

**History on Trial**  
**Episode 16**  
**The American Plan: *Rock v. Carney* (1920)**  
**Researched and written by Mira Hayward**

***PROLOGUE***

On October 31st, 1918, Nina McCall's life changed. Nina, who had turned 18 only two months before, was running errands in St. Louis, a small town in central Michigan. Outside the post office, she ran into St. Louis's deputy sheriff, Louis Martin. Nina knew Martin – he had a daughter, Bernice, who was close to Nina's age. Nina had even been over to the Martin home to visit Bernice. The Martins had always been nice.<sup>1</sup>

Lately, though, Deputy Martin had been acting strangely. He was always talking to girls and young women - having tense conversations with them on the street – and sometimes even taking them away in his car. Nina didn't know what he was up to, but it made her uneasy when Martin approached.<sup>2</sup>

She was right to be frightened. Martin had bad news for her. A state health official, he said, needed to examine her for sexually transmitted infections, and they needed to do it right away. Nina was confused and upset – she had never had sex, so how could she have a sexually transmitted infection? But the sheriff had ordered her. So Nina went home and asked her mother, Minnie, to accompany her to the office of Dr. Thomas J. Carney, the health official in nearby Alma.<sup>3</sup>

When the McCalls got to Carney's office, the doctor told Nina that somebody had reported her as having an STI, and that he needed to examine her. Nina refused. But Carney insisted - and when Nina still said no, he threatened, telling Nina that she would be sent to prison if she did not submit to the examination. Reluctantly, Nina agreed. She had never had a gynecological examination before - the exam was terrifying and painful.<sup>4</sup>

After examining slides he had taken, Carney informed Nina that she was, quote, "slightly diseased," – she had gonorrhea. Nina couldn't believe it. Neither could her mother. They argued with Carney, saying that Nina had never shown any symptoms of an STI - and

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<sup>1</sup> Scott W. Stern, *The Trials of Nina McCall: Sex, Surveillance, and the Decades-Long Government Plan to Imprison "Promiscuous" Women* (Boston: Beacon Press, 2018), 8-9. N.B.: An electronic version of this book was used; page numbers may vary by user settings.

<sup>2</sup> Stern, 9-10.

<sup>3</sup> Stern, 10-11.

<sup>4</sup> Stern, 11-12.

had never even had sex. Carney was obstinate. Nina had gonorrhea, and she needed to receive treatment.<sup>5</sup>

Not just any treatment, either. Nina would have to be locked away for it – taken to a detention hospital and treated there. Why couldn't the treatment be done at home? Minnie asked. It was too expensive for a single mother like Minnie, Carney explained. Nina said she would get a job to help with the costs. Not possible, Carney replied. Either she agreed to go to the detention hospital, or he would hang a red placard on the front of her family home declaring, in all capital letters, that someone inside had a "VENEREAL DISEASE." Nina recoiled - the shame would be unbearable. She couldn't put herself or her family through that. So she agreed to be committed to the Bay City Detention Hospital.<sup>6</sup>

Seven days later, Carney's assistant, Ida Peck, escorted Nina to the hospital in nearby Bay City, Michigan. It was an imposing, three-story brick building. Nina would be kept in the hospital for three months, forced to do manual labor while also enduring agonizing, ineffective treatments. Even when she was finally declared disease free, state health officials would continue to harass her and force her to get further treatment.

Nina's story sounds like something out of a horror movie. But it was very real. And it was not unique. Across the country in 1918, thousands of women were being detained on the suspicion of having an STI, forcibly examined, and imprisoned without due process. Health officials were empowered to do all of these things under a program that became known, hauntingly, as the American Plan. Originally put in place during World War I to protect soldiers from STIs, the American Plan would linger on even in peacetime. In some places, women were detained under American Plan laws even as late as the 1970s.

The American Plan enjoyed broad popular support. Some of the most famous public figures of the 20th century – Fiorello LaGuardia, Earl Warren, and Franklin and Eleanor Roosevelt to name just a few – were enthusiastic proponents – and enforcers – of the Plan. They believed that the Plan kept Americans safe.<sup>7</sup>

But the women who suffered under the American Plan felt anything but safe. They had been stripped of their rights, hurt, and humiliated. So they fought back. They escaped from detention hospitals, held hunger strikes, set fires. And some of them sued. One of those who pursued the legal path was Nina McCall, who filed suit against Dr. Thomas

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<sup>5</sup> Stern, 12-13.

<sup>6</sup> Stern, 13-14.

<sup>7</sup> Stern, 332, 339, 358, 360-361, 371-372, 407-408.

Carney, his assistant Ida Peck, and the superintendent of Bay City Detention Hospital, Mary Corrigan, for abusing her.<sup>8</sup>

The resulting trial, which took place in 1920, would put the central tenets of the Plan to the test. Could public health concerns outweigh civil rights?

Welcome to History on Trial. I'm your host, Mira Hayward. This week, *Rock v. Carney*.

### **ACT 1**

On April 6th, 1917, the United States declared war on Germany and entered World War I. By July, nearly 2 million American men had been called up.<sup>9</sup> As part of the medical exam upon entering the military, soldiers were tested for syphilis and gonorrhea. Many of them tested positive - between August 1917 and August 1918, the surgeon general of the Army reported that nearly 13% of all soldiers were admitted for treatment for STIs.<sup>10</sup> STIs were costly and dangerous for the military - sick men needed treatment and could not fight. To combat the problem, the government attempted to reduce sex work around military camps.

In May 1917, Senator Wesley Livsey Jones introduced an amendment to the Selective Service Act – the act that invoked the draft – called Section 13. Section 13 empowered the Secretary of War to quote, “do everything by him deemed necessary to suppress and prevent the keeping or setting up of houses of ill fame, brothels, or bawdy-houses within such distance as he may deem needful of any military camp.”<sup>11</sup> Secretary of War Newton Baker wrote to officials in locales with military camps and informed them that sex work should be shut down within a five mile radius of every camp.<sup>12</sup>

The federal organization leading STI policy was the Commission on Training Camp Activities, or the CTCA. The CTCA's Law Enforcement Division deployed investigators across the country to look into whether cities were complying with the federal government's requests. These investigators were supplemented by agents from the Bureau of Investigation – the predecessor of the FBI– private groups, and members of the American Social Hygiene Association, or ASHA. By the fall of 1917, thanks to these collaborations, the CTCA had hundreds of investigators.<sup>13</sup>

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<sup>8</sup> Stern, 245.

