

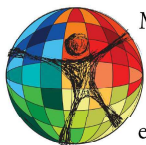
Martine Roy

Colloquium

Working Paper

Series

VOL. 1 | NO. 1 | SUMMER 2022
MARTINE ROY COLLOQUIUM | WORKING PAPER SERIES



McGill Centre for Human
Rights and Legal Pluralism

Centre sur les droits de la personne
et le pluralisme juridique de McGill

imk
avocats • advocates



McGill

Faculty of Law
Faculté de droit

ABOUT CHRLP

Established in September 2005, the Centre for Human Rights and Legal Pluralism (CHRLP) was formed to provide students, professors and the larger community with a locus of intellectual and physical resources for engaging critically with the ways in which law affects some of the most compelling social problems of our modern era, most notably human rights issues. Since then, the Centre has distinguished itself by its innovative legal and interdisciplinary approach, and its diverse and vibrant community of scholars, students and practitioners working at the intersection of human rights and legal pluralism.

CHRLP is a focal point for innovative legal and interdisciplinary research, dialogue and outreach on issues of human rights and legal pluralism. The Centre's mission is to provide students, professors and the wider community with a locus of intellectual and physical resources for engaging critically with how law impacts upon some of the compelling social problems of our modern era.

A key objective of the Centre is to deepen transdisciplinary collaboration on the complex social, ethical, political and philosophical dimensions of human rights. The current Centre initiative builds upon the human rights legacy and enormous scholarly engagement found in the Universal Declaration of Human Rights.

ABOUT THE SERIES

The Centre for Human Rights and Legal Pluralism (CHRLP) Martine Roy Colloquium Working Paper Series enables the dissemination of papers by students who have presented at the Martine Roy Colloquium. Held in conjunction with the Michelle Douglas Lecture, the Colloquium aims to encourage student scholarship and enhance public engagement around issues related to equality and justice for LGBTI communities. The Lecture and Colloquium are made possible by the generous contribution of IMK Advocates.

The papers in this series are distributed free of charge and are available in PDF format on the CHRLP's website. Papers may be downloaded for personal use only. The opinions expressed in these papers remain solely those of the author(s). They should not be attributed to the CHRLP or McGill University. The papers in this series are intended to elicit feedback and to encourage debate on important public policy challenges. Papers in this series may be published in either French or in English. Copyright belongs to the author(s).

The WPS aims to meaningfully contribute to human rights discourses and encourage debate on important public policy challenges. To connect with the authors or to provide feedback, please contact human.rights@mcgill.ca.

Thank you to B.C.L./J.D. student Shona Moreau for organising and editing this series.

THE PAPERS

Family is a Drag: Extra-Legal Formations of the White-Picket Dream

by Andie Hoàng-Lefranc

Sexual Privacy, Cyber-Harassment, and the New Playground for Abusers: Privacy Infringements on LGBTQ Dating Apps

by Seth Gordon

The Unspeakable Crime: Examining the Implications of Legislative Silence in Criminalizing Homosexuality in Canada

by Linnea Kornhauser

Care, Not Punishment: Informing COVID-19 Policy with Lessons from the AIDS Crisis

by Raphael Schmieder-Gropen

Article

Care, Not Punishment: Informing COVID- 19 Policy with Lessons from the AIDS Crisis

Raphael Schmieder-Gropen

VOL. 1 | NO. 1 | SUMMER 2022
MARTINE ROY COLLOQUIUM | WORKING PAPER SERIES



McGill Centre for Human
Rights and Legal Pluralism

Centre sur les droits de la personne
et le pluralisme juridique de McGill

imk
avocats • advocates



McGill

Faculty of Law
Faculté de droit

ABSTRACT

Ample scholarship has established that queer and trans people are especially vulnerable to the ongoing COVID-19 pandemic, as well as to many of the public health measures and enforcement mechanisms that authorities around the world have imposed in hopes of limiting its spread. In this paper, I conduct a review of public health measures implemented by the Quebec provincial government in response to the first and second waves of COVID-19, noting the disproportionate harms that technologies of surveillance and control have visited on queer residents of Quebec. Drawing on lessons from the queer community's internal response to the AIDS epidemic of the '80s and '90s, I argue that we need not sacrifice the mental and physical health, financial security, community bonds, and civil rights of queer and trans persons in order to protect them from COVID-19. In other words, we need not sacrifice queer life to protect queer lives. Rather, by embracing policies that emphasize harm reduction, agency, and education, we can tailor our COVID-19 response to the complex needs and realities of the queer community.

CONTENTS

Introduction

1. Recalling the Trauma of the AIDS Crisis
2. Queer Vulnerabilities to COVID-19
3. Technologies for Surveillance, Policing, and Control
 - a) Contact Tracing
 - b) Tracking Technologies
 - c) Increased Police Powers
4. Effects of Expanded Policing on Queer People
 - a) Past and Present Policing of Queer Bodies
 - b) Documented Effects of COVID-19 Policing Technologies on Queer People
 - c) Potential Future Consequences for Queer People
5. Lessons for COVID-19 from HIV/AIDS

Introduction

There is already ample scholarship establishing that queer and trans people are especially vulnerable to the novel coronavirus, as well as to many of the public health measures and enforcement mechanisms that governments around the world have implemented in hopes of limiting its spread. Far fewer scholars have made serious efforts to propose alternative COVID-19 policy options that seek not only to prevent as many (queer) people as possible from contracting COVID-19, but also to prioritize queer life more broadly. In this paper, I will argue that we need not sacrifice the mental and physical health, financial security, community bonds, and civil rights of a marginalized demographic in order to protect ourselves from COVID-19. Rather, by eschewing technologies of surveillance and control in favor of policies emphasizing harm reduction, agency, and education, we can tailor our COVID-19 response to the complex needs and realities of the queer community.

First, I will contextualize COVID-19 as the *second* devastating epidemic that queer North Americans have weathered in recent memory. We cannot consider the intersections of COVID-19 and queerness without first acknowledging the HIV/AIDS crisis of the '80s and '90s – a crisis whose specter continues to haunt the queer community, especially as mass COVID-19 deaths and hospitalizations, societal panic, and government gaslighting tap into generational traumas.¹ Second, I will survey the wide range of disproportionate harms that not only COVID-19 itself, but also COVID-19 law and policy, have visited on queer people in Canada and the United States. Third, I will identify some of the key surveillance, control, and tracking technologies that have been used in Canada, the United States, and other jurisdictions to monitor and stymie the spread of COVID-19. Fourth, I will explore the actual and potential effects of these technologies on queer people and consider whether we can justify implementing COVID-19 policies that are disproportionately harmful to a marginalized demographic. Again, I will contextualize this discussion with an acknowledgement of the many ways in which morality and public health have been and continue to be weaponized to target, control, surveil, and criminalize queer people. Finally, drawing upon the strategies of community care and survival that queer people developed – with minimal government support – in response to the HIV/AIDS crisis, I will propose alternative policy options that center a holistic conception of queer health and safety. Ultimately, I will conclude that we should reject government efforts to enforce near-total social abstinence through technologies of surveillance and control. Instead, we should insist on robust public health education, creative harm reduction approaches to social activity, and a community culture of mutual aid and reciprocal affection.

