Crime No. 69

In which our nervous HIVer pays a big price for two little words we've all been tempted to say before sex: "I'm negative."

October 1, 2004

I confess: I lied. Is there a person with HIV who, at one time or another, hasn't fibbed about his or her status? Frankly, when it's none of someone's business or I suspect it might be used against me, I have no problem dissembling. But this lie was indeed someone's business, and it's where my nightmare begins: We were about to have sex.

Several weeks had elapsed since I'd "gotten off" with anyone besides little ole me, and while perusing cybersex ads, I found a posting whose urgency—muscular dude needs to suck cock right now!—matched my own. Apparently, my torrid reply, photo and generous endowment appraisal (OK, who doesn't add at least one little inch?) got Mr. Deep Throat all tingly and engorged. He promptly returned a picture: big, beefy and butch. He followed with "Your place or mine?" And then that heart-sinking query: "I'm HIV negative. You?"

When I seroconverted, I initially couldn't navigate the minefield (and mind-fuck) of disclosure, so sex came to a halt. When I finally recovered the urge, I'd lead with an in-your-face "Hi, my name is ****, and I'm HIV positive!" That tactic eventually mellowed, but I still generally volunteer my status right off the bat, though in some encounters the issue never arises and we simply play safe. But I don't ever recall having flat-out lied to an inquest. I might have discreetly replied to my cyber amour, "I engage only in sex we both consider to be safe." But this time—rationalizing that I wanted only oral sex, which most experts classify as low-risk—or because I was still med-free and maybe in HIV denial and also horny as hell, I typed, "I'm neg." (Mistake No. 1—and yes, there are more to come.)

We hooked up, we kissed, he sucked, I sucked, he sucked me off again and I left sated and tuckered out. The next morning, I finally confronted what I'd known deep down: I should have told Deep Throat I was positive and let him make his own decision. My very worst nightmare would be inadvertently infecting another, even if it were a fluke. Just thinking about it made me queasy. My guilt morphed into what I like to think was wise remorse. I decided I needed to come clean. (Blessing No. 1: I have a functioning conscience, however delayed.) After an anxious hour, I took a deep breath and dialed him up. (Mistake No. 2, my friends say.)

I apologized—only for him to seethe, "How can you live with yourself?" and call me "a monster" (move over, Charlize). At some point during his tirade, he thanked me for having had the decency

to phone, but he hung up with “After I call my doctor, I’m calling my lawyer!” My heart thumped in my chest. I hadn’t considered that my little indiscretion might be prosecutable. I’d heard of criminal cases against serial infectors, but surely that wasn’t me. I chalked the threat up to his rightful indignation.

That evening, as I drove to my mom’s, my cell phone rang: A police officer told me that a Mr. Deep Throat had called with a complaint. With little prodding, my guilt-wracked self spilled all the beans. Yes, I had lied about my HIV status; yes, he had sucked me off. (Mistake No. 3: Don’t tell a policeman anything.) “On Monday, come down to the station to make a statement,” the cop said. “Bring a lawyer or we’ll appoint you one.”

In shock, I could barely drive. The media couldn’t get enough of the man who was accusing the former San Francisco health commissioner of having infected him with HIV, and I imagined the worst: my name all over the papers, the shame and, most awful, the burden of being responsible for someone’s HIV. That night, I slept in fits, and the next day’s visit to my mom’s new assisted-care apartment was a charade. “Love the carpet, the staff seems wonderful,” I managed—while wondering how my siblings would explain my absence once I was in the clink. The food at my mother’s facility was surprisingly good, but I barely ate a bite before puking in the bathroom. When my brother arrived, I took him aside, confessed all and cried on his shoulder. (Blessing No. 2: This finally opened the door to a deepening friendship between us.)