<sup>9</sup> Stern, 82.

<sup>10</sup> Brandt 77.

<sup>11</sup> Stern, 81.

<sup>12</sup> Stern, 81.

<sup>13</sup> Stern, 79-80, 86-90.

At first, the CTCA's work was limited to the areas around military camps. But soon, army medical officers determined that approximately 5 out of every 6 cases of sexually transmitted infection in soldiers had been acquired before the soldier arrived at camp.<sup>14</sup> If the army wanted healthy soldiers, they needed a healthy civilian population. The federal government began encouraging states and cities to expand their repression of sex work into areas outside of the five-mile radius surrounding military camps. This encouragement came with strong incentives: if cities did not try to reduce STI rates, the military would declare them off limits to soldiers or military camps – enormous economic blows.<sup>15</sup>

In order to ensure compliance, the federal government also encouraged local jurisdictions to pass laws that allowed health officials to detain, examine, and quarantine women. To provide guidance for states, federal officials met in DC in March 1918 to draft a model law, which states could adapt and enact. The law contained 12 recommendations. These included a requirement for physicians to report all STIs to the state, quarantine and compulsory treatment, prohibition of drug stores selling treatment for STIs – thus requiring infected people to interact with physicians and government officials to get treatment – and, most critically, empowering local health officers to examine “persons reasonably suspected of having syphilis, gonorrhea, or chancroid.”<sup>16</sup>

The term “reasonably suspected” was extraordinarily broad. A woman could be “reasonably suspected” of having an STI for activities as innocuous as walking with a soldier, speaking to another woman thought to be a sex worker, or even, eating lunch alone.<sup>17</sup>

Women who were detained and tested positive for syphilis and/or gonorrhea were sent to detention hospitals or houses, which were essentially jails – most had barbed wire fences, armed guards, or both. Inside, in often squalid conditions, the women were forced to perform taxing domestic labor like scrubbing floors or cleaning bathrooms. Administrators saw this work – besides being unpaid labor that benefitted the institution – as part of a larger program of “moral reform.” And I wish you could see how big the air quotes I’m doing are. It was not enough for inmates to be treated for their physical conditions – many officials involved in the American Plan believed that these women needed instruction in conforming to a specific set of moral and social norms. As part of this program of behavioral correction, some detention houses used a “silence” rule - women there were not allowed to speak to or even smile at one another.

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<sup>14</sup> Allan M. Brandt, *No Magic Bullet: A Social History of Venereal Disease in the United States since 1880* (New York: Oxford University Press, 1987), 77.

<sup>15</sup> Stern, 88, 96-96.

<sup>16</sup> Stern, 111-113.

<sup>17</sup> Stern, 137, 368-369.

If they disobeyed this prohibition - or any other orders, they could face corporal punishment.<sup>18</sup>

The women did receive treatment for their STIs – they usually had no choice in the matter. These treatments were largely ineffective, and often dangerous, since they were usually arsenic or mercury based. Women also had their intelligence assessed with inaccurate, discriminatory IQ tests. If a woman was found to be, quote, “feebleminded,” she could be imprisoned indefinitely – feebleminded women were seen to be prone to immorality. In the worst cases, some of these women were sterilized, usually without their consent.<sup>19</sup>

At this point, you might be wondering why I’m only talking about women. After all, sexually transmitted infections don’t discriminate on the basis of gender. But not everyone is as enlightened as a syphilis bacterium. Although the model law was gender neutral, its application never was. Very, very few men were ever examined or quarantined under these laws. There was a common misconception that women spread STIs more than men did – as one federal public health official put it, quote, “Men take more precautions...women are very negligent.”<sup>20</sup> It was an obviously sexist assumption. But as the historian Scott W. Stern writes in his book *The Trials of Nina McCall*, these laws were based entirely on assumptions: assumptions that, quote, “young women were responsible for the indiscretions of young men; that promiscuity in women was worse than it was in men; that STIs merited jail time for women; that women could not merely serve their time as men did, but that they had to be cured of disease and be “reformed” in order to merit release.”<sup>21</sup> Enforcement was also racist. CTCA investigators were instructed to focus on Black women and Black neighborhoods.<sup>22</sup>

Unfortunately, many local officials saw no problems with any of these assumptions or biases. States began passing the model law quickly. You might also be wondering about the constitutionality of these laws – surely people could not be locked up without due process, right? Wrong. At least according to United States Attorney General Thomas Watt Gregory. On April 3rd, 1918, Gregory wrote a letter to every United States Attorney across the country, ordering that people arrested for prostitution should first be sent to health officials for STI examination. If a woman was found to be infected, she should be quarantined and treated. Prosecution for her crimes should be suspended until she completed this quarantine – meaning that she would be locked up without trial. Gregory called the constitutionality of this plan, quote, “clear.”<sup>23</sup> He also told the US attorneys to

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<sup>18</sup> Stern, 64, 118, 123, 158, 160, 188.

<sup>19</sup> Stern, 154-157.

<sup>20</sup> Stern, 99.

<sup>21</sup> Stern, 314-315.

<sup>22</sup> Stern, 88.

<sup>23</sup> Stern, 114-115.

report any local officials who refused to go along with the plan. Gregory sent a similar message to all US district judges.<sup>24</sup>

Even before the creation of the model law, some states had used their own initiative to make regulations. In October 1917, the Michigan State Board of Health ordered physicians to report all cases of gonorrhea and syphilis, and to apprehend, detain, and treat anyone found to be infected. The secretary of the board, Richard M. Olin, also met with pharmacists' associations and got them to agree to stop selling STI treatments. Michigan's regulations closely mirrored what would appear in the model law.<sup>25</sup>

Less than a year later, Nina McCall would experience first hand what those regulations meant.