1. Recalling the Trauma of the AIDS Crisis

¹ See Sarah Prager, ““Where Was This When My Friends Were Dying?”: HIV Crisis Survivors Reflect on Coronavirus” (18 March 2020) online: *Them* <<https://www.them.us/story/hiv-crisis-survivors-reflect-on-coronavirus>> [Prager].

When we discuss the effects that COVID-19 has had on queer populations in Canada and the United States, we must acknowledge that this is not the first time that the queer community – especially in New York City, where COVID-19’s first wave hit an early and frightening peak – has already experienced government gaslighting, mockery, and neglect in response to a devastating public health crisis. The HIV/AIDS crisis of the ‘80s and ‘90s decimated an entire generation of queer people, exacting a particularly heavy toll on racialized men having sex with men (MSM).² Despite rapidly rising cases throughout the early 1980s and a fatality rate that approached 100%,³ AIDS was persistently dismissed by federal and local governments, public health authorities, and clinical health care professionals as a disease that only targeted social undesirables: gay men, Haitians, hemophiliacs, and intravenous drug users.⁴ The Reagan administration publicly acknowledged HIV/AIDS and directed the FDA and NIAID to research potential treatments only after years of intense pressure from militant activist groups. The result was tens of thousands of dead queer men – many of whom were blamed for their own illness and highly stigmatized even in death – and enduring trauma for the survivors, who watched friends and lovers waste away as the government all but ignored their plight.⁵ For many queer people, especially those who lived through the first wave of COVID-19 in New York City,⁶ generational and community traumas are resurfacing as Trump and various state and provincial leaders deny or minimize the COVID-19 pandemic.

I do not intend to draw direct parallels between the HIV/AIDS crisis and the ongoing COVID-19 pandemic. Indeed, the two are distinct for several reasons. First, COVID-19 and AIDS are simply different illnesses and have followed different trajectories. The former can threaten the life of its host within mere days of infection, while an HIV infection can take years to develop into AIDS – if it ever does. COVID-19 is much more infectious than HIV but has a significantly lower fatality rate than HIV did when it first swept through Greenwich Village. HIV is passed through the exchange of bodily fluids, while COVID-19 can be passed through casual contact. HIV’s specific qualities enabled it to take gradual root in – and subsequently wreak havoc on – the small and close-knit queer community of the late 1900s. Meanwhile, COVID-19 spread through the continent like wildfire, overwhelming health care providers within months. Medically speaking, COVID-19 and HIV/AIDS have very little in common.⁷

We find more fertile ground for comparison when we look to the policies enacted by the Reagan and Trump administrations in response to, respectively, HIV/AIDS and

² See Shawnika Hull, Robin Stevens & Jasmine Cobb, “Masks Are the New Condoms: Health Communication, Intersectionality and Racial Equity in COVID-Times” (2020), 35:14 Health Communication 1740 at 1740 [Hull].

³ See Prager, *supra* note 1.

⁴ See Carmen H. Logie, “Lessons learned from HIV can inform our approach to COVID-19 Stigma” (2020), 23 Journal of the International AIDS Society e25504 [“Lessons learned from HIV can inform our approach to COVID-19 Stigma”].

⁵ See Prager, *supra* note 1. See also David Crary, “COVID-19 and AIDS crisis: NYC gays see parallels, contrasts” (11 April 2020) online: *Associated Press* <<https://apnews.com/article/031ff4340ebff7ff6b9178a780d9bc1e>> [Crary].

⁶ New York City, of course, was also the birthplace and epicenter of the North American AIDS crisis.

⁷ See Jacob Bernstein, “For H.I.V. Survivors, a Feeling of Weary Déjà Vu” (8 April 2020) online: *The New York Times* <<https://www.nytimes.com/2020/04/08/style/coronavirus-hiv.html>> [Bernstein].

COVID-19. Like Reagan, Trump – and many of his fellow politicians, in Canada as well as in the United States – has consistently downplayed the seriousness of a public health crisis that has threatened the lives and livelihoods of many people. Along with the Republican-led Senate, Trump has refused to provide meaningful aid to struggling individuals, to disseminate accurate public health information, and to endorse practical and relatively accessible protective measures. Incompetent governments have once again put profits before people and abandoned apparently disposable populations – in the case of COVID-19, elderly, working-class, BIPOC, disabled and chronically ill, unhoused, undocumented, and incarcerated people – to die.⁸

Nevertheless, we should be careful not to draw a false equivalence between the Reagan administration’s response to the HIV/AIDS crisis and Trump’s response to COVID-19. It is true that the latter has “enraged” and retraumatized some long-term AIDS/HIV activists and survivors, reminding them of Reagan’s indifference to mass queer death.⁹ COVID-19 has struck down some of our few, precious queer elders, including playwright Terrence McNally and trans activist Lorena Borjas, and thus it has also brought grief.¹⁰ However, some survivors of the AIDS crisis have more complicated feelings about COVID-19. Kevin Jennings, the CEO of Lambda Legal, was struck by feelings of bitterness as the government scrambled to develop tests and treatments within weeks of the first COVID-19 infections: “... I watch the public consternation, the many governmental officials mobilizing to take action, the wall-to-wall media coverage, and I want to scream ‘*Where was this when my friends were dying?*’”¹¹ Queer elders who watched tens of thousands of their fellows die without so much as a word of acknowledgement from the government may have felt furious and resentful as they watched all of society rearrange itself in response to a disease that threatened *straight* people. We must acknowledge that COVID-19 is retraumatizing queer elders – but at the same time, we cannot forget that any similarities between the AIDS crisis and the COVID-19 pandemic are accompanied by clear contrasts. COVID-19 patients have received a level of societal sympathy and acknowledgment that AIDS patients – met with absolute indifference, disgust, and punishing stigma – never got.

2. Queer Vulnerabilities to COVID-19

Like race, wealth, and immigration status, queerness is a key social determinant of health. Queer people are disproportionately likely to be infected with COVID-19, in large part because they are more likely to live or work in places where they are at high risk for exposure to COVID-19 and have limited opportunities to protect themselves. Queer people, especially queer people of color, are more likely than cisgender and straight people to serve as ‘essential workers,’¹² to be unhoused, or to be incarcerated in

⁸ See Hull, *supra* note 2 at 1740.

⁹ See Crary, *supra* note 5.

¹⁰ *Ibid.*

¹¹ See Prager, *supra* note 1.

¹² See John P. Salerno, Natasha D. Williams & Karina A. Gattamorta, “LGBTQ Populations: Psychologically Vulnerable Communities in the COVID-19 Pandemic” (2020) 12:S1 *Psychological Trauma: Theory, Research, Practice, and Policy* S239 at 239 [Salerno].

a jail or an immigration detention center¹³ – all situations that increase exposure to COVID-19, make physical distancing more difficult, and reduce access to PPE and basic hygiene supplies.