I awoke Monday with dread—but instead of going to the police department, I did something smart for once: decided to look for a lawyer first. My three-digit bank balance was enough to retain a decent lawyer for all of a few hours, and I pondered accepting a court-appointed attorney. But even frugal-fanny me determined this was no time to pinch pennies—if need be, I’d borrow.

With my crime-free past, I had no idea how to rustle up a lawyer. For referrals, I rang up two friends I deemed most likely to have wrangled in the courts—one, a high-profile doctor (the target of smarmy lawsuits), the other, well, let’s just say he’s a bit of a bad seed. I narrowed down the prospects to three attorneys, then called a psychic friend in Oregon, who confirmed my doubts about one of them.

Before bed, I prayed for a sign. (Blessing No. 3: Though you’ve been bad, never think that God, or your Higher Power, would desert you.) The next day, I got one: Pulling up for an interview with the first lawyer, I saw that his name appeared on the same sign as the other’s. They were law partners. I liked him immediately, and on his two conditions—that I have no contact with Deep Throat and the police and that I do everything he said—I laid my money down.

Meanwhile, my sister had driven five hours to come to my aid and had brought some Xanax to calm my nerves (Blessing No. 4: Need I say more?). While I slept, she Googled “HIV transmission” and “criminal prosecution” and later handed me a printout: In California, where I live, felony prosecution requires unprotected anal or vaginal sex and intention to infect—but short of exclaiming something like “Take that virus!” before cumming, proving intent is nearly impossible. My anxiety dropped several notches, and I ate something for the first time without the urge to

purge.

But I still needed my lawyer. Under the health statutes, it's a prosecutable misdemeanor to "willfully expose someone to a communicable disease," punishable with a $1,000 fine and six months in jail. Just committing the deed while conscious, I supposed, constitutes "willful," and of that I imagined I was guilty.

The drama queen in me revved into overdrive: In fantasy scenarios, I was on the lam, a revolutionary raising a ruckus and annoying the hell out of John Ashcroft—or I had fled the country for a lovely yet melancholic exile in nuke-free New Zealand. During particularly penitent moments, I consigned myself to a brief stint in jail, where I bettered fellow inmates by teaching them meditation and reading. In more charitable moods, my inner Judge Judy sentenced me to community service—facilitating safer-sex discussion groups for wayward teens or giving therapeutic massages to overworked city policemen. One day, while driving with my cousin, a state-highway-department employee, we passed a work gang in orange jumpsuits plucking up roadside trash. Feigning nonchalance, I inquired as to the frequency of their breaks—and did they get rainy days off?

I read up on the varying state health codes. While most pertain to diseases like tuberculosis, syphilis and bubonic plague, some updated codes mention HIV. I also learned that a few hundred cases of exposure or transmission of HIV had been prosecuted nationally from 1986 to 2001, with about 150 people convicted. Sexual exposure was the most common mode. Several cases involved selling blood, spitting, biting, licking and throwing feces; another, putting blood in someone's coffee. There's one for Starbucks: Bloody Mary Mocha anyone?

For more reassurance, I rang the district attorneys in six neighboring counties. (I told them I was doing legal research, which was true.) The assistant D.A. in one major homosexual metropolis reported that they'd never charged anyone under the health code for HIV exposure through oral sex. And unless actual "harm was inflicted," meaning HIV transmission, they couldn't be bothered.

I searched the Internet. What I discovered—and wished I could share with Deep Throat but couldn't because I was forbidden contact—was of great solace. A 2000 study of 700 Australian gay men found that though 95 percent reported condomless oral sex (and a quarter of those said they'd taken cum in their mouths), only 7 of 75 seroconverters reported they believed they got HIV from oral sex. In a particularly juicy 2002 study from Spain, more than 19,000 instances of unprotected oral sex among 135 serodiscordant heterosexual couples over several years did not lead to a single case of HIV transmission—even though the HIV negative women in the study reported taking semen in their mouths a total of 3,060 times (you go, girls!). And another 2002 study, in San Francisco, found that of 239 men who reported giving head without condoms as their only risk behavior, none tested HIV positive, though 35 percent took semen in their mouths, and 70 percent of those swallowed. The risk of HIV transmission via oral sex, wrote Jeffrey Klausner, MD, head of the study, "is very, very, very, very, very low and may be zero." (Though bleeding gums, oral surgery and high viral load increase risk.)