## ACT II

Nina McCall was born on September 2nd, 1900 to Abe and Minnie McCall. Two years later, Nina's younger brother Vern arrived. The McCalls lived on a farm outside of Bethany Township in central Michigan until 1910, when they moved to nearby St. Louis. St. Louis was a small town, one where everybody knew everybody. In 1916, Abe McCall died, leaving his family in a difficult financial position. Within a year, Minnie McCall had to sell their home in St. Louis. Minnie, Nina, and Vern moved to Alma, a neighboring town. It was at this point that 17 year old Nina stopped attending school altogether – her attendance had always been spotty, but after the move to Alma, she never went back.<sup>26</sup>

It was an exciting time to be a young woman, even in a rural town like Alma. More and more women were entering the workforce, giving them greater economic power, and a new level of independence. Young women began to casually date more than they ever had before, and rates of premarital sex rose. Nina herself began dating a young man named Lloyd Knapp. In May 1918, Nina and Lloyd filed for a marriage license, but they never completed the paperwork, and never married. A month later, the McCalls moved back to St. Louis.<sup>27</sup>

At the same time, soldiers were beginning to flood central Michigan. Alma was home to the Republic Motor Truck Company, which made trucks for the Army, and soldiers arrived in droves to help drive the trucks east. The presence of so many new people meant good things, economically, for the region.<sup>28</sup> But there were concerns too. In May,

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<sup>24</sup> Stern, 114-115.

<sup>25</sup> Stern, 100-104.

<sup>26</sup> Stern, 41-44, 61-63, 73-75, 84.

<sup>27</sup> Stern, 45-46, 84, 133-134.

<sup>28</sup> Stern, 125-127,

the *Alma Record* wrote that the city council needed to, quote “do away with the present state of affairs in the city, where men now seem to think that they are privileged to accost ladies.”<sup>29</sup> Only some ladies were entitled to protection though – the *Record* also noted, quote, “The presence of so many men...is said to be bringing women of an unsavory reputation into the city.”<sup>30</sup>

The *Record* need not have worried; the city’s health officer, Dr. Thomas J. Carney, was on the case. The forty-nine year old Carney, a native New Yorker, had arrived in Alma three years earlier. An inflexible, dogmatic man with strong beliefs, Carney was determined to root out any sources of ill health, from unpasteurized milk to promiscuous women.<sup>31</sup>

Carney would be aided in his work by Ida Peck. Peck had held a number of jobs all across Michigan in her 57 years – she had been a school teacher, a private nurse, and a factory foreman.<sup>32</sup> But beginning in September, 1918, Peck would be a “welfare worker.” According to Peck, quote, “A welfare worker is one who looks after the girls.”<sup>33</sup> In reality, it was less looking after than looking into: Thomas Carney hired Peck to help enforce Michigan’s STI laws. Peck later described her work as identifying and following women who, quote, “raised a suspicion in my mind.”<sup>34</sup> Then she would report these women to Dr. Carney who would have them detained and then examine them for STIs. If their results were positive, Peck would escort the women to the Detention Hospital in Bay City, 50 miles northeast of St. Louis.

Ida Peck first heard Nina McCall’s name in early October, 1918. She was transporting women to Bay City when one of them mentioned Nina’s name. Nothing more – just her name. But that was enough for Peck to put Nina on her radar. Less than a month later, on October 31st, Deputy Martin brought Nina into Carney’s office. Whether Carney and Peck had any reason for suspecting Nina besides the fact that another woman mentioned her name is unknown.<sup>35</sup> But the reasons why didn’t really matter – one way or another, Nina had been sucked into the grinding machinery of the American Plan.

As an aside – the term “American Plan,” entered widespread use only *after* World War I. Federal officials used the term occasionally before that, but it was only in 1919 that “American Plan” became the name for this set of state and federal policies. The name

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<sup>29</sup> Stern, 127.

<sup>30</sup> Stern, 127.

<sup>31</sup> Stern, 128.

<sup>32</sup> Stern, 139.

<sup>33</sup> Stern, 140.

<sup>34</sup> Stern, 140.

<sup>35</sup> Stern, 141-143.

“American Plan” paralleled other national plans for the control of STIs and sex work - like the French Plan, created under Napoleon, for example.<sup>36</sup>

Nina didn't know the plan as anything. She might not have even known how many other women were enduring what she was. There were thousands of them. In Michigan alone, between July 1st 1918 and June 30th, 1919, 1,121 people were forcibly detained for treatment—1,072 of them women.<sup>37</sup> But Nina felt so alone. She would later say that she only told her mother and her two aunts about her experience, because, quote “I was ashamed of it.”<sup>38</sup> To contextualize Nina's reaction – STIs were so stigmatized at the time that many newspapers would not even print the words “venereal disease.”<sup>39</sup>

After Carney examined Nina, diagnosed her with gonorrhea, and informed her that she would need to enter a detention hospital for treatment, he sent her home for the night. On the bus ride home, Nina discovered that as a result of Carney's gynecological exam she had bled through her trousers.<sup>40</sup>

The next day, Nina traveled back to Carney's office to report to the hospital. Carney told her that Ida Peck was sick and could not escort her, so Nina would have to return later. He told her the same thing on every one of her return visits for the next seven days. Strangely, for a doctor who claimed that Nina was such a health risk to her community, Carney didn't seem too stressed about getting her quarantined.<sup>41</sup>

On November 6th, Ida Peck was well enough to take Nina to Bay City. The hospital had been constructed in 1911 to hold patients with contagious diseases like smallpox and scarlet fever.<sup>42</sup> In February 1918, Richard Olin, the head of Michigan's State Board of Health, had requested that the hospital be transformed into a detention hospital for women detained under the American Plan. The city readily agreed, in part because the state would pay them for their services – Bay City would receive \$15 per patient, per week – more than enough to cover any expenses associated with the hospital.<sup>43</sup>

This kind of arrangement wasn't unusual. Many cities received state and federal funding to detain women, giving them an economic incentive to enforce the Plan.<sup>44</sup>

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<sup>36</sup> Stern, 207-208.

<sup>37</sup> Stern, 148.

<sup>38</sup> Stern, 151.

<sup>39</sup> Stern, 14.

<sup>40</sup> Stern, 143.

<sup>41</sup> Stern, 143-144.

<sup>42</sup> Stern, 118.

<sup>43</sup> Stern, 119.

<sup>44</sup> Stern, 293-295.



