Cyndi Potete’s Fire and Rain

The first North Dakotan ever charged with attempted murder by HIV

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The ground shivers beneath the pounding convoy of heavy equipment. Under Fargo’s steel-gray April sky, an army of volunteers shoulders the muddy muscle of the Red River of the North back between its slippery banks. Truckloads of men and women -- outfitted in duck-hunting waders, in jeans and college sweats, in National Guard green camo -- are fighting side by side to construct a wall of sandbags and clay to shelter their community from the punishing floodwater that surges against its front door.

Scarcely a hundred yards from the flood-fighters’ beachhead, Cyndi Potete looks away, biting back tears. She’s talking about another time, another torrent -- the rush of mud and shame that invaded the safe, small-town haven she’d fashioned for herself and her two children.

“It ruined everything... everything good in my life,” she says.

Two years ago, during a cloudy April not so different from today, Cyndi Potete unwittingly made history. Swept away on an ill-fated alcoholic binge, she became the first person ever in the taciturn, rock-steady state of North Dakota to be accused of attempted murder with a singular and controversial weapon: HIV. Amid a firestorm of newspaper headlines and television newscasts, she stood accused of not informing a sex partner she had AIDS.

No matter that she had grappled for years to turn back her own torrent of demons -- childhood abuse, a shame-shadowed decade on the street, half a lifetime of dependency, first on drugs, then alcohol.

No matter that shortly before the accusation that would damage her forever, Cyndi was finally tapping a wellspring of inner strength that seemed ready to draw her into life’s sun-dappled shallows. Her courageous campaign of rural AIDS education -- christened Positive Voices -- was winning her friendship and respect. Only a week before, she and colleague Cody Rogahn had accepted the J.C. Penney Company’s prestigious Golden Rule Award for outstanding volunteer service. She had received a commendation from President Clinton a few months earlier: “You stand as an inspiration for people everywhere who desire to improve our world.”

To no avail. Cyndi’s hard-won gains were washed downstream on that lost weekend. What had begun badly enough with falling off the wagon after nearly a year of sobriety quickly turned into

outright disaster. Arrested for the alleged “crime” of having unprotected sex with an old acquaintance she met in a bar, Cyndi was charged with attempted murder under an untested and ill-conceived six-year-old state statute intended to control transmission of HIV.

Suddenly -- in a small-town setting where everybody knows everybody else’s business -- the 40-year-old divorced mother of three was dragged into the spotlight. Though the charge was later dropped for lack of evidence, the damage was swift and seemed irreversible.

But Cyndi Potete is a survivor. Against the odds, she had created the kind of life that eluded her for much of her youth. Here, in a conservative Midwestern community that seems the mirror-opposite of the hard road she had known. The flood of publicity threatened to sweep her away. But when it ebbed, she was still standing, sturdy and determined as the sun broke through.

Today, curled up in a booth at the Fryin’ Pan Restaurant, this cheerful mother of three -- warm, witty, achingly direct -- draws strength from an unending confrontation with a foe she has not faced alone. HIV positive for nine years, a PWA for seven, she still struggles against her brush with notoriety -- perhaps the most devastating blow of all.She has brought friends to offer moral support as she plunges deep into dark memories. Cody and his partner, Jon Yarbrough, are there as a touchstone, for they know who she really is: A brave woman, survivor of a brutal past, generous in sharing both pain and hope. Together they give AIDS a face among rural people who rarely recognize that HIV is as much a part of the flat-as-a-tabletop North Dakota landscape as the normally lethargic river now roaring its fury.

Ironically, AIDS is the foundation on which Cyndi has built the strong family of friends that gathers around her. Facing up to her illness provided the impetus for turning her life around -- for raising her younger son and bringing her daughter home for good, for settling down and tending close friendships, for mending some family fences and especially for finding a larger purpose in her life in AIDS support and education.

“If I could take any one thing out of my life, it wouldn’t be AIDS. I didn’t really have a life before AIDS,” Cyndi reflects. “What I’d take away would be the alcohol. Sober, I don’t do crazy things. I’m really a very nice person. The whole court thing would have never, ever happened -- unless I was drunk.”

Until the incident in 1995, in fact, Cyndi Potete was well known throughout the area. Her name was becoming almost synonymous with responsible, enlightened understanding of AIDS. Billing themselves Positive Voices, she and Cody -- along with their friend Gary Stevenson, who died of AIDS in 1994 -- had carried that message to almost 25,000 young North Dakotans and Minnesotans.

Small-town school superintendents and college professors had invited them to share their message at more than 70 high schools, at least 15 colleges and universities, and in community and parent forums. They brought AIDS awareness to towns ranging from tiny Flasher (pop. 317) to Wahpeton (nearly 9,000) in North Dakota to Moorhead, Minnesota (almost urban at 30,000).

