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Missouri Youth Faces Stiff Sentence Under Stigmatizing HIV Criminalization Law

By Olivia Ford

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Not surprisingly, I have a Google Alert for "HIV" -- each day I receive an email with links to all headlines across the Web with the term "HIV" in them. For several days this past week my alert email was dominated by headlines regarding the same news story:

HIV-Positive College Student Secretly Filmed Sex Tapes With 32 People

HIV-Positive Man Allegedly Videotaped Himself Having Sex With Victims

HIV-POSITIVE MAN RECORDS HIMSELF HAVING UNPROTECTED SEX WITH 31 PEOPLE, IS WORST HUMAN BEING EVER

Barebacking HIV-Positive College Wrestler Made 32 Videos of His Exploits

WTF!?! HIV-Positive Man Knowingly Had Unprotected Sex With 31 People



Olivia Ford

Oh, there are more. But I'll stop there. The headlines refer to the [case of a 22-year-old Missouri man](#) facing several felony charges for "recklessly infecting" one person with HIV, and "recklessly exposing" others, [under the state's HIV-specific criminal law](#). The young man, a university athlete, had been [given an HIV diagnosis in January 2013](#), according to the *Indianapolis Star*. In October of that year, he was arrested after a past partner told police he'd been diagnosed with HIV and [gonorrhea](#) after having sex with him. Last week, police uncovered more than 30 videos from the young man's laptop of him having sex with different men.

Before I go further, I want to state, firmly and for the record, that I am by no means making light of the life-changing reality of receiving an HIV diagnosis. Despite miraculous advances in treatment and care, we have no cure; living with HIV is still a lifetime prospect, and finding out one is HIV positive is often devastating, even for those who are [educated and aware of their risk](#). It is well documented that a significant part of what renders an HIV diagnosis such a brutal experience is the stigma and demonization of people living with HIV that media coverage around HIV criminalization cases, like this one, encourage.

Coverage like this is not only extraordinarily hurtful and damaging on an individual, interpersonal and community level; it also gives the false idea that you can control the "public health nightmare" of [HIV transmission](#) by criminalizing sex while HIV positive, when criminalization itself is the nightmare and only

fuels the epidemic. [According to the Center for HIV Law and Policy](#) and ally organizations, research shows that HIV-specific criminal laws do not keep people from becoming HIV positive. These laws in fact punish people who've taken the proactive, health-affirming step of knowing their HIV status, because someone can only be prosecuted if he or she has had a positive [HIV test](#) result.

These laws codify HIV stigma, discrimination and exceptionalism, and provide tacit approval of statements like, "[This guy is despicable](#)" and "[In a word ... gag](#)" -- and calling a person like this young man the "[WORST HUMAN BEING EVER](#)." This stigma discourages people at risk from doing anything that might associate them with HIV (such as requiring condom use during sex) and makes it even harder for people to disclose their HIV status to sexual partners and others.

Thus, the vicious stigma cycle continues, spurred by HIV criminalization laws and demonizing coverage of cases like that of this young Missouri student -- and fed by other overlapping forms of discrimination. The media has also seized upon this case as yet another opportunity to reinforce the U.S.'s [chronic pathologizing of black male experience and sexuality](#), and the prevailing image of black men as criminals. If all the sex this young man allegedly had was indeed unprotected, then his actions are not the norm for African-American men like him, whom studies have found [use condoms at a higher rate than men from other ethnic groups](#). But do media outlets ever miss a chance to plaster their pages with a black man's scowling mug shot, as if to remind readers and viewers [this is who you should always be afraid of?](#)

Members of the HIV community are [of many minds as to what level of disclosure is appropriate](#), and whether criminal law ought to play a role. Some may be incensed by this young man's alleged lack of disclosure, and wonder why a person who'd experienced the blow of a diagnosis wouldn't go out of his way to [keep others from knowing what that's like](#).

But disclosure of one's HIV status is nothing if not fraught with complexity. There are myriad reasons, very human ones, why a person might not disclose that have nothing to do with intent to harm others: a horror of rejection, the threat of potential violence, [concerns about privacy](#), and many more -- virtually all driven by forms of stigma.

We can't know what got in the way of wearing a condom or sharing his HIV status -- assuming that all the sex was in fact condomless, and that this young man did not disclose to any of his partners (which we don't know for certain since inferences have crept into the story to fill in for missing facts). Had he shared his status with anyone at that point? Was he getting support and information around living with HIV? Was he openly gay and supported in that aspect of his life? Did he have mentors in the LGBT community, HIV positive or not, to advise him and be models for living well and proudly after a diagnosis? Has he even [met one person who's openly living with HIV?](#)

We can ask similar questions regarding how his partners came to believe that asking if someone "has any diseases" was an effective way to stay HIV negative. Some may believe that -- barring scenarios in which uneven power dynamics between partners, material survival or other forms of coercion render a person unable to require condom use during sex -- when we don't use condoms we "[take' HIV from another person just as much as they 'give' it to us](#)." Equal access to accurate, affirming information and support for all people living with or potentially at risk for HIV, [particularly young gay men of color](#) (not to mention the [elimination of poverty, homophobia, lack of health care access and other disparities](#)) could make it possible for all to enter into sexual encounters with eyes open, and relationships balanced. Mainstream media could support these sociopolitical and public health goals by being aware of the punitive language it uses, and not dropping curtains of stigma and misinformation over the facts about HIV. Had these conditions been in place, this man's story -- as well as the stories of his sex partners -- might have turned out very differently. But in most corners of U.S. society, people are just not well informed; and so, in the absence of information and in the presence of stigmatizing images, many may believe that [all they have to protect themselves is blame](#).

There is so much blaming and shaming language around HIV, even from those who otherwise support people living with HIV but adhere to Madonna/whore models when talking about it -- as in this recent *Slate* article by an otherwise well-informed author that [posited condomless sex as a reward of monogamy](#), which begs the comparison of condom use to punishment for having multiple partners. I often wonder why so many people are so doggedly protective of their right -- their *privilege*, really -- to judge others, particularly those whose identities and experiences are already vulnerable to scrutiny and misunderstanding. The 30-some-odd people who had sex with the young man in this case are not his victims, as multiple outlets have stated; they were his willing sexual partners. It's no crime to have multiple sex partners; and blame and shame, stigma and criminalization, do not make that sex any safer.

I can't assume too much about the character or experience of a person that I don't know. Still, I find myself feeling a great deal of fierce protectiveness toward this young man. Maybe it's not internalized HIV stigma, misinformation, lack of social support or a crushing desire to be accepted and touched that allegedly held him back from disclosing his HIV status to his partners. Maybe he *is* simply inconsiderate. But his actions taken by themselves are not proof of this. Besides, even inconsiderate people deserve protection under the law, not to be singled out and criminalized for being aware of their HIV-positive status. This story, the realities of unprotected sex and HIV disclosure, are infinitely more complicated than most media outlets tend to make them.

If this young man did indeed videotape people without their consent, then Missouri has a hidden-camera statute under which he can be charged. There are crimes, and then there's HIV. [HIV is a virus, not a crime](#); there are many ways we can respond to HIV in our communities, but [one thing we cannot do is legislate it away](#).

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