When Nina arrived, she met the hospital's superintendent, 36 year old Mary Corrigan, a former nurse. She was given her first meal – she would later testify that the food was mainly potatoes and beets. Then she was shown into a small room with two beds. Nina would have to share a bed with another woman.<sup>45</sup> The hospital was overcrowded – its maximum capacity was only 50, but there were closer to 60, or maybe even 65, women there when Nina arrived.<sup>46</sup>

A nurse drew Nina's blood and sent it off for testing – two weeks later, the results came back – Nina had tested positive for syphilis.<sup>47</sup> We should take this result with a LARGE grain of salt – the test used at this time, the Wassermann test, had a false positive rate of 25%.<sup>48</sup> But the results were never questioned by the officials at Bay City. Nina began to receive injections to treat her syphilis. Treatment at this time consisted of injections of mercury and arsenic. Not only did these injections not treat syphilis, they actively harmed patients. Nina's hair began to fall out. Her teeth became sore and loose. Her arm, where she got the shots, swelled up so much she could barely move it.<sup>49</sup>

Despite these painful conditions, Nina was still forced to work while at Bay City. She washed dishes, scrubbed the operating room floors, and scoured toilets. The work was interminable, grueling, and unpaid. There was little time for fun, and even if there had been, the women at Bay City were kept mainly inside. There was a ditch in front of the hospital and inmates were not allowed past it.

Nina had initially been ordered to the hospital because of testing positive for gonorrhea. But while at Bay City, she received only two treatments for this condition. Unsurprisingly, given the effect the mercury and arsenic shots had on her, Nina did not want to receive more treatment. When the doctor arrived to administer gonorrhea treatments, Nina simply stayed away. She only received formal orders, which she did not disobey, to receive treatment six weeks into her stay. A doctor applied a compounded silver cream to her vulva – another ineffective treatment. Nina only ever received two rounds of this topical cream.<sup>50</sup>

Despite the ineffective, infrequent applications, Nina was declared quote, “free from [syphilis and gonorrhea] in the infectious stage” in January 1919.<sup>51</sup> If you're wondering how this is possible, you're not alone. Scott Stern writes, quote “Even if we were to believe that she truly had syphilis and gonorrhea when Carney examined her, and that

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<sup>45</sup> Stern, 150-151.

<sup>46</sup> Stern, 168.

<sup>47</sup> Stern, 153, 163.

<sup>48</sup> Stern, 163.

<sup>49</sup> Stern, 26, 164.

<sup>50</sup> Stern, 174-176.

<sup>51</sup> Stern, 184.

the two infections had coincidentally advanced to latent and noncontagious stages on their own—which was certainly possible—for this timeline to fit the timing of Nina’s examination and incarceration exactly would have had to be a remarkable coincidence.”<sup>52</sup>

Whatever the cause, Nina was declared released from quarantine. She was given train fare home. After three months, she was finally free.<sup>53</sup>

But her ordeal would not end there. When Nina returned home, she found it difficult to find a job.<sup>54</sup> Richard Olin, the director of the state board of health, claimed that there were programs to help women get employment after release; Nina, for one, did not receive any assistance of this kind.<sup>55</sup> She eventually got a restaurant job in nearby Mt. Pleasant, but lost that job a week later when someone informed her employers that she had been at Bay City.<sup>56</sup>

A week after Nina returned home, Ida Peck showed up at the McCall house. Nina needed to report to Dr. Carney for further treatment, Peck said. Nina protested that she had been declared free of disease. Peck told Nina she could either get treatment, or be sent to jail. Afraid of being sent away again, Nina began making the journey to Carney’s office every five days, receiving more painful mercury injections. The shots made her body ache. She had trouble walking.<sup>57</sup>

Even though Nina was complying with Peck’s orders, the welfare worker would not leave her alone. Peck showed up at her house regularly; Nina later said, quote, “She was just hounding the life out of me, chasing me day and night.”<sup>58</sup> This was not an unusual experience for former detainees; most women who were released were on a kind of parole. Social workers monitored the women closely and often dictated their life choices, from what jobs they could do to where they could live. Women could be declared parole violators for any number of mild things, like breaking curfew or wearing makeup, and sent back to detention centers.<sup>59</sup>

After three months of harassment, Nina started thinking about her options. Ida Peck might be willing to harass a teenager and her widowed mother, but maybe, Nina thought, Peck would back off if she had to answer to a man. So Nina decided to get

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<sup>52</sup> Stern, 185.

<sup>53</sup> Stern, 184.

<sup>54</sup> Stern, 190, 195.

<sup>55</sup> Stern, 191.

<sup>56</sup> Stern, 190.

<sup>57</sup> Stern, 188-189.

<sup>58</sup> Stern, 196.

<sup>59</sup> Stern, 196-197.

married. “I got married,” Nina would later say, “to get away from her.”<sup>60</sup> But tragically, Nina’s new husband, Clare Rock, only posed new dangers. On their wedding night, Nina recounted, Clare told her, quote, “he just simply married me because I had been in Bay City; he thought he could do just as he pleased...He wanted to take me to Detroit; he wanted me to make his living by having—.”<sup>61</sup> The trial transcript is censored here, but we can read between the lines: Clare wanted to pimp her.

Ida Peck was furious that Nina had dared to marry without her permission. She showed up at the McCall home and told Minnie that she was going to send Nina to jail.<sup>62</sup> After Nina returned from her honeymoon – a disastrous two day trip during which Clare had gone to see another woman in Detroit – she learned that Ida Peck had been harassing her mother. Was there no way to escape the shadow of Bay City? Desperate, Nina made the decision to run. After a zigzagging journey, she ended up in Detroit, where she stayed for the next several months, trying to make a living. Ida Peck kept after Minnie, demanding that she share her daughter’s new address. Minnie refused to tell her.<sup>63</sup>

Then, something shifted. In September, Minnie wrote to Nina, telling her that she should come home. A woman had come to see her, Minnie told Nina, and had given her advice about Nina’s situation. Nina, this woman had said, ought to sue the government. The woman was named Elizabeth Githens. Her issues with the American Plan were faith-based: a Christian Scientist, Elizabeth objected to the government forcing medical treatment on anyone. A wealthy, passionate woman, Elizabeth told Minnie that she would help the McCalls get justice.<sup>64</sup>

In Detroit, Nina must have felt a faint glimmer of hope. It had been almost a year since Deputy Martin had stopped her on the street and upended her life. Finally, after all this time, there might be a way to fight back. But could a 19 year old take on the state government?

### ACT III

On November 3rd, 1919, Nina McCall filed suit against Dr. Thomas Carney, welfare worker Ida Peck, and hospital superintendent Mary Corrigan for conspiring together to, quote “transgress the lawful rights...of this Plaintiff,” and alleged that through, quote, “wrongful assumption...of power and authority...and by misrepresentation, coercion and

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<sup>60</sup> Stern, 202.

