



Criminalized Lives

In his new book, activist and criminologist Alexander McClelland highlights the personal stories of people living with HIV who have faced criminalization.

July 18, 2024 By Theodore Kerr

For more than 10 years, activist and criminologist Alexander McClelland has been interviewing people who have been charged and convicted in HIV-related cases. The result of this work is [Criminalized Lives: HIV and Legal Violence](#) (Rutgers University Press, 2024). The book includes a foreword by [Robert Suttle](#), a leading voice within the HIV decriminalization movement, who was charged and convicted under HIV laws in Louisiana as well as illustrations by artist Eric Kostiuk Williams.

Weaving firsthand accounts and meaningful research, McClelland goes beyond state laws and click-bait headlines to underscore the human impact of criminalization. At the core of the book are people who talk to McClelland about what it means to be targeted by the state because of their positive HIV status: Shaun, a young man from the Caribbean living with HIV; Cynthia, a middle-aged woman from Mexico who makes her living as a sex worker; Lenore, a woman in her early 30s who lives with a supportive boyfriend; and Matteo, a young gay man.

In the conversation below, McClelland speaks with writer and organizer Theodore (ted) Kerr about the book, the history of the HIV decriminalization movement and the ethics and possibilities of storytelling.

What is the role of a book like *Criminalized Lives* within a movement?

I think documenting our work is important to resist what queer liberation activist and academic Gary Kinsman calls "[the social organization of forgetting](#)." We need to remember where our movements—and criminalization—came from so we can be better equipped to respond and keep going.

I also think it is vital to listen to the movement. *Criminalized Lives* puts on the record people who have not been historically heard. This displaces dominant narratives that say criminalized people living with HIV are violent perpetrators. Instead, the book aims to give depth, nuance and complexity to people's experiences so we can understand who they are and what they went through.

Can you tell me more about working with people who shared their stories?

Shaun, Cynthia, Lenore and Matteo are four of the 16 people I interviewed for this book. I changed their names to protect their identities, not even sharing their names or images with Eric who did all the illustrations. Instead, we create visual pseudonyms. I gave Eric a vibe of what that person was like, and Eric interpreted that for the book. Some of the participants have seen the pictures and been like, "Oh, that's me." They recognize themselves even if the likeness is not present.

Some aspects of their stories have been changed, and I integrated similar experiences from other interviewees into the four narratives in order to share a full spectrum of realities.

Most of the people I spoke to were extremely concerned about confidentiality. Many of them had lost all aspects of privacy because of the way police departments, courts and the media irresponsibly share criminalized people's intimate details. I didn't want this book to be another thing that contributed toward that.

But I do very openly publish all of the names of lawyers and judges and police who were involved in the project of criminalization.

Do you think it made a difference to the people you interviewed that you are living with HIV?

I would tell everyone I spoke to that I am HIV positive and that I was coming from a place of understanding and not wanting to contribute toward more harm. That worked as a way to open doors with some people but not everyone. HIV can be a bridge of connection, but when it comes to the intersections at the heart of criminalization, the limits of sharing an HIV status are there. At the end of the day, I am a white gay man who has a job at a university in Canada.

I learned a lot from reading your book about the media's role in HIV criminalization, including the need for respecting an individual's privacy and the importance of fact-checking and using reputable sources. What else do journalists need to think about when reporting on HIV

criminalization cases?

We can add two questions from the book that I offer to researchers:

- What would the person I'm writing about think about what I am writing?
- Why do I feel entitled to write about this person?

It is important that writers (academics and journalists) remember we are writing about real people in the real world. Crucial in my process was something Sarah Schulman stressed in a writing workshop I took with her: Other people are real, so you have to give them complexity and depth and humanity. This was the vibe I brought to this book. Too often with criminalization, the people who are being reported on are treated like frames through which we can project our fears. They aren't allowed to become people with humanity, depth or complexity.

Police officers who write press releases should take Sarah's class.

Police departments are not always acting in the best interest of people living with HIV, often releasing information before someone is found guilty or even charged. As you see over and over in this book, one of the foundational principles of policing is lying. We can't always believe what police say in their own operations, so having the media reproduce police narratives of inaccuracy is not a good idea. The police should be perceived as one source among many. So many of the people in my book weren't even questioned by the media, or if they were vindicated in court, there was no media there to report on that. The media only seemed to be interested when charges were pressed or people were being sentenced. No follow-ups if charges were dropped. I think we have to reflect on what this means about us and the media. Why do we not want to see people living with HIV being vindicated?

Can you share what you see as both the limits and possibilities of using storytelling in your work, which you use to great effect in the book?

Often, researchers are trained to do a bunch of interviews and then chop the interviews up into various different themes, off of which you write and publish. This project was about resisting doing that. It was about providing the richness, depth and complexity of people's experience to readers.

That speaks to limits. In terms of possibilities: empathy. While what has happened to the people I interviewed is incomprehensible, tragic and heartbreaking, I think it is also relatable. I want to provide an opportunity for readers to see people who have been criminalized for their HIV status as people. Hopefully, readers can understand people's motivations and what they are going through. This is also what Eric's illustrations do. They provide another way for people to engage with the stories so people can understand the issue.

You also use theory in the book, which I know can scare off some readers. Do you want to talk about that?