Still, due to anxiety, I lost 10 pounds over the following months. My T cells, already on decline, nosedived, and after nearly 10 years without HIV meds, I had to begin the cocktail immediately, which wreaked havoc on my system for the first month. To curtail my run-amok projections and physical malaise, I deepened my meditation regimen. Even when quashed with discomfort, shame and anxiety I snatched moments of "being in the now." (Blessing No. 5: Staying sane is all about being in the now.) Petting the cat and communing with the garden flowers helped me pass other tough moments, one at a time.

As self-imposed penance—and hoping to save others from similar grief—I dutifully encouraged online acquaintances to be honest about their HIV status and urged HIV negative men to engage only in what they understood to be safer sex. The guy could be a chronic liar, I warned. Or maybe he'd had a low self-esteem/horny-as-hell moment like I did. Or he might have seroconverted without knowing it. Bottom line, I insisted: Asking "Are you positive or negative?" was essentially false security.

What's more, through several therapy sessions, I examined how and why my subconscious—what I call my Shadow Self—might have orchestrated this crisis. Particularly in the year preceding the incident, when I was responsible for organizing several large events, I strove to be in full control, to do everything, to be perfect. But Goddess knows I'm not, and when I don't take time to get in touch with my Shadow Self, it inevitably rears its ugly head through one misstep or another. I also wondered whether, because I was still free of HIV meds at the time of the incident, I half-believed what I only wished were true: that I was HIV negative. Short of a medical breakthrough, I'll be harboring the virus for the rest of my life, and I have to accept that though sexual rejection will always hurt, I can get over it and move on.

The greatest blessing? I never heard from my lawyer about the case, so I assume Deep Throat decided generously not to file charges against me—or that the district attorney told him he didn't have a case. The yearlong statute of limitations is nearly expired, but it's not over till it's over (and he could file a civil suit). If I ever have the chance, I'd dearly like to offer Deep Throat an apology; in the meantime, I can only presume and pray that he is well.

And then one night, several months ago, I had a sweet and healing dream. When Deep Throat entered the room, I was momentarily afraid. Then, as he approached the bed, he turned into a child and climbed into my arms. I told him how sorry I was, that it had been a bad moment in a fine life and that maybe one day we'd meet as friends. And in the dream, as he snuggled into my arms, he told me that he forgave me. Final Blessing: I was able to begin forgiving myself.

* Fearing he'd inflame his accuser, the author, a California resident diagnosed with HIV in 1994, has withheld his name.

Thar She Blows!

Hey, HIVers: Don't know if you should disclose before someone goes down on you? Consider:

THE CONSEQUENCES. Sure, you can say it's your sex partner's responsibility to decide what's

safe for him/her—or to bring the HIV question up before going down. But if you let someone give you head after lying that you're negative or even without letting them know you're positive, be prepared for anything from a guilty conscience to legal threats. Exposing someone to HIV without telling them is a crime in 24 states, and though the law is hard to enforce, convictions happen. Learn your state's law at www.hivcriminallaw.org.

HOW YOU'LL FEEL LATER. "Good sex is when you feel good about yourself, the other person(s) and what you did afterward," says New York City HIVer psychotherapist Michael Shernoff, MSW. Check in with your feelings post-playtime. Was letting them slurp unaware good for you? It's all about what you can live with.

THE RISKS OF LYING. Telling people you're positive "is excruciating and uncomfortable" for all HIVers—himself included, says Shernoff. "Those feelings are normal." Still, he urges, "Make a commitment to not lying. It'll only get you into deep shit."

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