<sup>61</sup> Stern, 202.

<sup>62</sup> Stern, 203.

<sup>63</sup> Stern, 203-213, 220-221.

<sup>64</sup> Stern, 221-222, 225-226.

duress caused this Plaintiff to be assaulted, maltreated, abused, arrested, restrained and imprisoned, and grossly slandered, disgraced and humiliated.”<sup>65</sup>

The three attorneys who filed this suit on Nina’s behalf were some of the most prominent lawyers in Michigan. Dean Kelley was a former prosecutor and judge. George Stone was also a former judge. Seymour Person was a state representative.<sup>66</sup> How Nina came to have such high-powered lawyers is unknown: Nina denied on the stand that Elizabeth Githens, the wealthy Christian Scientist who had encouraged her to sue, was funding the trial.<sup>67</sup> Elizabeth was supporting Nina in other ways, though – Nina soon became her housekeeper and chauffeur. Nina also lived with the Githens family at one point - she was by now completely estranged from her husband, Clare Rock, though she did keep his last name – which is why the case is known as *Rock v. Carney*.<sup>68</sup>

The trial date was set for Tuesday, June 1st, 1920, at the Gratiot County Courthouse in Ithaca. The judge was Edward J. Moinet, a forty-seven year old circuit court judge with an intense gaze and strong opinions. The jury consisted of twelve men; though women had begun serving on juries in Michigan in 1918, somehow Nina ended up with an all male jury.<sup>69</sup>

All three of the defendants – Carney, Peck, and Corrigan – appeared, along with their lawyers. Like Nina, they had brought in serious legal firepower. O.L. Smith was the Gratiot County prosecutor, acting in a private capacity here. Smith was the former law partner of Nina’s attorney George Stone – and had recently beaten Stone in the race for county prosecutor. Alva Cummins, another defense lawyer, had been a county prosecutor in Ingham County.<sup>70</sup>

Nina herself was the first to testify. Lawyer Dean Kelley walked her through her story – the humiliating, painful gynecological exam, the confinement in the hospital, the excruciating injections, the harassment even after she was released. Nina spoke plainly, laying out the terrible details of her ordeal in a straightforward way.<sup>71</sup>

On cross examination, lawyer Alva Cummins pushed Nina on her romantic and sexual history. Hadn’t she had frequent associations with soldier boys? No, Nina said. Didn’t she know Lloyd Knapp? Nina said that she did know Lloyd Knapp – this was the young

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<sup>65</sup> Stern, 231.

<sup>66</sup> Stern, 232-233.

<sup>67</sup> Stern, 233, 261.

<sup>68</sup> Stern, 234.

<sup>69</sup> Stern, 250-255 and Burnita Shelton Matthews, “The Woman Juror,” in *Women Lawyers’ Journal* Vol. 15, No 2 (January, 1927),

<https://wlh.law.stanford.edu/wp-content/uploads/2011/01/the-woman-juror-15wlj151927.pdf>

<sup>70</sup> Stern, 240, 253-254, 259.

<sup>71</sup> Stern, 256-258.

man she had once planned to marry. But she denied knowing another local boy and soldier, Oren Strouse. She denied that she and a friend had ever spent the night with Lloyd and Oren. She denied accepting rides from men. “The accusation,” Cummins concluded, “[is] that you had improper relations with soldiers.” “Well,” said Nina, “I didn’t.” Cummins’s intent, with these questions, was not necessarily to prove that Nina was having sex with soldiers – it was to prove that people believed that Nina was, giving Carney and Peck reason to suspect her of having an STI.<sup>72</sup>

Next to testify was Nina’s mother, Minnie McCall. Minnie corroborated her daughter’s narrative. She also detailed how Ida Peck had harassed her while Nina was in Detroit.<sup>73</sup>

After Minnie, Bay City superintendent Mary Corrigan testified. She disagreed with Nina’s portrayal of Bay City. Nina said that the inmates were only served beets and potatoes; Corrigan said, quote “The girls were provided with suitable food...we had red beets but that was not the exclusive bill of fare.”<sup>74</sup> Corrigan claimed that the women had more freedom of movement than Nina had said they did. Corrigan also denied knowing Dr. Thomas Carney. On cross, however, Dean Kelley got her to admit that she had placed a call to Dr. Carney in January to notify him of Nina’s release.<sup>75</sup>

Ida Peck testified next. Peck portrayed herself as a woman simply doing her duty. She said that Nina had never complained to her about the conditions at Bay City. She said that she only visited Nina and Minnie a handful of times. She denied ever threatening Nina. All of her actions had been well within the scope of her welfare work, in Peck’s story.<sup>76</sup>

But on closer examination, that story had holes. Peck claimed the only reason she had continued asking Minnie for Nina’s address was because she was trying to help a jeweler’s wife collect on a bill that Nina owed for a ring she had purchased.<sup>77</sup> Why would a jeweler ask an acquaintance of his wife to serve as a bill collector?

Peck also denied confronting Minnie on the day of Nina’s wedding, saying “it is not true that within 24 hours after I heard of the girl’s being married I was over there to her mother’s house.”<sup>78</sup> But only minutes later, Peck admitted that she saw the McCalls, quote “the day [Nina] was married.”<sup>79</sup>

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<sup>72</sup> Stern, 261-262.

<sup>73</sup> Stern, 262.

<sup>74</sup> Stern, 263.

<sup>75</sup> Stern, 263.

<sup>76</sup> Stern, 264.

<sup>77</sup> Stern, 221, 264.

<sup>78</sup> Stern, 264-265.

<sup>79</sup> Stern, 265.

Peck's justification for bringing in women for examinations also seemed vague. She simply said that if a girl had a, quote, "suspicious character" she would send them in. Peck determined character, she said, by watching women and seeing quote "where they went and what they did."<sup>80</sup>

As for Nina, Peck claimed that she had admitted to having sex with Lloyd Knapp. Plaintiff's lawyer Seymour Person brought Nina back on the stand after Peck's testimony to push back on this claim. "It is not true," Nina said, "that I told her...that I had sexual relations with this boy. I did not have sexual relations with him."<sup>81</sup>

It's impossible for us to know, more than a 100 years later, the extent of Nina's relationship with Lloyd Knapp. But I think it's pretty unlikely that she would openly admit to having sex with him to Ida Peck, a virtual stranger who was in the process of locking her up.

