I was asked to testify in front of the Health and Safety Committee in the Assembly I jumped at the chance. I was extremely nervous because I had never done any type of testimony before. But with the support of PWN and coaching from experienced advocates from the coalition I was able to make it through. I would suggest that any woman living with HIV who wants her voice to be heard come and join Positive Women's Network-USA. We always welcome people to join our monthly policy calls. Even though SB 239 is now a law in California, there is still work to be done toward decriminalizing HIV on a national scale. The voices and experiences of women living with HIV need to be heard in this movement because it is our voices joined together that could create the change needed to end HIV criminalization and stigma. Please feel free to visit www.pwn-usa.org for more information.

Thandi Harris is from Bay Point, California. She has a BS in Biology, a MS in Biomedical Science and has also pursued medicine. She is proud to be a Positive Women's Network Policy Fellow and to work in the PWN Oakland office on the policy team, where she worked tirelessly to pass SB 239 to reform HIV criminalization laws. She is a powerful advocate of color that has overcome many challenges.

Craig Pulsipher is the State Affairs Specialist at APLA Health where he oversees HIV and healthcare policy, legislation, budget, and political strategy at the state level and participates in community collaborations on a broad range of HIV and health related issues. He currently serves as the Co-Chair of the California HIV Alliance. Craig received graduate degrees in Public Policy and Social Welfare from the University of California, Los Angeles and was also an intern with Lambda Legal and the Human Rights Campaign. Craig received a BA in psychology from Brigham Young University in Provo, Utah.

Eric Paulk and Johnnie Kornegay on the Georgia HIV Justice Coalition

Georgia's HIV epidemic is one of the worst in the US. There are over 54,000 people living with HIV in Georgia, and around 2,500 Georgians are diagnosed with the virus each year.¹ Many never get the healthcare and other support they need to stay healthy. In Georgia, it is illegal for people living with HIV to have sex or share needles with another person without disclosing their HIV status. Recent research conducted by the Williams Institute for the Georgia HIV Justice Coalition has found that Black men are the most likely to be arrested under Georgia's HIV criminalization laws.²

Black people are the most vulnerable to being victimized by the criminal justice system due to the same structural issues that cause Black people to be more vulnerable to HIV. These structural issues include higher rates of housing and food instability, higher than average rates of unemployment and underemployment, and trauma. The combination of higher rates of HIV and more frequent interactions with the criminal justice system means that Black people are disproportionately impacted by HIV criminalization.

Stigma and discrimination are formidable barriers to HIV criminalization reform efforts. Stigma unravels communities and families, decimates networks of mutual support, and intensifies the shame and self-hate experienced by those living with HIV. While there has been national outcry in recent years about the need to address disparities in our criminal justice system around the criminalization of Black men, Black men living with HIV, such as Michael Johnson, never garner that empathy.

Michael, a young Black athlete in the prime of his life, was sentenced to thirty and a half years in prison for criminal non-disclosure under Missouri's HIV criminalization law in 2015, an egregious act and nothing short of cruel and unusual punishment.³ Think pieces about Michael

almost always seem to include a photograph of him, often shirtless, displaying his muscular frame and dark skin above the byline. Even still, the hashtag #FreeMichaelJohnson was never trending on Twitter. The stigma associated with being Black, gay, and living with HIV did not win Michael many champions, proving that not all criminal justice issues are created equally.

The movement to reform HIV criminalization laws must be included with other criminal justice reform and framed to include a racial justice lens. The Georgia HIV Justice Coalition is a broad-based coalition of both individuals and organizations working across movements and strategies to end HIV criminalization. One approach developed by Georgia Equality, a member of the coalition, is the Youth HIV Policy Advisors Program. The program grew from the belief that all laws and policies related to HIV should be informed by the experiences of people living with HIV and provides young people living with HIV in Metro Atlanta with advocacy training and resources to educate state, city, and county-level policymakers to make better decisions related to HIV prevention and treatment. In the program, youth create a policy agenda and present it to elected officials and community leaders at the World AIDS Day Policy and Action Luncheon. Youth are also matched with elected officials and serve as “Special Advisors on Youth HIV” while completing HIV-related projects in the elected official’s district.