Furthermore, once infected with COVID-19, queer people are at higher risk for experiencing serious adverse outcomes, including death, in part because they are more likely to suffer from underlying health conditions such as cardiovascular disease.¹⁴ Other social factors contribute directly to the likelihood that a queer person with COVID-19 will die or become seriously ill. For example, especially in states without robust anti-discrimination legislation, visibly queer and trans people may be more likely to be denied life-saving care by emergency health care workers who must make discretionary triage decisions under high pressure. This possibility looms especially large as Christmas approaches, likely accompanied by severe ventilator and hospital bed shortages. Forced to make life-or-death choices about resource allocation, physicians and EMTs may be subconsciously biased by the knowledge that Black trans women, for example, are socially undesirable and thus ultimately treated as disposable. Queer people incarcerated in prisons or immigration detention centers face significant barriers and delays in accessing health care – if they can access it at all.¹⁵ Furthermore, the combined effects of AIDS and queerphobic discrimination mean that older queer men are more likely to live alone and outside of senior communities, to be estranged from their blood relatives, to be childless and single, and to rely on friends from the same generation for support.¹⁶ This means that older queer men may have fewer caregivers or may rely for care on people who are at high risk of becoming seriously ill if they catch COVID-19. If they get sick, they may not have someone else at home to take care of them, to monitor their health, and to take them to the hospital if their health takes a turn for the worse. For all these reasons, queer people are more likely to catch COVID-19 in the first place – and, once they have caught it, more likely to experience serious adverse health outcomes.

Along with COVID-19 itself, widely implemented COVID-19 policy responses have also had disproportionately negative effects on queer people, especially those who are also BIPOC, disabled, chronically ill, undocumented, or transfeminine. Lockdown measures have been particularly hard on queer young people, who may have had to return home from university to live with unsupportive family members.¹⁷ Others may live alone and struggle with feelings of loneliness and isolation, likely compounded by lack of access to some of the most vital lifelines to queer community, such as gay bars and

¹³ See American Psychological Association, “How COVID-19 impacts sexual and gender minorities” (29 June 2020) online: *American Psychological Association* <<https://www.apa.org/topics/covid-19/sexual-gender-minorities>> [American Psychological Association].

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ See Salerno, *supra* note 12 at 240. See also The Healthy Aging Project at GMHC, “LGBTQ Older Adults and COVID-19 – What Providers Need to Know” (2020) online: (pdf) *LGBT Aging Centre* <<https://www.lgbtagingcenter.org/resources/pdfs/GMHC%20Provider%20Fact%20Sheet%20for%20LGBTQ%20Older%20Adults%20and%20COVID-191.pdf>> and Rachel Savage & Oscar Lopez, “Isolation and HIV memories hit LGBT+ elderly hard in lockdowns” (30 March 2020) online: *Reuters* <<https://www.reuters.com/article/us-health-coronavirus-lgbt-idUSKBN21H0BO>>.

¹⁷ See Salerno, *supra* note 12 at 240.

community centers.¹⁸ Some queer people may have been forced into lockdown with abusive partners. Many others are unhoused and are at greater risk of being targeted by police for failing to abide by strict lockdown and physical distancing measures, as I will discuss in the following sections.¹⁹ Incarcerated queer people are likely to have suffered from restricted visitation rights, reduced programming, and extraordinarily harsh, around-the-clock lockdowns, ostensibly for medical reasons.²⁰ Queer refugees may face additional barriers in applying for refugee status as immigration is restricted, hearings are delayed, and court proceedings move online.²¹ Queer sex workers may have more difficulty meeting clients in light of COVID-19 restrictions.²² Trans people's transition-related care, including Genital Reconstruction Surgery (GRS) and Hormone Replacement Therapy (HRT), has been categorized as 'non-essential' and cancelled or delayed – a potentially crushing blow for people who face significant barriers in obtaining medical care, who often experience severe gender dysphoria, and who are at high risk for depression and suicide.²³ Finally, queer people are more likely than straight, cisgender people to live in poverty, and thus more vulnerable to the economic effects of the COVID-19 crisis – especially in the United States, where there has been no real equivalent to CERB.²⁴ As the pandemic stretches on with little hope of more aid from the federal government, queer Americans have been and continue to be at risk of losing their jobs, getting evicted, and going hungry.

3. Technologies for Surveillance, Policing, and Control

Like many of their fellow states, Canada and the United States have responded to COVID-19 from a national security perspective rather than – or at least in addition to – a public health perspective. Instead of prioritizing public health education and support for affected individuals, governments have focused on developing and strengthening technologies for surveillance, policing, and control. The coronavirus has been cast – in part by Trump's racist rhetoric – as a foreign invader that must not be allowed to force itself through closed national borders. To justify the coercive enforcement of liberty-restricting measures, even individuals within state borders have been treated as potential security threats who, allowed to roam unpoliced, could spread COVID-19 to others. In some states and provinces, emergency legislation has been used to mandate mask wearing, physical distancing, and lockdown – and to criminalize anyone who is unable or unwilling to abide by these measures, punishing them with jail time or hefty fines.

¹⁸ See American Psychological Association, *supra* note 13.

¹⁹ See Roxie Danielson, "For the homeless, the coronavirus crisis is untenable – but so is the physical-distancing response" (23 March 2020) online: *The Globe and Mail* <<https://www.theglobeandmail.com/opinion/article-for-the-homeless-both-the-coronavirus-crisis-and-the-social/>> [Danielson].

²⁰ See Linda Mussell & Martha Paynter, "Worsening conditions in prisons during COVID-19 further marginalize criminalized women" (18 October 2020) online: *The Conversation* <<https://theconversation.com/worsening-conditions-in-prisons-during-covid-19-further-marginalize-criminalized-women-147454>>.

²¹ See American Psychological Association, *supra* note 13.

²² *Ibid.*

²³ *Ibid.*

²⁴ See Salerno, *supra* note 12 at 240.

Here, I will identify some of the key technologies for surveillance, policing, and control that have been used in Canada, the United States, and elsewhere to limit the spread of COVID-19 and to punish and control anyone who has been exposed to the coronavirus. The technologies that I will address in this paper fall into three main categories: contact tracing technologies, tracking technologies, and increased police powers used to enforce lockdown and physical distancing measures.

a) Contact Tracing

The first of these categories includes a wide range of contact tracing apps, as well as manual contact tracing. The latter requires public health professionals to manually trace a presumptively infected person's recent contacts, tracking links of infection through complex networks of family, colleagues, and friends. Manual contact tracing demands a particularly high degree of public trust and cooperation because infected persons are required to share the names and contact information of anyone they might have infected during the incubation period.²⁵ The COVID-19 Close Contacts Identification Guide developed by Alberta Health Services, for instance, leaves no room for anonymity: Albertans who test positive for COVID-19 are asked to provide the date, duration, and location of any recent interaction that could have resulted in COVID-19 transmission, along with the nature of their relationship and the name, address, phone number or email, and age of the other person.²⁶ Manual contact tracing has not been successful with COVID-19 in part because infected persons, citing privacy concerns, have been unwilling or unable to report their recent contacts to public health officials.²⁷

On the other hand, contact tracing apps vary wildly and have a mixed record when it comes to protecting personal information. These apps combine contact tracing and proximity testing, relying on Bluetooth, GPS, or WiFi technology to “[provide] a record of the user’s recent close exposures to the phones of persons later found to be infected with COVID-19.”²⁸ There are a number of technological approaches that app developers can take, depending on their interest in preserving users’ privacy. In “A Survey of COVID-19 Contact Tracing Apps,” Nadeem Ahmed et al. argue that tracing app developers tasked with deciding how to use and store COVID-related data have thus far settled on one of three distinct system architectures: centralized, decentralized, or hybrid.²⁹ Some developers design contact tracing apps with privacy at the forefront of their minds, opting for a decentralized database, with anonymous and unidentifiable data stored only on the individual user’s phone. Other apps collect users’ data, including potentially identifiable data, and store it in a centralized database. Two additional decision nodes require app

²⁵ See Bernard Lo & Ida Sim, “Ethical Framework for Assessing Manual and Digital Contact Tracing for COVID-19” (20 October 2020) online: (pdf) *Annals of Internal Medicine* <<https://www.acpjournals.org/doi/10.7326/M20-5834>> [Lo].