Once Nina had finished testifying – and once Alva Cummins had re-cross examined her, and brought up even more boys who he accused her of dating – Nina denied all these claims – the plaintiff's side rested.<sup>82</sup>

Before any defense witnesses testified, Alva Cummins made a motion. He asked that the charges be dismissed. Carney, Peck, and Corrigan had acted within their authority, he said. And they had not conspired to do wrong – their actions had all been taken individually. Dean Kelley, for the plaintiff, argued that the three defendants had exceeded their authority.<sup>83</sup>

Judge Moinet took fifteen minutes to consider the arguments. When he called the lawyers back in, he announced that there was, quote, "[no] proof in my judgment which shows a conspiracy..between the three [defendants]."<sup>84</sup> Thus, he instructed Nina's lawyers to choose only one of the defendants to proceed against. The lawyers chose Carney, believing that his forced examination of Nina was beyond his authority.<sup>85</sup>

The defense only called one witness, Richard Olin, the former head of the state board of health and the current head of the newly formed state Department of Health. Olin's job was to rebut the plaintiff's argument that Carney had exceeded his authority. He testified that he had employed Dr. Carney as, quote, "a medical inspector for the

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<sup>80</sup> Stern, 266.

<sup>81</sup> Stern, 266.

<sup>82</sup> Stern, 266.

<sup>83</sup> Stern, 267.

<sup>84</sup> Stern, 268.

<sup>85</sup> Stern, 268.

purpose of the venereal disease campaign within his county.”<sup>86</sup> Dean Kelley objected that Olin did not have the authority to employ Dr. Carney in this way; Cummins said that he did. Judge Moinet told Olin to continue. Cummins walked Olin through the state’s policies: through the creation of detention hospitals, the enlistment of doctors to examine women, and the enforced treatment of disease. After a cross examination, in which Dean Kelley unsuccessfully tried to get Olin to admit that women were supposed to have the option of at-home treatment, Alva Cummins made another motion. He asked for a directed verdict. A directed verdict is ordered by a trial judge, when the judge believes that there is only one reasonable decision that a jury could make, based on the evidence presented. In this case, Cummins said, quote “We contend as a matter of law that Dr. Carney was within his authority and that there is no cause here.”<sup>87</sup>

Dean Kelley shot back that Dr. Carney was not within his authority. In fact, Kelley said, Carney had violated the Fifth Amendment of the US Constitution and Article 2, Section 16 of the Michigan Constitution, both of which declared that no person shall be, quote “deprived of life, liberty, or property, without due process of law.”<sup>88</sup>

The jury had been absent for these arguments. Now, Judge Moinet summoned them back in, and made his ruling on the motion. “This is a very important case,” he said, “and involves some very important legal principles.” Did the state have the right to police its citizens for the sake of public health? Moinet believed it did. “Within the statute,” Moinet said, “the local health officer had the powers and acted within his authority at the time he did what is claimed in this case that he did do.” Given that, Moinet concluded, “you will therefore, by direction of the court, return a verdict here of no cause of action.”<sup>89</sup>

Nina had lost her case. She was ordered to pay the defendants’ legal fees, and her name was splashed across newspapers around the state. But even still, she was not ready to admit defeat. A little over a year later, on June 23rd, 1921, her lawyers submitted an appeal, citing 36 errors they believed Judge Moinet had committed during the trial.<sup>90</sup>

By this point, Nina had more on her mind than just her legal case. Five months after the trial, her estranged husband, Clare Rock, was shot and killed in Detroit by the angry ex-husband of a girl he was seeing.<sup>91</sup> In April, 1921, Nina married again, this time to

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<sup>86</sup> Stern, 269.

<sup>87</sup> Stern, 270.

<sup>88</sup> Stern, 270 and United States Constitution, Amendment V, and Constitution of Michigan of 1908, Art. II, § 16, <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-chap1.pdf>

<sup>89</sup> Stern, 271.

<sup>90</sup> Stern, 271, 297.

<sup>91</sup> Stern, 276-277.

Norman Hess, a plumber from Saginaw.<sup>92</sup> On June 29th, six days after her lawyers filed the appeal, Nina gave birth to a son, who she named John after both of her grandfathers. Heartbreakingly, John died only hours later.<sup>93</sup>

In December, the Michigan Supreme Court issued their ruling on Nina's appeal. They found in her favor. Justice Grant Fellows, writing the opinion for the majority, declared that, quote "Dr. Carney had the power to make the examination but he could not exercise such power unless he had reasonable grounds to believe that plaintiff was infected. Such good faith on his part was a necessary prerequisite to the exercise of the power. I am unable to follow the contention of defendants' counsel that this record establishes such good faith."<sup>94</sup> The Supreme Court overturned Moinet's ruling and ordered a new trial for Nina's case.<sup>95</sup>

This was a victory for Nina, to be sure. But in a dark turn, Nina's victory may very well have turned out to be other womens' loss – because it set a dangerous precedent.

#### ACT IV

To explain how *Rock v. Carney* impacted future American Plan cases, we have to return to Justice Fellows's Michigan Supreme Court opinion. Fellows had found that Carney did not have reasonable grounds to examine Nina, but he hadn't objected to the law that granted Carney his powers. "The power exists in the boards of health," Fellows wrote, "to quarantine persons infected with these diseases...and to make such examination as the nature of the disease requires to determine its presence."<sup>96</sup> This finding would later be cited in future cases to justify the state's power to examine and quarantine people.<sup>97</sup>

And there would be many such future cases, because the American Plan was far from over. Even though it had begun as a wartime program, the Plan's architects – and many Americans – wanted the program to continue after the war ended in November 1918.<sup>98</sup> In April, 1919, the Michigan state legislature passed a bill that, per the *Detroit Free Press*, "empowers the state board of health to continue what it has been doing throughout the war."<sup>99</sup> By 1921, every US state had passed similar legislation.<sup>100</sup>

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<sup>92</sup> Stern, 295.

<sup>93</sup> Stern, 297.

<sup>94</sup> Stern, 299.

<sup>95</sup> Stern, 298-300.

<sup>96</sup> Stern, 298.

<sup>97</sup> Stern, 302.

<sup>98</sup> Stern, 216-218.

<sup>99</sup> Stern, 201.

<sup>100</sup> Stern, 201.