Another strategy used by the Georgia HIV Justice Coalition is visual art. In 2017, the coalition



Shyrone Jones for Georgia HIV Justice Coalition: “I’m not armed or dangerous. I RESIST the unjust criminalization of people living with HIV who know their HIV status, and are proactively taking action to not transmit HIV to others!”

invited people living with HIV in Georgia to submit visual art on the theme of HIV criminalization, printing selected artworks onto postcards such as the one reproduced on the previous page. The project sought to make clear how HIV criminalization codifies stigma in law, worsens existing inequality, and makes life hard for people living with HIV. The campaign centered the lives and art of people living with HIV, asking them to speak about how HIV stigma and the threat of criminalization affects their lives. This was not a campaign to educate the public about HIV “risk behaviors.” While HIV is commonly understood through the lens of behaviors like sex and IV drug use, the coalition wanted to deconstruct this perspective and help communities think beyond individual behaviors to the “root causes” of the epidemic’s persistence in our region.

These are just two tactics for resisting HIV criminalization. Here are some recommendations for moving the work forward:

- I. Build the movement
 - Organize a strategic convening between advocates working on racial justice issues and HIV decriminalization advocates.
 - Advocate for funding for Black movement leadership within HIV advocacy.
 - Train journalists on how to cover HIV criminalization in ways that don’t perpetuate racism, discrimination, or stigma.
- II. Smash the clinic-to-prison pipeline by undoing HIV exposure laws
 - Create trainings for law enforcement officers, prosecutors, and health departments on HIV criminalization.
 - Identify model legislation.
 - Educate the community around HIV criminalization.
 - Organize a policy “boot-camp” for state legislatures.
- III. Invest in Black HIV movement lawyers
 - Set-up an HIV legal clinic at a Historically Black Law School.
 - Establish a working group with the National Bar Association on HIV/AIDS.
 - Publish a special issue of the National Black Law Journal on HIV criminalization.
 - Organize a convening of Black HIV lawyers.
 - Develop a continuing legal education program on race, HIV criminalization, and the law.
 - Create a professional pipeline for Black lawyers working on HIV and its intersections.

Eric Paulk leads HIV Policy at Georgia Equality, managing all statewide and local advocacy and policy efforts on HIV-related issues and issues impacting people living with HIV. Prior to joining Georgia Equality, Eric served as the Tyron Garner Fellow at Lambda Legal, the oldest and largest organization dedicated to advancing the civil rights of LGBTQ individuals living with HIV. At Lambda Legal, Paulk's work focused on addressing legal issues disproportionately impacting Black LGBTQ communities and HIV and the law. Recognized as an emerging leader, Eric has spoken at leading law schools and national advocacy conferences on HIV criminal reform, the impact of the school-to-prison pipeline on Black queer youth, and the intersections of race, poverty, HIV, and LGBTQ issues. Paulk has published work in *HIV Plus Magazine*, the *Huffington Post*, the *Atlanta Voice*, the *Georgia Voice*, and *Project Q Magazine*. He serves on the Board of the Atlanta Harm Reduction Coalition and is the former board chair of GLSEN New York City. Paulk is also a former Victory Empowerment Fellow and a graduate of Pace University Law School and Morehouse College.

Johnnie Ray Kornegay III is the Mobilization & Network Director for Counter Narrative Project where he advocates around issues impacting Black gay men and stands in solidarity with other movements committed to social justice. He is also the Founder & Artistic Director of Staticc Art & Life, LLC, an arts company with the mission of "delivering beauty to the world." In the late 1990s, he trained with the American Red Cross in HIV education and did outreach work for the Chester AIDS Coalition. He has written blogs, and has produced and hosted the podcast *Counter Point*. In 2016, he exhibited *#BeTheFlame* and *untitled*, bodies of video and photo works which included themes dealing with the impact of HIV on Black gay men. In 2017, Johnnie co-curated World AIDS Day Atlanta events and *I AM... - Arts, Activism and HIV*, an exhibition at the National Center for Civil and Human Rights. Johnnie currently serves as Co-Chair of the Georgia HIV Justice Coalition, a broad-based coalition of both individuals and organizations working across movements to bring an end to the criminalization of people living with HIV.