²⁶ See Alberta Health Services, “COVID-19 Close Contacts Identification Guide” (2020) online: (pdf) *Alberta Health Services* <<https://www.albertahealthservices.ca/assets/info/ppih/if-ppih-covid-19-contact-tracing-guide.pdf>>.

²⁷ See Lo, *supra* note 25.

²⁸ *Ibid.*

²⁹ See Nadeem Ahmed et al., “A Survey of COVID-19 Contact Tracing Apps” (2020), 8 *IEEE Access* 134577 at 134578.

designers to grapple with issues of permanence and consent: is there a built-in feature that destroys COVID-19 data after a relevant amount of time, such as the 14-day incubation period, has elapsed, or is the data stored indefinitely? And is it mandatory to use and download the app, or does the app require free, informed, and ongoing consent from its users? COVID-19 tracing apps have been developed in over forty countries to date.³⁰ Depending on its voluntariness and design, each app raises different privacy concerns.

b) Tracking Technologies

Tracking technologies overlap in large part with contact tracing. Like contact tracing apps, tracking technologies can be used to monitor the movements and contacts of persons who might spread COVID-19 to others. Unlike contact tracing apps, however, tracking technologies such as electronic bracelets are not used to gather anonymous data for public health purposes, but rather to track and police individuals who have been identified as security threats, whether because they are presumptively capable of infecting others with COVID-19 or because they pose a different kind of risk.

Over the past nine months, electronic bracelets and other tracking technologies have been used or tested in multiple jurisdictions, including Montreal, to ensure that certain people cannot break quarantine or leave their home region without alerting the authorities. Some residents of Sofia, Bulgaria have been given electronic wristbands that can record the wearer's movements and monitor their heart rate.³¹ In South Korea, people who have broken quarantine have been ordered to wear similar tracking devices.³² As early as March, travelers arriving in Hong Kong were required to wear electronic wristbands that were connected to equally mandatory smartphone apps and would alert authorities if the wearer left their place of quarantine.³³ However, the Electronic Monitoring program that the Canadian Border Services Agency (CBSA) has introduced during the pandemic as a "temporary measure" represents what may be the most concerning use of tracking technology.³⁴ After a March hunger strike at the Laval Immigration Holding Centre, CBSA agreed to release most of the migrants held in detention facilities in Ontario and Quebec. Some – those deemed "flight risks" – were required to wear ankle monitors that "amount to 'an enormous expansion' in surveillance and control of migrants."³⁵ Because ankle monitors are given only to potential flight risks and not to migrants who have tested positive for COVID-19 or are otherwise perceived

³⁰ See Jessica Morley *et al*, "Ethical Guidelines for COVID-19 Tracking Apps" (4 June 2020), 582 *Nature* 29.

³¹ See BBC News, "Coronavirus: People-tracking wristbands tested to enforce lockdown" (24 April 2020) online: *BBC News* <<https://www.bbc.com/news/technology-52409893>>.

³² *Ibid*.

³³ See Uptin Saiidi, "Hong Kong is putting electronic wristbands on arriving passengers to enforce coronavirus quarantine" (18 March 2020) online: *CNBC* <<https://www.cnbc.com/2020/03/18/hong-kong-uses-electronic-wristbands-to-enforce-coronavirus-quarantine.html>>.

³⁴ See Selena Ross, "Some migrants now tracked with ankle bracelets as pandemic 'temporary measure'" (28 May 2020) online: *CTV Montreal* <<https://montreal.ctvnews.ca/some-migrants-now-tracked-with-ankle-bracelets-as-pandemic-temporary-measure-1.4959851>>.

³⁵ *Ibid*.

as security threats, it is hard to imagine that CBSA's rationale for the program is motivated by public health concerns – or even by broader security concerns.

c) Increased Police Powers

Finally, some jurisdictions have increased police powers to monitor and increase public compliance with lockdown, masking, and physical distancing measures. Here and in the following section, I will highlight some of the measures – and the expanded police powers used to enforce them – that have been implemented in Montreal and elsewhere in Canada.

Early in the pandemic, as Canadians rushed to return home from abroad, the federal government imposed a mandatory 14-day self-isolation period for any Canadian re-entering the country. Rulebreakers were threatened with home visits from police officers and with ticketing under the Quarantine Act, which allows for fines of up to \$750,000 and prison sentences of up to six months – or, in cases of extreme recklessness or willfulness, fines of up to \$1 million and up to three years imprisonment. Although few tickets have been issued under the Quarantine Act, Canadian police have made thousands of home visits to returning travelers suspected of breaking quarantine.³⁶

The provinces have also leaned heavily on ticketing to enforce the lockdown measures that have been in place to various degrees and at various times in much of the country. (Residents of Montreal and other red zones in Quebec have been living under partial lockdown measures since October, when the second wave of COVID-19 began to pick up speed.) Drawing on emergency powers and public health legislation to restrict private gatherings and require physical distancing and mask wearing in public places, provincial authorities have threatened hefty fines to ensure compliance. Relying on the provincial Public Health Act, Quebec Premier Francois Legault recently announced that police in red zones can issue tickets of up to \$6,000 to individuals who host illegal private gatherings in their homes.³⁷ Indeed, Quebec police have enjoyed unprecedented power to enforce lockdown orders since early October, when the new telewarrant system first took effect. Under this system, police officers who suspect an illegal gathering can obtain an expedited warrant to enable them to enter a private home and enforce lockdown orders.³⁸ Whether or not it is an effective public health strategy, the telewarrant system certainly amounts to an astounding expansion of police powers.

4. Effects of Expanded Policing on Queer People

³⁶ See Rachel Aiello, "Police have checked in on nearly 2,200 quarantining travellers at home" (21 May 2020) online: *CTV News* <<https://www.ctvnews.ca/health/coronavirus/police-have-checked-in-on-nearly-2-200-quarantining-travellers-at-home-1.4949021>>.

³⁷ See CBC News, "Follow the COVID-19 rules or you'll be fined, Quebec Premier Legault warns" (9 December 2020) online: *CBC News* <<https://www.cbc.ca/news/canada/montreal/fines-quebec-covid-19-rules-1.5834304>>.