My approach to theory comes from feminist scholar Dr. Viviane Namaste, who says that if you can't write out complex theory in plain language in a way that your grandmother would understand, then you shouldn't be writing about it.

I don't think that theory should be something that people are scared of or see as intimidating. It should be understood as essential to activist organizing. We need a theory of the world in order to respond. We need to be able to critique the systems that organize the harm in our lives. Theory can help us do that. Theory comes from many sources, including activists from social movements. In the book, I write about how our understanding and critiques of HIV criminalization come about because of activists organizing to resist HIV criminalization. This is done through an intersectional lens, tied to all movements, connected to critiquing mass incarceration, defunding the police and movements of prison abolition. So maybe as a way to answer this question and the first one, this book is trying to give back to the theory that has emerged from our communities and participate in ongoing conversations.

Laws criminalizing people living with HIV are as old as the HIV response itself—as is opposition to the laws. Yet it seems that something happened in the early 2010s where the activism intensified. Globally, the [HIV Justice Network](#) (2010) was created and the [Oslo Declaration on HIV Criminalisation](#) (2013) was signed; in the United States, the [SERO Project](#) (2012) was founded; and in Canada, much of the work that you write about began in 2012. Do you have any thoughts about why that was such a watershed period, and what made you specifically get involved?

Early in the book, I write about a friend of mine who had been charged and prosecuted on HIV-related charges that were eventually dropped. But even before that, one of the earliest cases of HIV criminalization in Canada was in 1991, and the person charged was a woman. There was a national outcry, including from ACT UP Vancouver, which protested the newspaper that published the woman's name.

After that, there was not much of a push against HIV criminalization. If anything, it was actually a time of complicity. In the book, I write about a high-profile case later in the '90s [involving] a Black Ugandan man. Prominent AIDS activists, including June Caldwell, the founder of the first AIDS hospice in Toronto, went on the record saying he should be criminalized.

Things finally changed, as you note, in the early 2010s. In 2012, a decision by the Supreme Court of Canada reaffirmed that criminalization in regard to HIV nondisclosure should continue and actually reinforced it. This was demoralizing, and so we, from what had been a largely disjointed response, began to form the Canadian Coalition to Reform HIV Criminalization.

I think another turning point for me was the murder of Stuart Mark in 2007, who I talk about in my book. He was stabbed to death by a man he met through a dating app. He had disclosed his status to him, and later, that man killed Mark in his home. The man was basically let off by the judge. I think his story was a turning point for a lot of people. At the time, there had been many faces of criminalized people living with HIV on the cover of newspapers, pictured as violent perpetrators in the public eye. There is a lot of fear around surveillance and criminalization of people living with

HIV. While a lot has happened in terms of mobilization since 2012, things are almost the same, aside from slight minor changes in terms of prosecutorial guidelines. The root of the problem, the criminal code, is still the same.

So that is the background to my involvement, but I am not sure it helps you answer your question around timing.

Actually, it does. In your book, you kindly reference the work that me and Alexandra Juhasz have done around creating [a timeline of sorts](#) of the history of AIDS in the United States. One of the claims we make is that starting around 2010, we see a resurgence in interest around AIDS, rooted in history. Experiences of stigma, discrimination and criminalization are still occurring but in isolation. Maybe in the early 2010s, people begin talking about issues that are still plaguing them, including criminalization.

A funny thing about HIV criminalization activism is, we've also had to fight to have people from within the HIV response understand this issue. For example, this year at the International AIDS Conference, there is maybe one session on HIV criminalization.

Many of us are worried about why the impacts of the criminal justice system on people with HIV aren't being taken up. This is concerning for many reasons, not the least of which is that criminalization primarily impacts people already on the margins. People ask me to come and talk to their queer studies class or their gay community group about HIV criminalization, which is nice. But HIV criminalization is primarily about straight people. Most of the people I interviewed were straight people on the margins: women who are sex workers, Black men who are newcomers from Africa or the Caribbean, people living in poverty who don't have access to justice in various forms of their life. It's not that gay men are not impacted—they are—and in the book, Matteo represents many of their stories.

Keeping in mind the lack of progress in Canada, we know that the stop HIV criminalization movement has had some wins in the United States in the past 10 years. For example, fewer states have HIV-specific criminalization laws than before. Do you have ideas about what the next steps and areas of focus should be to eradicate HIV criminalization?

One of the main arguments this book makes is to highlight the harm done when we apply the laws of sexual assault to instances of HIV nondisclosure or HIV exposure. I do that by telling the stories of what that has done to people in Canada. But I think any place that is using general criminal law to respond to HIV and using laws of sexual assault [to criminalize people living with HIV] will find aspects of this book interesting in order to underline why that's the wrong approach.

My book makes further calls for transformative justice, thinking beyond the criminal justice system and beyond the modernization of laws. I articulate that people in a movement working to change the system have to have a long-term vision for full-on transformation as well as a strategy for working within the system; otherwise, changes can result in other types of harm. In Canada, we have fought for prosecutorial guidelines in some provinces. Those prosecutorial guidelines will now focus on viral load. Someone who's virally suppressed cannot be prosecuted, but there are many people who don't have access to HIV medication in Canada who could be virally unsuppressed. And that approach means that those people could be under heightened forms of surveillance and criminalization now.

In the end, we need a longer-term vision beyond minor reforms.

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