Notes

- 1 "Georgia's HIV/AIDS Epidemiology Surveillance Section," Georgia Department of Public Health, 2016, <https://dph.georgia.gov/georgias-hiv-aids-epidemiology-surveillance-section>.
- 2 Amira Hasenbush, "HIV Criminalization in Georgia" (The Williams Institute, University of California School of Law, January 9, 2018), <https://williamsinstitute.law.ucla.edu/research/health-and-hiv-aids/hiv-criminalization-georgia/>.
- 3 Michael's original sentence of thirty years and six months was overturned by an appeals court after prosecutors failed to disclose evidence in a timely manner. In 2017, Michael accepted a plea bargain of 10 years rather than facing re-trial. At the time of writing this, he is set to be released on parole in October 2019. Steven Thrasher, "'Tiger Mandingo,' Who Once Faced 30 Years In Prison In HIV Case, Gets Parole," *BuzzFeed*, April 9, 2018, <https://www.buzzfeed.com/steventhrasher/tiger-mandingo-hiv-michael-johnson-parole>.

David Plunkett on being criminalized in New York

I was forty-six and semi-retired when I found myself incarcerated by the State of New York Department of Corrections and Community Supervision at the infamous Sing-Sing prison, located approximately forty-five minutes from New York City.

I was diagnosed HIV positive in June 2006, a time I'll never forget. I could find no resources for people living with AIDS and HIV in my small town and began taking prescription narcotics and drinking heavily. On September 18th, I had a doctor's appointment and I had crashed my car, so my uncle took me to the office. I was intoxicated at the time and the police were called. I was later told that I acted up. I was arrested and sent to the county jail. I remained in that very small jail for a year until my case was adjudicated. I was eventually sentenced to ten years, maximum security.

This sentence all came about because, as the police were arresting me, they figured out I was gay. They broke my bones and skinned me up. At one point during the arrest I made a mistake and revealed my HIV status. I stated that I was positive. I saw that I was bleeding, and for their safety as well as mine I did the responsible thing. I knew I was not able to transmit the virus due to a low viral load. My meds were working, and I was well! However, my lawyer assured me the small town jury that had been selected would not see it this way. I was gay and worse yet I was a "monster." I had HIV and most people at the time believed the people who acquired the disease were "bad" gays, drug addicts, and sex workers.

This was social discrimination at its finest. HIV criminalization and stigma are still alive and well, even in the gay community today, where those who are negative often won't associate with those who are positive, even while it is common knowledge that HIV is only transmitted by specific body fluids, such as breast milk, blood, and semen. Saliva will not transmit HIV. Yet the judge in the lower court

charged me for exposing the police officer to my saliva, which was clear of any blood. For this I served time.

While in state custody, I began writing letters to various legal firms that represented high profile HIV/AIDS cases, evictions, discrimination, and unfair sentencing. To my delight, Lambda Legal took my case. Lambda is probably the best-known LGBTQ legal organization representing the community since the gay rights movement began. I had one of the top lawyers defending me: Scott Schoettes, an HIV positive attorney with a passion for those unfairly treated by the system. He states, “there are two ways that prosecutions are brought against people living with HIV based on their HIV status. One of them is through general criminal laws, and that’s what we had in the Plunkett case. The other way is through HIV-specific criminal law.”¹ Scott wrote an amicus brief (“friend of the court” brief) to accompany my attorney’s brief, which stated that I could not be charged with “aggravated” assault, because my teeth and saliva were a part of me, and therefore were not a weapon.²

I waited four years for my appellate decision, a very long time when you are innocent. While I waited, I attended Mercy College and upon my release I was able to take the five classes I needed to graduate with my BA in Behavioral Sciences. I took every opportunity to participate in prison programs. I was going to do my time, not allow my time to do me! I was eventually released in 2012 and the decision to vacate my charges set the standard for New York State, where HIV cannot be considered a “deadly weapon.” My release was a long time coming, but I made it, and I’m now completing my master’s in Psychology, a field with many opportunities for those seeking employment under my circumstances.

It still saddens me that I continue to be stigmatized by society and the legal system today, especially when I learn about folks doing incredible amounts of time for HIV crimes that would be considered ridiculous by a society using critical thinking and taking the time to learn the very basics of HIV/AIDS. According to one study, “Research reveals that perceived discrimination is adversely related to a broad range of health outcomes and health risk behaviors.”³ When people living with HIV are continually told by a discriminating society they do not deserve to live a happy and successful life, they are more likely to not medicate themselves with lifesaving drugs, therefore increasing rates of transmission. The best way to reduce HIV stigma is education, and the best way to deal with a court system that is stuck in the ’90s is to educate and lobby court officials.

David Plunkett is a paralegal. He holds a BA in Behavioral Science from Mercy College and is currently pursuing an MS in Psychology.