³⁸ See The Canadian Press, "Quebec police given ' telewarrant ' system to enforce new lockdown orders" online: *CTV Montreal* <<https://montreal.ctvnews.ca/quebec-police-given-telewarrant-system-to-enforce-new-lockdown-orders-1.5127893>> ["Quebec police given ' telewarrant ' system to enforce new lockdown orders"].

a) Past and Present Policing of Queer Bodies

Before I explore the actual and potential effects of the above technologies on queer people, I will first contextualize the discussion with an overview of the fraught relationship between police powers and queerness. Historically, technologies of surveillance and control have been used to target and criminalize queer and trans people in both public and private spheres.

One such technology has been used to paint queer people, including and especially those who are HIV+, as sexual predators who deserve to be publicly shamed and excluded from community. Since their creation, sex offender registries in the United States have served as *de facto* databases of queer people; indeed, the first registries, dating back to the 1930s and 1940s, were simply lists of men who had been caught having sex with other men.³⁹ Police invoked legislation criminalizing sodomy, public sexual acts, and cross-dressing as an excuse to raid community spaces for queer people, including gay bars, bathhouses, and clubs.⁴⁰ After the HIV/AIDS crisis threw the United States into “a moral sex panic,” seropositive individuals were branded as inherently dangerous and predatory by newly minted criminal sex offenses such as non-disclosure of HIV+ status and intentional exposure to HIV.⁴¹ (I should note here that HIV+ status, alone among sexually transmitted infections, is subjected to high levels of criminalization throughout the world, including in Canada; HIV transmission has been criminalized in 72 countries, and 48 countries have travel bans in place for HIV+ individuals.⁴² The degree to which HIV/AIDS is associated with queerness helps to explain this phenomenon; through criminalization of HIV, states can implicitly criminalize queerness.) Modern sex offender registries continue to police queerness through offenses that target queer-coded livelihoods and behaviors, including sex work and cruising.⁴³

Additionally, in recent years, smartphone-based policing technologies have been weaponized against queer people. Police in various countries, including Egypt, Russia,

³⁹ See Maya Schenwar & Victoria Law, *Prison by Any Other Name: The Harmful Consequences of Prison Reform* (New York: The New Press, 2020) at 109 [Schenwar].

⁴⁰ See David Booth, “. . . Except Sex Offenders’: Registering Sexual Harm in the Age of #MeToo” in Keesha M Middlemass & CalvinJohn Smiley, eds, *Prisoner Reentry in the 21st Century: Critical Perspectives of Returning Home*, 1st ed (Routledge, 2019) 219 at 220 [Booth].

⁴¹ *Ibid.*

⁴² See Carmen H. Logie & Janet M. Turan, “How Do We Balance Tensions Between COVID-19 Public Health Responses and Stigma Mitigation? Learning from HIV Research” (2020), 24 *Aids and Behavior* 2003 at 2004 [“How Do We Balance Tensions Between COVID-19 Public Health Responses and Stigma Mitigation? Learning from HIV Research”].

⁴³ See Booth, *supra* note 40 at 220. It is important to note that the state’s violent policing and punishment of queerness – whether in the form of criminal sex offenses that target HIV+ individuals or bathroom and locker room laws that target trans people – have often been justified in the name of public health, morality, or both. Politicians and public health officials who support anti-queer legislation often claim to be motivated by the desire, however misguided it may be, to prevent real or imagined harms to sex workers, child sex abuse victims, and would-be victims of trans women who seek to use women’s bathrooms and locker rooms. Some argue, for instance, that criminalizing intentional exposure to HIV is a reasonable and necessary policy response to a public health crisis.

and Nigeria, have posed on dating apps like Grindr and Scruff to entrap and persecute queer users.⁴⁴ Once identified by the authorities, queer people can be extorted under threat of criminal punishment or public outing. This is, of course, a privacy issue. In some parts of the world, it is also a matter of life or death.

b) Documented Effects of COVID-19 Policing Technologies on Queer People

As I demonstrated above, queer people have good reason to be skeptical of public health policy that expands state powers to police and punish the public, especially when it is justified by a rhetoric of security. In the case of COVID-19 policy, our fears have already been confirmed: some of the policing and surveillance technologies developed or strengthened in response to COVID-19 have already visited demonstrably disproportionate harms on queer people. I will start by discussing actual and ongoing harms to queer people before going on to consider some of the *potential* harms that could occur if the current trend in favor of coercive and security-aligned public health policy continues unchecked, causing a steady erosion of our civil liberties and privacy rights.

In June 2020, the Canadian Civil Liberties Association released a report entitled “Stay Off the Grass: COVID-19 and Law Enforcement in Canada,” a product of CCLA’s ongoing Policing the Pandemic Mapping Project. The Policing the Pandemic Mapping Project was launched “to track and visualize the massive and extraordinary expansions to police power enacted across Canada in response to the COVID19 Pandemic” and aims to identify patterns of COVID-19 policing that disproportionately target and punish marginalized people, including queer people.⁴⁵ One of the findings from the project is that the requirement that individuals remain at least two meters apart from anyone who is not a member of their household has led to discriminatory policing on the basis of sexual orientation. CCLA received reports from same-sex couples in public spaces who were repeatedly stopped by police officers, interrogated, and required to provide proof of cohabitation, while heterosexual couples in the same spaces did not receive the same suspicious treatment.⁴⁶ A queer resident of Montreal told CCLA that they and their live-in partner had been stopped three times by different police officers while sitting together in a park and speculated that they had been “singled out because [they] were young adults who didn’t fit into the normative family ideal put forward by western society (heterosexual, monogamous, child-bearing, etc.).”⁴⁷

⁴⁴ See Natasha Culzac, “Egypt’s police ‘using social media and apps like Grindr to trap gay people’ (17 September 2017) online: *The Independent* <<https://www.independent.co.uk/news/world/africa/egypt-s-police-using-social-media-and-apps-grindr-trap-gay-people-9738515.html>> [Culzac]. See also Norman Shamas, “Queer Dating Apps Need to Protect Their Users Better” (28 February 2018) online: *Slate* <<https://slate.com/technology/2018/02/queer-dating-apps-need-to-protect-their-users-better.html>> [Shamas].

⁴⁵ See Canadian Civil Liberties Association, “Stay Off the Grass: COVID-19 and Law Enforcement in Canada” (June 2020) online: (pdf) *Canadian Civil Liberties Association* <<https://ccla.org/cclanewsites/wp-content/uploads/2020/06/2020-06-24-Stay-Off-the-Grass-COVID19-and-Law-Enforcement-in-Canada.pdf>> at i [Canadian Civil Liberties Association].

⁴⁶ *Ibid* at 29.

⁴⁷ *Ibid* at 30.

Expanded policing to ensure compliance with physical distancing measures also disproportionately impacts people experiencing homelessness – a population in which queer people, and especially queer youth, are overrepresented. It is difficult for individuals living in shelters or on the streets to comply with physical distancing requirements,⁴⁸ which tend to be arbitrary, vague, and aggressively enforced, especially in Montreal. In fact, the SPVM have handed out quite a few hefty fines to street-involved individuals in Montreal, compounding their pre-existing financial worries.⁴⁹ The SPVM's rampant ticketing of unhoused queer and trans youth does nothing to enable them to secure the safe and stable housing that they would need to observe lockdown measures. Rather, Quebec's decision to punish vulnerable people with functionally unpayable fines means that they are *less* able to protect themselves and others from COVID-19.