There was some opposition to the Plan. Opponents believed that the oppressive, sexist enforcement of the Plan laws were harming women more than they were helping them.<sup>101</sup> But there were limits to this opposition – take this quote from journalist H.L. Mencken, a prominent Plan critic: quote, “If patrols go out after suspicious women in the manner indicated by the press accounts, a great many innocent women will be abominably persecuted.”<sup>102</sup> Many of these opponents saw no problem with sex workers being locked up without due process; their concern was reserved for “innocent” women.<sup>103</sup>

Another group who had begun to speak out against the Plan was the American Medical Association. The AMA opposed government intervention into health care. It was their lobbying – not the lobbying of people concerned about the sexist and unconstitutional aspects of the Plan – that would convince the federal government to step back from funding the Plan. In December, 1920, Congress declined to provide money for Plan programs.<sup>104</sup>

But just because the federal government no longer funded the Plan did not mean that it was dead. States and cities still had their own Plan laws. However, reduced funding – and during the Great Depression, funding dried up almost entirely – did disincentivize some institutions and states. Bay City Detention Hospital, for example, was shut down in 1921 due to a lack of funding – as well as concerns about the hospital’s spotty accounting practices.<sup>105</sup>

But soon, the money would return. In the late 1930s, a new Surgeon General, Thomas Parran, revitalized the federal conversation about STI prevention.<sup>106</sup> In May, 1938, President Franklin Roosevelt signed the Venereal Disease Control Act, granting millions of dollars of federal funding for STI investigations and control.<sup>107</sup>

The advent of World War II in 1939 further strengthened federal resolve to fund STI prevention programs. Even before the United States entered the war in December 1941, measures were being taken to reinvigorate the American Plan.<sup>108</sup> In Spring 1941, a new federal agency, the Social Protection Division was born, tasked with getting local officials to enforce their Plan laws.<sup>109</sup> The SPD acquired 30 abandoned Civilian Conservation Corps camps and turned them into rapid treatment centers. These centers

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<sup>101</sup> Stern, 173-174, 219-220, 225-230.

<sup>102</sup> Stern, 226.

<sup>103</sup> Stern, 220.

<sup>104</sup> Stern, 287-289.

<sup>105</sup> Stern, 289-292.

<sup>106</sup> Stern, 328-333.

<sup>107</sup> Stern, 340.

<sup>108</sup> Stern, 348-252.

<sup>109</sup> Stern, 359.

functioned much like the detention hospitals of the earlier plan, and they were filled almost exclusively with women – thousands of them.<sup>110</sup>

And once again, even when the original impetus for the centers – the war – ended, the programs continued. But now the Plan faced a new obstacle, one more powerful than any political or moral objection: antibiotics! Penicillin, discovered in 1929, could effectively and quickly treat both syphilis and gonorrhea. The antibiotic had initially been difficult to mass produce. And then, even once this problem was solved, distribution was restricted in order to prioritize military use during the war. But in April 1945, restrictions on penicillin were removed.<sup>111</sup>

Given the widespread access to fast treatment, it became harder for officials to justify extended quarantines. In 1946, Congress declined to fund the Social Protection Division.<sup>112</sup> But still, the American Plan would not die. It would, in fact, outlive Nina McCall Hess.

After the Michigan Supreme Court overturned Judge Moinet's ruling and granted Nina the right to a new trial, Nina filed suit again in January, 1922. But for unknown reasons, she never pursued the suit, and the case was dismissed in November, 1925.<sup>113</sup>

Nina and her husband Norman lived a quiet life. After the death of her baby, John, Nina had no more biological children, but she and Norman did raise her orphaned cousins. Tragically these two children also died young - one age 20, the other 19. Nina herself died of a brain tumor on July 21st, 1957, age 56. She is buried in Floral Gardens Cemetery, a five minute drive from Bay City Detention Hospital.<sup>114</sup>

By 1957, the year that Nina died, the world had changed in many ways since her detention in 1918, but the American Plan was still in full force. In cities as varied as Denver, Salt Lake City, and Terre Haute, Indiana – among many others–women were detained and examined for STIs under Plan laws well into the 1970s.<sup>115</sup>

The endurance of this program belied the fact that it was a failure in controlling STIs. During World War I, the only thing that had actually worked to reduce STIs amongst soldiers was chemical prophylaxis – prophylaxis administered not to female sex workers but to the soldiers.<sup>116</sup>

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<sup>110</sup> Stern, 367-370.

<sup>111</sup> Stern, 383-385, 405.

<sup>112</sup> Stern, 407.

<sup>113</sup> Stern, 317.

<sup>114</sup> Stern, 315-317, 345-347, 354, 383, 411-414, 432-433.

<sup>115</sup> Stern, 434-436.

<sup>116</sup> Brandt, 116.

But ultimately, the American Plan was never really about reducing STIs. It was about controlling women's sexuality. When it became clear that penicillin could revolutionize treatment, some American Plan officials were *upset*. One high-ranking official, Walter Clarke, said in 1944, quote "the venereal disease problem cannot be solved by the 'find them and treat them' method alone." The *New York Herald Tribune* described Clarke's conclusions: quote, "More stringent methods must be employed by the authorities, he said, in repressing the tendency to sex promiscuity."<sup>117</sup>

More than three decades later, in 1977, a Monterey County, California police commander spoke to the *Los Angeles Times* about the county's practice of forcing sex workers to get STI tests. His message was stark, quote: "Venereal disease was not our concern. Cleaning up the streets was our concern. More than anything else, it was a harassing technique that falls within legal parameters for the police, so that we don't have to worry about the civil liberties union or the public defender's office or somebody like that issuing a court order against us."<sup>118</sup>

Fortunately, by the 1970s, the civil liberties unions *were* beginning to fight back. During World War II, the American Civil Liberties Union had actually *supported* the Plan. But in 1974, ACLU attorney Deborah Hinkel, working in tandem with the sex workers' rights organization COYOTE, filed suit against the city of San Francisco for their practice of holding women arrested for prostitution or related offenses for 72 hours and forcibly examining them for STIs. A month later, a San Francisco superior court judge issued an injunction, halting enforcement of this practice. Hinkel filed a similar suit in Alameda County with similar results. County officials appealed. The director of California's state health department spoke out against these enforced holds, saying, quote, "The Department of Health cannot support actions disguised as preventive health measures that are actually intended to achieve law-enforcement objectives, particularly when they appear to constitute a denial of basic rights."<sup>119</sup> The California Court of Appeal agreed, saying that the practice was discriminatory: men who were arrested for soliciting sex workers were not similarly held and examined. Alameda County, uninterested in detaining men, ended their practice soon after.<sup>120</sup>

But as usual – like a persistent infection, perhaps – the American Plan kept popping back. Today, the laws that enabled the Plan – laws that allow state officials to determine which diseases are suitable for quarantine – are still on the books of every single state. Most of these laws include provisions that allow for the examination of people

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<sup>117</sup> Stern, 385.