Notes

- 1 Scott A. Schoettes, "Full-Court Press on HIV Criminal Laws," *POZ Magazine*, July 20, 2012, <https://www.poz.com/article/Schoettes-HIV-Plunkett-22698-2663>.
- 2 "State vs. Plunkett: New York Court of Appeals Says HIV+ Man's Saliva Is Not a 'Dangerous Instrument,'" *The Center for HIV Law and Policy*, June 7, 2012, <https://www.hivlawandpolicy.org/news/state-vs-plunkett-new-york-court-appeals-says-hiv-man's-saliva-not-dangerous-instrument>".
- 3 Ignacio D. Acevedo-Polakovich et al., "Toward a Relevant Psychology of Prejudice, Stereotyping, and Discrimination: Linking Science and Practice to Develop Interventions That Work in Community Settings," in *The Cost of Racism for People of Color: Contextualizing Experiences of Discrimination*. (American Psychological Association, 2016), 317-37.

Alexander McClelland on the Canadian Coalition to Reform HIV Criminalization

Back in my mid-twenties, I was a front-line peer support worker for a group run by and for young people living with HIV in downtown Toronto. A good friend of mine who came to the youth group I ran was arrested for allegedly not disclosing his HIV status to a sex partner. They only had oral sex, and he used information I had taught him in an HIV prevention workshop to make decisions. He was living out of the province where the group was when he was arrested. A SWAT team surrounded him, arrested him, and he was flown across the country and immediately put in prison near Toronto—for a blow job. I was interviewed by his lawyer and asked to testify on his behalf. Ultimately, it never went to trial and his charges were stayed, meaning that they are not dropped completely and could be brought back within a year. The experience left my friend deeply traumatized and our community in shock. It marked me deeply and I wanted to do work that could ensure that would never happen again to my community. That experience was the inspiration for my doctoral research and activism.

I've been writing about the ethics of doing work with criminalized people since starting my dissertation research. Speaking with people directly about their lives and experiences as being criminalized demands a depth of ethical engagement that other forms of research on criminalization do not. For example, it is very common for people studying issues of criminalization to use newspaper articles and legal documents as a primary source for their research. But when you speak with people directly about what it was like to be criminalized, it becomes clear that newspaper articles and legal documents enacted forms of violence against these people. Articles frame facts incorrectly and sensationally in ways that make people look guilty—they are stigmatizing, breach people's privacy, and are forever on Google. These are not neutral documents. I am not saying they are not a valid source for research,

but if researchers lack a political orientation and look at these types of documents without critically examining how the documents have been complicit in violence, they could cause further harm.

Canada holds the heinous designation of being, like the USA, one of the leading countries in the world for criminalizing HIV non-disclosure and exposure. In 2016, a group of Canadian activists came and participated in the HIV Is Not a Crime conference in Alabama. At the meeting, we formed as a coalition and have since been known as the Canadian Coalition to Reform HIV Criminalization. There had been previous advocacy work countering criminalization in Canada, but it was piecemeal and driven primarily by lawyers intervening in active legal cases. With the coalition, we are now more coordinated and are working collaboratively, led by people living with HIV, including those who have experienced criminalization.

In two years we have made powerful strides. One of the most inspirational aspects of the 2016 HIV Is Not a Crime conference was seeing people with lived experience of criminalization articulating the harms and injustices from their own perspective. It's a component of activist response that is vital, bringing the issue to life and highlighting actual lived experience. We didn't have people doing that in Canada. For the past few years I have been doing my doctoral research on people's lived experiences of criminalization in Canada. I've been going across the country and speaking with people firsthand about what happened to them. While doing this research, I have worked with a number of people to start sharing their stories more publicly, and we now have a number of very vocal activists who are survivors of criminalization that can speak to their own lived realities. I have also worked to support people who are currently incarcerated to write statements that our coalition has shared during meetings with government officials and at demonstrations. The impact of real people speaking their lived reality is beyond anything else we have available to call for change.

Our coalition has been advocating for the implementation of prosecutorial guidelines to limit the possibility of new cases coming forward. We also want the government to change the criminal code so that sexual assault laws can't be used to target people living with HIV and so that our friends and community will no longer be subject to sex offender designation.

Coalition work necessitates concessions, as we all have different long term visions. I'd prefer to see no use of the criminal law ever

in situations of HIV non-disclosure and exposure, while others may disagree. It's a balancing act. Our current efforts, for example, advocate for a very limited role for the criminal law, only in cases where intent to transmit HIV can be proven and where HIV was in fact transmitted. To limit the law from the broad place it is currently in, we need to have a bit of give and take. As someone who would like to see all prisons abolished, this has been a challenge to get behind, but I see the approach as a form of harm reduction, and the first step of many more.