Finally, the simple fact of expanded police powers poses a tangible threat to queer people, especially those who are also BIPOC or disabled. The police – in Canada and the United States alike – have a long and well documented history of brutalizing and killing BIPOC, queer, and mentally ill people.⁵⁰ Expanding police access to private spaces means giving them still more opportunities to enact violence on marginalized people in the name of public health and safety. For instance, Quebec's new telewarrant system circumvents the safeguards built into the traditional warrant requirement for police searches of private property.⁵¹ Police who have expedited access to queer people's homes simply have more opportunities – and more excuses – to harass, intimidate, and hurt them.

c) Potential Future Consequences for Queer People

As I established above, public health policies that rely on technologies of coercion, punishment, and surveillance have already caused disproportionate harms to queer people, no matter how effective they have been at halting the spread of COVID-19. Now, I will consider some of the potential harms that these technologies could visit on queer people in the future if their use is co-opted by anti-queer actors and insufficiently monitored by civil rights watchdogs.

First, tracking technologies and contact tracing, whether manual or digital, may be used to identify, out, and extort queer people. Manual contact tracing does not allow for anonymity and arguably presents the greatest risk; queer people could be coerced by authorities into revealing the identities and contact information of their queer friends and lovers, all in the name of public health. Electronic bracelets and some digital contact tracing apps present a similar risk: they could be programmed to alert government officials when a user enters a gay bar or crosses paths with a known queer rights activist. Contact tracing apps designed to be completely optional, with decentralized data collection and

⁴⁸ See Danielson, *supra* note 19.

⁴⁹ See Canadian Civil Liberties Association, *supra* note 45 at 28.

⁵⁰ See El Jones, "We face a public health emergency, and criminalizing the marginalized can worsen the crisis" (22 March 2020) online: *Halifax Examiner* <<https://www.halifaxexaminer.ca/featured/we-face-a-public-health-emergency-and-criminalizing-the-marginalized-can-worsen-the-crisis/>> [Jones].

⁵¹ See "Quebec police given ' telewarrant ' system to enforce new lockdown orders," *supra* note 38.

other robust privacy protections in place, are much less likely to be hijacked for anti-queer purposes. Nevertheless, surveillance tools have been used against queer people in the past and very well could be used for similar purposes in the future, especially in countries where same-sex sexual activity and cross-dressing are still punishable by law. This is a speculative fear – but not an irrational one, considering that police forces in multiple countries have used dating apps like Grindr to identify and entrap queer people.⁵²

Second, as I argued in the previous subsection, technologies like tracking bracelets, telewarrants, and COVID-19 ticketing expand – or further legitimize – the scope of police powers to include the coercive enforcement of liberty-restricting public health measures and the surveillance of individuals who are treated by the state as security threats rather than as sick people in need of care. Getting the green light to enforce lockdown and physical distancing measures may ultimately give police an excuse to violently police queer people who engage in sex work, cruising, or simply existing in public with visibly queer and unruly bodies.⁵³

5. Lessons for COVID-19 from HIV/AIDS

I have argued above that the security-aligned COVID-19 policies put into place by Canadian and American authorities have been – or at least have the potential to be – disproportionately harmful to queer people living in North America. With that in mind, we must ask ourselves how we can develop alternative policy options that effectively address COVID-19 while also centering a holistic conception of queer health and safety that encompasses not only COVID-19 status, but also mental health, community membership, and access to material necessities like shelter and food. I posit that the queer response to the HIV/AIDS crisis in the '80s and '90s can serve as a rich source of community knowledge. Especially in viral hotspots like New York City, the queer community was forced to find creative ways to survive. AIDS patients and the people who loved them cared for one another in the face of near-total government neglect.⁵⁴ As we attempt to move away from COVID-19 policy that situates itself within a national security paradigm and towards a public health response that prioritizes the wellness needs of marginalized populations, we should see what lessons we can learn from a community that has spent decades caring for itself.

This begs the question: how *did* queer people survive the AIDS crisis? In an article entitled “How middle-aged queer men have prevailed over four decades of HIV/AIDS,” Denio Lourenco identifies key sources of resilience. Many participants in a survey of Ontario-based MSM over 40 credited downtown Toronto’s established queer community as a vital resource that gave them access to accurate and up-to-date information about HIV/AIDS. Other participants cited the importance of “meaningful sexual relationships,”

⁵² See Arjun Kharpal, “Use of surveillance to fight coronavirus raises concerns about government power after pandemic ends” (26 March 2020) online: *CNBC* <<https://www.cnbc.com/2020/03/27/coronavirus-surveillance-used-by-governments-to-fight-pandemic-privacy-concerns.html>>. See also Culzac, *supra* note 44 and Shamas, *supra* note 44.

⁵³ See Jones, *supra* note 50.

⁵⁴ See Jennifer Brier, *Infectious Ideas: U.S. Political Responses to the AIDS Crisis* (North Carolina: The University of North Carolina Press, 2009) at 161 [Brier].

despite the looming threat of HIV transmission.⁵⁵ Another protective factor identified by participants was volunteer work at local queer non-profits and community clinics, which offered them community membership, support, medical information, and the opportunity to situate themselves within a network of care. Provided with community-level resources and accurate medical advice, the subjects of the study were empowered to evaluate their risk levels, “[discuss] sexual choices with prospective partners, ... [and articulate] their needs clearly to their health care and service providers.”⁵⁶

Another source of lessons from the HIV/AIDS crisis is the infamous pamphlet, entitled “How to Have Sex in an Epidemic: One Approach,” that was published in 1983 by Richard Berkowitz and Michael Callen in response to the revelation that HIV was transmitted by exchange of bodily fluids, usually during sex. At the start of the AIDS crisis, when risk factors for HIV transmission were unknown, many MSM had embraced celibacy; sex, once a symbol of pride and liberation, now meant death. However, as more evidence emerged about the specific sexual activities that increased the risk of HIV transmission, much of the queer community embraced a harm reduction approach to sexual activity. They started to make decisions about what kinds of sex to engage in, and with whom, “based on the risk of acquiring HIV as well as the degree of satisfaction, leading to what is now known as safer sex.”⁵⁷

Sensing that queer men needed an accurate guide to safe sex practices, Berkowitz and Callen wrote what was essentially a detailed and practical how-to manual for men seeking to have fulfilling and intimate queer sex while reducing or eliminating their risk of HIV infection. They explained how to make certain sexual activities less risky by using condoms, made note of which activities to avoid altogether, and offered creative means of achieving sexual satisfaction without engaging in high-risk behaviors. For instance, they suggested that queer men form “closed circles of fuck buddies” and “jerk off clubs,” both functional equivalents to COVID-era social bubbles.⁵⁸ They also provided practical advice for risk mitigation to sex workers, recognizing that some people had no choice but to engage in sex work.⁵⁹ Just as helpful as practical advice about sex positions, however, was Berkowitz and Callen’s recommendation that queer people communicate openly and honestly with their prospective sexual partners about what kinds of risks they were willing to take.⁶⁰ Ultimately, they conclude, “What’s over isn’t sex—just sex without responsibility.”⁶¹

⁵⁵ See Denio Lourenco, “How middle-aged queer men have prevailed over four decades of HIV/AIDS” (16 November 2020) online: CTV News <<https://www.ctvnews.ca/health/how-middle-aged-queer-men-have-prevailed-over-four-decades-of-hiv-aids-1.5190771>>.