<sup>118</sup> Stern, 436.

<sup>119</sup> Stern, 432.

<sup>120</sup> Stern, 431-432.

“reasonably suspected” of carrying quarantinable disease.<sup>121</sup> Of course, there are legitimate cases of quarantine or other restrictive measures employed for public health reasons. That’s why I think it’s so important to distinguish the American Plan from other public health initiatives – because at the end of the day, as that Monterey police officer said, it was not truly about public health. If government officials wanted to control STIs, there were myriad other options that did not involve imprisoning women without due process. But none of these options would have allowed officials to police women’s bodies and behavior like the American Plan did.

As Scott Stern writes in his superb book about both Nina’s case and the Plan’s overall history, quote, “the Plan’s legacy is not merely these laws and these precedents. It is the philosophy they helped to cement: that women and promiscuous people are dangerous and morally inferior; that they need to be stopped, locked up, and reformed. This philosophy, and the practice of policing the sex lives of stigmatized groups, especially women, has a long history. This philosophy endures to this day.”<sup>122</sup>

That’s the story of *Rock v. Carney*. Join me after the break to learn about one more recent recurrence of Plan philosophy – and how people fought back.

## EPILOGUE

In late 1985, a poll found that a majority of Americans supported quarantining those with AIDS.<sup>123</sup> Legislators across the country began introducing bills calling for laws that empowered the state to test anyone “suspected” of having HIV or AIDS and quarantining them.

But support for these measures was not unanimous. Quickly, people began fighting back. In opposing quarantine laws, physicians, scholars, and activists turned to the past to show how quarantines – wrongly applied – were not only ineffective, but dangerous.

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<sup>121</sup> Scott W. Stern, “The Long American Plan: The U.S. Government’s Campaign Against Venereal Disease and Its Carriers,” *Harvard Journal of Law and Gender* Vol. 38, No. 2 (2015), 419-420, Appendix B.

<sup>122</sup> Stern, *Trials*, 441.

<sup>123</sup> “Poll Indicates Majority Favor Quarantine for AIDS Victims,” *The New York Times*, December 20, 1985. <https://timesmachine.nytimes.com/timesmachine/1985/12/20/238207.html>

They wrote about leprosy, about yellow fever, about tuberculosis.<sup>124</sup> They also wrote about the American Plan.

“The language of these [AIDS] bills,” wrote scholar and activist Beth Bergman in 1987, “is strikingly similar and frequently identical to that of [syphilis] quarantine and testing provisions written nearly a century ago...Where medicine and science were lacking, citizens, legislatures, and courts based their actions on cultural stereotypes.”<sup>125</sup> Fortunately, though there were several cases of AIDS quarantines, no mass quarantine movement or policy ever came to be.<sup>126</sup>

The historian Allan Brandt also drew connections between the past in the present. In 1985, Brandt published his book *No Magic Bullet: A Social History of Venereal Disease in the United States since 1880*, which explored the cultural contexts which shaped public health approaches to STIs. Two years later, he re-issued the book, now with a new chapter addressing AIDS. Brandt emphasized the danger of connecting disease with morality, writing that, quote, “so long as disease is equated with sin—there can be no magic bullet.”<sup>127</sup>

After the publication of Brandt’s book, many AIDS activists reached out to him to learn more about the history of STI policy in the United States. Brandt was touched by this effort – but also unsurprised.<sup>128</sup> In his words, quote, “History does provide us with a way of understanding and approaching the present.”<sup>129</sup>

I have been reflecting on this quote while writing this episode. I consider myself decently well versed in – or at least obsessed with – American history. But I had never heard of the American Plan. Neither had Scott Stern, the author of *The Trials of Nina McCall*, before a professor mentioned it offhandedly in one of his undergraduate history classes.<sup>130</sup> I am grateful to Stern – and to all other historians of the Plan – for illuminating this dark chapter in our past. Without learning about it, how can we ever fully understand our present?

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<sup>124</sup> David F. Musto, “Quarantine and the Problem of AIDS,” *The Milbank Quarterly* Vol. 64, Supplement 1. AIDS: The Public Context of an Epidemic (1986), pp. 97-117 <https://www.jstor.org/stable/3350043> and Douglas Shenson, “When Fear Conquers: a doctor learns about AIDS from leprosy,” *The New York Times Magazine*, February 18, 1988, pp. 35-36, 38, 48, <https://timesmachine.nytimes.com/timesmachine/1988/02/28/issue.html>, and Tamar Lewin, “Rights of Citizens and Society Raise Legal Muddle on AIDS,” *The New York Times*, October 14, 1987, pp. 1, 44, <https://timesmachine.nytimes.com/timesmachine/1987/10/14/167687.html?pageNumber=44>.

<sup>125</sup> Beth Bergman, “AIDS, Prostitution, and the Use of Historical Stereotypes to Legislate Sexuality,” 21 *The John Marshall Law Review* 777 (1988), 777.

<sup>126</sup> Stern, *Trials*, 437-440.

<sup>127</sup> Brandt, 202.

<sup>128</sup> Stern, *Trials*, 439.

<sup>129</sup> Brandt, 199.

<sup>130</sup> Stern, *Trials*, 442.

Thank you for listening to History on Trial. My main sources for this episode were Scott W. Stern's book *The Trials of Nina McCall: Sex, Surveillance, and the Decades-Long Government Plan to Imprison "Promiscuous" Women* and Allan M. Brandt's book *No Magic Bullet: A Social History of Venereal Disease in the United States Since 1880*. Special thanks to Scott Stern for answering my questions about Nina's story as well as providing some excellent photos, which you can see on our Instagram, @historyontrial! For a full bibliography, as well as a transcript of this episode with citations, please visit our website, [www.historyontrialpodcast.com](http://www.historyontrialpodcast.com).