Alexander McClelland is a Canadian-based writer and researcher who is currently working on a doctorate at the Centre for Interdisciplinary Studies in Society and Culture at Concordia University in Montreal. He has been living with HIV for 20 years. His work focuses on the intersections of life, law, and disease. He has developed a range of collaborative and interdisciplinary writing, academic, artistic, and curatorial projects to address issues of criminalization, sexual autonomy, surveillance, drug liberation, and the construction of knowledge on HIV and AIDS. His doctoral work examines the lives of people who have been criminally charged and/or prosecuted in relation to not disclosing their HIV-positive status to sex partners in Canada. His work has been supported through a range of awards, including the Concordia Public Scholars program fellowship, Canadian Institutes of Health Research Doctoral HIV/AIDS Community-Based Research Award, and the Institute for Anarchist Studies Grant for Radical Writers. McClelland is a steering committee member of AIDS ACTION NOW! and part of the Canadian Coalition to Reform HIV Criminalization.

Artist Biographies

Jordan Arseneault is a performer and film curator in Montréal. Arseneault employs song, cello, drag, and original/found text in his performance work. He has developed two social practice workshops, *Fear Drag* (2010–present), and *Disclosure Cookbook* (with artist Mikiki, to be performed at M:ST Performative Arts in October 2018). His collaborative performances *Serocene* (MIX NYC, 2014, with Matthew-Robin Nye) and *Propositions for the AIDS Museum* (projets hybris, 2014–2017) and his participatory works address issues of criminalization, stigma, HIV/AIDS, addiction, queerness, and community. His agitprop poster *Silence = Sex*, made for Toronto's 2013 PosterVirus campaign, was part of Visual AIDS' 2017 *VOICE = SURVIVAL* exhibition at the Rubin Foundation's 8th Floor gallery and is featured in the catalogue for the exhibition *Art, AIDS, America* in an essay by Sarah Schulman.

Barton Lidicé Beneš (1942–2012) was born in Westwood, New Jersey on November 16, 1942. Beneš first came to prominence during the 1980s with his whimsical constructions of shredded currency and later with his signature “museums,” gridded arrangements of relics from Ancient Egypt to Hollywood. He transformed fragments of our throwaway culture into art that sometimes addressed taboo subjects and often used unconventional materials including cremation ashes, shells, bodily fluids, currency and shredded money, relics, celebrity artifacts and found objects. At the forefront of New York's burgeoning gay scene in the post-Stonewall era, Beneš was also featured in numerous documentaries about art, AIDS and gay history, including Lovett Productions' *Gay Sex in the 70s*. His work has been exhibited nationally and internationally at The Cleveland Museum of Art; North Dakota Museum of Art; The Katonah Museum of Art; The New York Public Library; and Aldrich Museum of Contemporary Art, as well as Centre Pompidou, Paris; Boras Konstmuseum, Sweden; and Old Town Hall, Prague. His work is in the permanent collections of The Art Institute of Chicago, The Smithsonian, The U.S. Mint and North Dakota Museum of Art.

Brian Carmichael is a peer educator through the Know the Risks program at the Elmira Correctional Facility in upstate New York where he advocates for prisoners living with HIV and Hepatitis C. Carmichael has been an advocate for incarcerated PLWHIV since the late 1980's. While incarcerated at Vacaville in Correctional Facility in 1989, Carmichael fought for hospice-like conditions for PLWHIV in prison and organized medicine boycotts, writing campaigns and a hunger strike which led to the establishment of the first ever federally funded hospice in any U.S. prison. Carmichael's painting and sculpture practice allows him to stay in contact with loved ones on the outside and work through the loss he experienced at Vacaville, where so many of his friends passed away from AIDS.

Chad Clarke has been living with HIV for 14 years. His personal experience of prosecution and imprisonment has transformed him into an activist against unjust criminalization of HIV non-disclosure. He sits on the Board of Directors of the Canadian Positive People Network and the Prisoners' HIV/AIDS Support Action Network (PASAN). He is also a member of the Steering Committee of the Canadian Coalition to Reform HIV Criminalization.