⁵⁶ *Ibid.*

⁵⁷ See Eric Kutscher & Richard E. Greene, “A Harm-Reduction Approach to Coronavirus Disease 2019 (COVID-19)—Safer Socializing” (2 June 2020) online: *JAMA Health Forum* <<https://jamanetwork.com/channels/health-forum/fullarticle/2766837>> [Kutscher].

⁵⁸ See Richard Berkowitz & Michael Callen, “How to Have Sex in an Epidemic: One Approach” (May 1983) online: (pdf) *Joe Clark* <<https://joelclark.org/dossiers/howtohavesexinanepidemic.pdf>> at 30-31 [Berkowitz].

⁵⁹ *Ibid* at 32-33.

⁶⁰ *Ibid* at 16-17.

⁶¹ *Ibid* at 40.

How can we apply Berkowitz and Callen’s advice and the Ontarian AIDS survivors’ strategies of resilience to COVID-19? To start with, the queer community rejected external criminalization and policing of HIV+ individuals, instead empowering individuals to act as agents of public health and to take responsibility for their own and their partners’ health. In the context of COVID-19, public health authorities should commit to providing individuals with the public health education and practical support that they need to serve as agents of their own and their neighbors’ health. Instead of criminalizing and punishing people who are infected with COVID-19 or who have failed to abide by physical distancing measures, we should ask what kinds of support and information they need to be able to manage health risks thoughtfully, safely, and responsibly. Furthermore, we should mind how we talk about people who choose not to wear masks or comply with physical distancing measures. Rather than shaming and stigmatizing them with labels like “intentional murderers” and “super spreaders,”⁶² we should simply acknowledge that we all have different comfort levels with risk and seek to ensure that people who accept higher levels of risk in their own lives do not unwittingly endanger others who did not consent to the same level of risk.⁶³

No matter the precautions we take, life in the age of COVID-19 is inherently risky. Government officials who have imposed mandatory lockdown measures on their constituents have attempted – to varying degrees of success – to eliminate that risk through the practice of absolute social abstinence. Doctors Eric Kutscher and Richard Greene have suggested that we should abandon the ideal of social abstinence in favor of a harm reduction approach to socializing that honors our nature as fundamentally social beings with an irrepressible drive to connect with one another. The same shift – from sexual abstinence to safer sex – took place during the HIV/AIDS crisis as queer men resolved to find ways to experience sexual intimacy and satisfaction despite the ever-present threat of AIDS and in defiance of governments that were not invested in their survival, their queerness, or their joy.⁶⁴ We should take a page from Berkowitz and Callen’s manual and embrace creative means of fulfilling our social needs while simultaneously minimizing the risk of COVID-19 transmission. For Kutscher and Greene, a harm reduction approach to COVID-19 demands that we “[go] places with substantial space and air circulation, staying 6 feet apart, wearing facemasks when closer than 6

⁶² See “Lessons learned from HIV can inform our approach to COVID-19 Stigma,” *supra* note 4 at 1. See also “How Do We Balance Tensions Between COVID-19 Public Health Responses and Stigma Mitigation? Learning from HIV Research,” *supra* note 42 at 2003. The punishment of those who contribute to the spread of infectious diseases is related to Susan Sontag’s claims about the power of metaphor in relation to illness. According to Sontag, when we use militaristic language to refer to illness, we risk attaching moral value judgments to the medical fact of illness and treating sick or potentially sick individuals not as people in need of care, but rather as foreign invaders who threaten the security of the individual and national body. Such an approach to illness also places moral blame for the illness on the very people who suffer from it.

⁶³ What this argument boils down to is that people should be allowed to make informed decisions about the kinds of risks they are prepared to make, and, for the most part, their decisions should be respected. However, people who are more comfortable accepting high levels of risk – for instance, socializing without masks on – should be prepared to accept that they might catch COVID-19 and suffer adverse health outcomes, including death, just as MSM who engaged in unprotected sex with strangers during the AIDS crisis were presumably prepared to accept the risk that they would become infected with HIV.

⁶⁴ See Brier, *supra* note 54 at 161.

feet, and performing frequent hand hygiene.”⁶⁵ Like sex during the AIDS crisis, it also requires good communication skills: “All decisions in a harm-reduction approach must be thoughtful, intentional, and negotiated. We must obtain the consent of our social partners before any interaction and establish guidelines for safety.”⁶⁶

Indeed, the biggest takeaway from the queer community’s response to the AIDS crisis is that we should focus our energies on cultivating an ethic of care, honesty, and mutual affection in our social interactions. The queer community survived a devastating epidemic despite years of government denial and neglect. It survived because queer people committed to caring for themselves and for one another, knowing that mutual care was all they had. In the last pages of their manual, Berkowitz and Callen urged their readers not to divorce sex from a sense of affection for their sexual partners. They wrote, “If you love the person you are fucking with—even for one night—you will not want to make them sick. Maybe affection is our best protection.”⁶⁷ Their advice translates neatly to the current pandemic. If we care about the people we interact with, we will not want them to get sick. If other people care about us, they will not want us to get sick, either. We wear masks to protect the people we have chosen to be in our lives, trusting that they will make the same effort to protect us. In the end, what better protection do we have than trust and care?

⁶⁵ See Kutscher, *supra* note 57.

⁶⁶ *Ibid.*

⁶⁷ See Berkowitz, *supra* note 58 at 39.