Timothy DuWhite is the Program Director at New York Writers Coalition, a non-profit dedicated to providing writing workshops to underserved communities, and much of his work is about being black, queer, HIV positive and having to either navigate or evade varying state apparatuses to remain alive. His writing has been featured at the United Nations/ UNICEF, Apollo Theater, Nuyorican Poet's Cafe, La Mama Etc., and Dixon Place. He has made appearances and keynote speeches at San Diego State University, Columbia University, Oregon State University and Columbia College Chicago.

Chloe Dzubilo (1960-2011) was an artist, performer, activist, and an icon of downtown New York City nightlife. She was a member of the Blacklips Performance Cult and singer-songwriter for the punk-rock band Transisters. Chloe advocated for civil rights, adequate health care and dignity for people living with HIV/AIDS, transgender people and drug users. A longtime volunteer for the LGBT Community Center's groundbreaking Gender Identity Project, she served on its transgender HIV prevention team conducting outreach in bars, nightclubs and on strolls. Chloe was involved with the political action group The Transsexual Menace and went on to direct one of the first federally funded HIV prevention program for transgender sex workers in 1997. Her drawings and collages reflect the world that existed around her with beauty and confrontation, humor and heartbreak.

Doreen Garner is a Brooklyn-based artist born in Philadelphia, PA practicing as a sculptor and an inscriber of flesh. Select exhibitions include *White Man on A Pedestal*, Pioneer Works (2017); *Surrogate Skin: The Biology of Objects*, MoCADA (2016); *Ether and Agony*, Antenna Gallery NOLA (2016); *SHINY RED PUMPING*, Vox Populi Gallery (2015); and *Something I Can Feel* at Volta Art Fair (2016). Garner has completed residencies at LMCC Workspace Program (2015), Skowhegan School of Painting and Sculpture (2014), Abrons Art Center (2015-16), Pioneer Works (2016), GAPP Residency at the Toledo Museum of Art (2016), and the International Studio & Curatorial Program (2017). She holds a BFA in Glass from the Tyler School of Art at Temple University and an MFA in Glass from the Rhode Island School of Design and is a recipient of the Toby Devan Lewis award, Van Lier Fellowship award and a Franklin Furnace Grant.

Camilo Godoy is a multidisciplinary artist whose practice is concerned with the construction of political meanings and histories. He was born in Bogotá, Colombia and is based in New York. He holds a BFA from Parsons School of Design (2012) and a BA from Eugene Lang College of Liberal Arts (2013). Godoy was an Artist-in-Residence at the International Studio & Curatorial Program (2017), as well as an Artist-in-Residence at Movement Research (2015-2017), a Keyholder Resident at the Lower East Side Printshop (2014), a EMERGENYC Fellow at The Hemispheric Institute of Performance and Politics, NYU (2014); and a Queer Art Mentorship Fellow (2012). His work has been presented publicly at venues such as Instituto Cervantes; Movement Research at the Judson Church; La MaMa Galleria; Donaufestival, Krems; Mousonturm, Frankfurt, and most recently on a billboard in Manhattan.

Frank Green (1957-2013) was an artist and writer based in Cleveland, Ohio. After studying filmmaking at Kent State University, he moved to New York in 1980, appearing in East Village clubs including the Limbo Lounge, Pyramid, ABC No Rio and Club 57. Returning to Cleveland in 1988 to kick a cocaine and heroin addiction, he discovered he was HIV positive, and spent the next several years practicing his art as a ritual of self-healing. He worked in various media, including audience participatory events, monologues, multimedia spectacles, and installations. A six-time Ohio Arts Council fellowship recipient, he performed throughout the U.S. and Canada, and was a regular art critic for the *Cleveland Free Times*, an alternative weekly newspaper.

Christopher Paul Jordan, born in Tacoma, Washington, integrates virtual and physical public space to form infrastructures for dialogue and self-determination among dislocated people. Jordan's paintings and sculptures are artifacts from his work in community and time-capsules for expanded inquiry. Jordan's work has been recognized by the 2017 Neddy Artists Award for painting, the Jon Imber Painting Fellowship, the GTCF Foundation of Art Award, the James W Ray Venture Project Award, and the 2017 summer commission for Seattle Art Museum's Olympic Sculpture Park.

Shan Kelley was raised in the prairie backdrop of Alberta, Canada's beef and petroleum heartland. His work sits amidst a slippage of intersections between art and activism. In his fascination with language, Kelley uses text as material, to scrutinize the manner in which relationships to self, identity, body, and power are deconstructed, created, and curated. Shan Kelley is a Visual AIDS Artist Member and has shown work in Canada, USA, Mexico, and Spain. His Disclosures series is currently represented by DC3 Art Projects.

M. Lamar is a composer who works across opera, metal, performance, video, sculpture and installation to craft sprawling narratives of radical longing loss and becoming. Lamar holds a BFA from The San Francisco Art Institute and attended the Sculpture program at the Yale School of Art before dropping out to pursue music. Lamar's work has been presented internationally, most recently at The Meet Factory, Prague; The Metropolitan Museum of Art; Participant Inc; National Sawdust; The Kitchen; MoMA PS1's Greater New York; Merkin Hall; Issue Project Room; The Walter and McBean Galleries, San Francisco; and Human Resources, Los Angeles. Mr. Lamar is a recipient of a 2016 Jerome Fund Grant for New Music, a 2016 NYFA Fellowship in Music and Sound, The Rema Hort Mann Foundation (2015), Harpo Foundation (2014–2015), and Franklin Furnace Fund (2013–14).

Charles Long is a Chicago based multi-disciplinary artist, activist and Black liberationist. He has worked in communities across the United States with poor, disabled, young, LGBT, currently/formerly active drug users and formerly homeless folk. He uses that background to inform both his artistic and movement work with a particular lens of Black, Queer Feminist perspectives that naturally create space for growth rooted in true freedom.

Alexander McClelland is a Canadian-based writer and researcher who is currently working on a doctorate at the Centre for Interdisciplinary Studies in Society and Culture at Concordia University in Montreal. He has been living with HIV for 20 years. His work focuses on the intersections of life, law, and disease. He has developed a range of collaborative and interdisciplinary writing, academic, artistic, and curatorial projects to address issues of criminalization, sexual autonomy, surveillance, drug liberation, and the construction of knowledge on HIV and AIDS. His doctoral work examines the lives of people who have been criminally charged and/or prosecuted in relation to not disclosing their HIV-positive status to sex partners in Canada. His work has been supported through a range of awards, including the Concordia Public Scholars program fellowship, Canadian Institutes of Health Research Doctoral HIV/AIDS Community-Based Research Award, and the Institute for Anarchist Studies Grant for Radical Writers. McClelland is a steering committee member of AIDS ACTION NOW! and part of the Canadian Coalition to Reform HIV Criminalization.

Mikiki is a performance and video artist and queer community health activist of Acadian/ Mi'kmaq and Irish descent from Newfoundland. Their work has been shown in artist-run spaces, public galleries, performance festivals and self-produced interventions internationally and throughout Canada. Mikiki has worked across the country as a sexuality educator in public schools, a bathhouse attendant, a drag queen karaoke hostess, a gay men's sexual health outreach worker, a harm reduction street outreach worker and an HIV tester. Mikiki currently lives in Toronto.

Laurie Jo Reynolds is an artist and policy advocate whose work challenges the demonization, warehousing and social exclusion of people in the criminal legal system. She has spent two decades researching the exigencies of solitary confinement and public conviction registries, retributive extremes that expanded in the punitive turn of the 1990s. She was the organizer of Tamms Year Ten, the grassroots legislative campaign to close the notorious state supermax, which Illinois Governor Pat Quinn shuttered in 2013. During that time, Reynolds also advocated for sex offense policies that truly recognize and prevent victimization and urged policymakers to address the unintended consequences of sex offender registries and restrictions. Reynolds produced listening projects, photography and calling cards. She also conducted bill analyses, designed communications trainings, and organized conferences, symposiums and performances with state officials, justice advocates, and people directly affected by crime and incarceration. Her ongoing work is focused on the impact of public conviction registries. She has received fellowships and grants from Open Society Foundations, Creative Capital, Opportunity Agenda, and United States Artists, as well as Creative Time's Annenberg Prize for Art and Social Change. She is an inaugural Soros Artist Fellow and Assistant Professor at the University of Illinois at Chicago.