Bibliography

SECONDARY MATERIAL

- Ahmed, Nadeem *et al*, "A Survey of COVID-19 Contact Tracing Apps" (2020), 8 IEEE Access 134577.
- Aiello, Rachel, "Police have checked in on nearly 2,200 quarantining travellers at home" (21 May 2020) online: *CTV News* <<https://www.ctvnews.ca/health/coronavirus/police-have-checked-in-on-nearly-2-200-quarantining-travellers-at-home-1.4949021>>.
- Alberta Health Services, "COVID-19 Close Contacts Identification Guide" (2020) online: (pdf) *Alberta Health Services* <<https://www.albertahealthservices.ca/assets/info/ppih/if-ppih-covid-19-contact-tracing-guide.pdf>>.
- American Psychological Association, "How COVID-19 impacts sexual and gender minorities" (29 June 2020) online: *American Psychological Association* <<https://www.apa.org/topics/covid-19/sexual-gender-minorities>>.
- BBC News, "Coronavirus: People-tracking wristbands tested to enforce lockdown" (24 April 2020) online: *BBC News* <<https://www.bbc.com/news/technology-52409893>>.
- Berkowitz, Richard & Michael Callen, "How to Have Sex in an Epidemic: One Approach" (May 1983) online: (pdf) *Joe Clark* <<https://joelclark.org/dossiers/howtohavesexinanepidemic.pdf>>.
- Bernstein, Jacob, "For H.I.V. Survivors, a Feeling of Weary Déjà Vu" (8 April 2020) online: *The New York Times* <<https://www.nytimes.com/2020/04/08/style/coronavirus-hiv.html>>.
- Booth, David, "'... Except Sex Offenders': Registering Sexual Harm in the Age of #MeToo" in Keesha M Middlemass & Calvin John Smiley, eds, *Prisoner Reentry in the 21st Century: Critical Perspectives of Returning Home*, 1st ed (Routledge, 2019) 219.
- Brier, Jennifer, *Infectious Ideas: U.S. Political Responses to the AIDS Crisis* (North Carolina: The University of North Carolina Press, 2009).
- Canadian Civil Liberties Association, "Stay Off the Grass: COVID-19 and Law Enforcement in Canada" (June 2020) online: (pdf) *Canadian Civil Liberties Association* <<https://ccla.org/cclanewsites/wp-content/uploads/2020/06/2020-06-24-Stay-Off-the-Grass-COVID19-and-Law-Enforcement-in-Canada.pdf>>.
- Canadian Press, The, "Quebec police given 'telewarrant' system to enforce new lockdown orders" online: *CTV Montreal* <<https://montreal.ctvnews.ca/quebec-police-given-telewarrant-system-to-enforce-new-lockdown-orders-1.5127893>>.
- CBC News, "Follow the COVID-19 rules or you'll be fined, Quebec Premier Legault warns" (9 December 2020) online: *CBC News* <<https://www.cbc.ca/news/canada/montreal/fines-quebec-covid-19-rules-1.5834304>>.
- Crary, David "COVID-19 and AIDS crisis: NYC gays see parallels, contrasts" (11 April 2020) online: *Associated Press* <<https://apnews.com/article/031ff4340ebff7ff6b9178a780d9bc1e>>.
- Culzac, Natasha, "Egypt's police 'using social media and apps like Grindr to trap gay people'" (17 September 2017) online: *The Independent* <<https://www.independent.co.uk/news/world/africa/egypt-s-police-using-social-media-and-apps-grindr-trap-gay-people-9738515.html>>.
- Danielson, Roxie, "For the homeless, the coronavirus crisis is untenable – but so is the physical-distancing response" (23 March 2020) online: *The Globe and Mail* <<https://www.theglobeandmail.com/opinion/article-for-the-homeless-both-the-coronavirus-crisis-and-the-social/>>.
- Healthy Aging Project at GMHC, The, "LGBTQ Older Adults and COVID-19 – What Providers Need to Know" (2020) online: (pdf) *LGBT Aging Centre* <<https://www.lgbtagingcenter.org/resources/pdfs/GMHC%20Provider%20Fact%20Sheet%20for%20LGBTQ%20Older%20Adults%20and%20COVID-19.pdf>>.
- Hull, Shawnika, Robin Stevens & Jasmine Cobb, "Masks Are the New Condoms: Health Communication, Intersectionality and Racial Equity in COVID-Times" (2020), 35:14 Health Communication 1740.

- Jones, El, "We face a public health emergency, and criminalizing the marginalized can worsen the crisis" (22 March 2020) online: *Halifax Examiner* <<https://www.halifaxexaminer.ca/featured/we-face-a-public-health-emergency-and-criminalizing-the-marginalized-can-worsen-the-crisis/>>.
- Kharpal, Arjun, "Use of surveillance to fight coronavirus raises concerns about government power after pandemic ends" (26 March 2020) online: *CNBC* <<https://www.cbc.com/2020/03/27/coronavirus-surveillance-used-by-governments-to-fight-pandemic-privacy-concerns.html>>.
- Kutscher, Eric & Richard E. Greene, "A Harm-Reduction Approach to Coronavirus Disease 2019 (COVID-19)—Safer Socializing" (2 June 2020) online: *JAMA Health Forum* <<https://jamanetwork.com/channels/health-forum/fullarticle/2766837>>.
- Lo, Bernard & Ida Sim, "Ethical Framework for Assessing Manual and Digital Contact Tracing for COVID-19" (20 October 2020) online: (pdf) *Annals of Internal Medicine* <<https://www.acpjournals.org/doi/10.7326/M20-5834>>.
- Logie, Carmen H, "Lessons learned from HIV can inform our approach to COVID-19 Stigma" (2020), 23 *Journal of the International AIDS Society* e25504.
- & Janet M. Turan, "How Do We Balance Tensions Between COVID-19 Public Health Responses and Stigma Mitigation? Learning from HIV Research" (2020), 24 *Aids and Behavior* 2003.
- Lourenco, Denio, "How middle-aged queer men have prevailed over four decades of HIV/AIDS" (16 November 2020) online: *CTV News* <<https://www.ctvnews.ca/health/how-middle-aged-queer-men-have-prevailed-over-four-decades-of-hiv-aids-1.5190771>>.
- Morley, Jessica *et al*, "Ethical Guidelines for COVID-19 Tracking Apps" (4 June 2020), 582 *Nature* 29.
- Mussell, Linda & Martha Paynter, "Worsening conditions in prisons during COVID-19 further marginalize criminalized women" (18 October 2020) online: *The Conversation* < <https://theconversation.com/worsening-conditions-in-prisons-during-covid-19-further-marginalize-criminalized-women-147454>>.
- Prager, Sarah, "'Where Was This When My Friends Were Dying?': HIV Crisis Survivors Reflect on Coronavirus" (18 March 2020) online: *Them* <<https://www.them.us/story/hiv-crisis-survivors-reflect-on-coronavirus>>.
- Ross, Selena, "Some migrants now tracked with ankle bracelets as pandemic 'temporary measure'" (28 May 2020) online: *CTV Montreal* <<https://montreal.ctvnews.ca/some-migrants-now-tracked-with-ankle-bracelets-as-pandemic-temporary-measure-1.4959851>>.
- Saiidi, Uptin, "Hong Kong is putting electronic wristbands on arriving passengers to enforce coronavirus quarantine" (18 March 2020) online: *CNBC* <<https://www.cbc.com/2020/03/18/hong-kong-uses-electronic-wristbands-to-enforce-coronavirus-quarantine.html>>.
- Salerno, John P., Natasha D. Williams & Karina A. Gattamorta, "LGBTQ Populations: Psychologically Vulnerable Communities in the COVID-19 Pandemic" (2020) 12:S1 *Psychological Trauma: Theory, Research, Practice, and Policy* S239.
- Savage, Rachel & Oscar Lopez, "Isolation and HIV memories hit LGBT+ elderly hard in lockdowns" (30 March 2020) online: *Reuters* <<https://www.reuters.com/article/us-health-coronavirus-lgbt-idUSKBN21H0BO>>.
- Schenwar, Maya & Victoria Law, *Prison by Any Other Name: The Harmful Consequences of Prison Reform* (New York: The New Press, 2020).
- Shamas, Norman, "Queer Dating Apps Need to Protect Their Users Better" (28 February 2018) online: *Slate* <<https://slate.com/technology/2018/02/queer-dating-apps-need-to-protect-their-users-better.html>>.