Dr. Muhjah Shakir is the founding president and CEO of Nature's Garden for Victory and Peace, Inc., a non-profit twenty-five acre Community Land Trust located in Tuskegee, Alabama. Professor Shakir is the founder and project director of Women's Narratives Transforming the Legacy: The Syphilis Study and created Tuskegee Bioethics Community Quilt Project as a result of her affiliation with the Tuskegee University National Center for Bioethics in Research and Health Care. The project has stimulated community dialogue and helped to heal old wounds by making it possible to speak the unspeakable. In 2011, Professor Shakir founded The Black Belt Deliberative Dialogue Group on the campus of Tuskegee University. The organization prides itself in being a community-campus partnership whose aim is to promote civic engagement and positive change using deliberative dialogue. Muhjah Shakir has a BS degree in Occupational Therapy from Western Michigan University; a MA degree in Cultural Anthropology, and a PhD degree in Transformative Studies, both from the California Institute of Integral Studies. As a holistic health practitioner, Dr. Shakir is a certified massage therapist and Reiki master. In May 2016, Dr. Shakir retired after nearly sixteen years of teaching as a full time professor of Occupational Therapy at Tuskegee University.

Chris E. Vargas is a video maker and interdisciplinary artist originally from Los Angeles, CA, currently based in Bellingham, WA. His work deploys humor and performance in conjunction with mainstream idioms to explore the complex ways that queer and trans people negotiate spaces for themselves within historical and institutional memory and popular culture. From 2008-13, Vargas collaborated with Greg Youmans to make the web-based trans/cisgender sitcom *Falling In Love ... with Chris and Greg*. He also co-directed with Eric Stanley the movie *Homotopia* (2006) and its feature-length sequel *Criminal Queers* (2015). He is the Executive Director of MOTHA, the Museum of Transgender Hirstory & Art, a conceptual arts and hirstory institution highlighting the contributions of trans art to the cultural and political landscape.

Visual AIDS is the only contemporary arts organization fully committed to HIV prevention and AIDS awareness through producing and presenting visual arts projects, while assisting artists living with HIV and AIDS. We are committed to preserving and honoring the work of artists with HIV and AIDS and the artistic contributions of the AIDS movement.

We would like to thank all of the funders who support Visual AIDS' work and mission:

Alphawood Foundation
The Milton & Sally Avery Arts Foundation
Broadway Cares/Equity Fights AIDS
The Cowles Charitable Trust
DIFFA
Gilead Sciences
The Greenwich Collection Ltd.
The Keith Haring Foundation
Marta Heflin Foundation
Humanities NY
Lambent Foundation Fund of Tides Foundation
MAC AIDS Fund
National Endowment for the Arts
New York Gay Pool League
NYU Community Fund
The Shelley and Donald Rubin Foundation
and our generous individual donors.

Related programs are supported, in part, by public funds from the **New York City Department of Cultural Affairs** in partnership with the City Council. Additional funding is provided by the **New York State Council on the Arts** with the support of Governor Andrew Cuomo and the New York State Legislature.

Visual AIDS

Published by Visual AIDS
on the occasion of *Cell Count*
Curated by Kyle Croft and Asher Mones

La MaMa Galleria
May 31–June 16, 2018

Publication edited by
Kyle Croft and Asher Mones
Designed by Aaron Fowler
Copyediting by Alex Fialho and
Esther McGowan
Proofreading by Leena Joshi
Printed by G&H Soho, Inc.

Visual AIDS
526 West 26th Street #510
New York, NY 10001
P: 212.627.9855
E: info@visualaids.org

ISBN: 978-0-9678425-9-2
© 2018 Visual AIDS, New York

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopy, recording, any other information storage and retrieval system, or otherwise without written permission from the publisher.

Unless otherwise indicated, all artwork courtesy of the artist.

Photo credits:

p. 14: digital image © The Museum of Modern Art/Licensed by SCALA / Art Resource, NY;
p. 17: courtesy of the Estate of Chloe Dzubilo;
p. 19: collection of Joshua Rehnitz, courtesy of the estate of Barton Lidicé Beneš and Pavel Zoubok Gallery, New York; pp. 27 and 41: photo by Christopher Burke Studio;
p. 31: copy of the original item in the Cleveland Performance Art Festival Archive, Kelvin Smith Library Special Collections, Series 4 Box 7, CWRU; pp. 32 and 33: courtesy of the Visual AIDS Archive Project; pp. 47 and 54: photo by Paul Champion, courtesy of *Au Courant*, *Au Courant* photographs, John J. Wilcox, Jr. Archives, William Way LGBT Community Center;
p. 66: courtesy of QUEEROCRACY; p. 68: photo by Theodore Kerr; pp. 70 and 87: courtesy of the artist and PosterVirus;
p. 101: courtesy of Shyronn Jones and the Georgia HIV Justice Coalition.