Their twofold message: AIDS is very real and walks among us, even here on the sparsely populated plains, and the only surefire protection is abstinence. Part of their credibility rests on Cody's personal background of 19 years as a rural school superintendent, part on their certification by the American Red Cross as HIV/AIDS educators. Most of all, they are welcomed. Frank but nonthreatening, authoritative but sincere, they're preparing the youth of remote mid-America to cope with risks that neither distance nor ignorance can keep at bay.

Cyndi and Cody's visibility in telling others how to stay safe gives Cyndi's story the tang of irony, ultimately tinged with hope: How the AIDS educator was caught in currents she teaches teens to avoid -- and how her pain became instructive, opening discussion of a topic rarely touched in places like North Dakota.

The number of North Dakotans with AIDS is minute. Just 200 cases have been reported to the State Health Department from 1985 through the first quarter of this year. Fewer than 10 percent are women. Cyndi became the first, in 1988.

Only days before getting the news, Cyndi had arrived in North Dakota at the lowest ebb of her life. Thirty-three years old, she stepped off the flight from Illinois having already logged several lifetimes' worth of urban pain. The nearly treeless Red River Valley offered unexpected refuge. With nowhere to hide, Cyndi at last could confront her demons and build the stable life she sought.

She was emerging from a brutal past. Kicked out of her home by a father who had long abused her, Cyndi had lived on the streets since her teens. She had worked as a prostitute, losing custody of her first child to her stepmother, who adopted and raised him.

Cyndi had married and then divorced a drug-addicted pimp who beat her, and had given birth to a daughter, Tarsi. Her daughter, too, eventually wound up in relatives' care. Along the way, Cyndi got hooked on heroin and cocaine. She served time in the Illinois State Penitentiary for felony theft, becoming pregnant with her youngest child, J.J. (known as Duke), while out on work release.

Paroled, she slipped back into life on the edge -- the only life she knew. Within a few months, she was homeless and wasted, mother of a newborn, looking forward to nothing. No shelter. No hope.

Estranged from most of her family, still she turned to them for help. Her stepmother, several sisters and brother lived in a tiny farming town half an hour north of Fargo. There Cyndi called Tracy, the sister to whom she's closest, and begged her to talk the family into letting her come home.

"At first Tracy said no," she remembers. She pauses, then sighs: "I do understand why. Can you imagine the fallout they'd have to deal with -- having someone like me in a quiet, conservative place like North Dakota?"

Reluctant at first, Tracy at last persuaded the family to relent. They were there at Hector International Airport in Fargo to meet Cyndi as she stepped off the plane. They hugged her, hustled her into the car and drove her... not home but straight west to Jamestown, North Dakota,

where they committed her to the state hospital to receive treatment for chemical dependency.

“I was wild. Believe it or not, I’d never been in treatment before,” Cyndi says. “I was having withdrawal real bad when I got there. But after a couple of weeks, I could tell I was getting better. I was feeling good, beginning to see that light at the end of the tunnel. Turns out, it’s a train headed straight at me.”

Among the papers she’d signed upon admittance was consent to be tested for HIV. She didn’t remember signing it, and so was stunned when a counselor delivered the news: She was HIV positive. She was making history: The first HIV positive woman in North Dakota.

Not only that -- her tiny son was at risk of becoming the state’s first infant HIV statistic.

“This was nine years ago, remember, and no one knew much about AIDS,” Cyndi says. “I was just speechless. I remember it so clearly: Where we were sitting, how the counselor looked, how he was trying to reassure me -- y’know how it is when they know you’re going to croak. I prayed to God down on my hands and knees that my baby would be OK. But God doesn’t always answer prayers the way you want.” Duke tested positive for antibodies to the virus.

Cyndi could only think of running -- from her family, from the tatters that were left of her life. “But I thought, if this was what I’d done to my innocent little baby, the least I could do was be there when he died.”

So this time, she didn’t run. She faced her problems head-on with a determination that amazed the new friends she was gathering around her. She completed treatment, then moved with her son into a YWCA shelter in Fargo. Two months later, she had rented her own apartment, was holding down two jobs, had enrolled in college and had gotten the very best news of her life: Her son no longer tested positive for HIV. Babies are born with their mother’s antibodies, and the last traces of Cyndi’s had cleared. Without HIV antibodies of his own, this meant Duke never actually had the virus at all.

Duke was then nine months old. And a new Cyndi had grown strong enough to raise him, regaining daughter Tarsi along the way.

Life was coming together. Cyndi had given up illegal drugs for good, though she still struggled with alcohol. Duke’s father had come to Fargo to live with them -- a “good-hearted man and a good father,” she says, though they no longer live together. Despite developing full-blown AIDS in 1990, she was working toward an associate degree as an administrative legal secretary. She had friends, a job, a life and a mission. Through Positive Voices, she was making a real difference.

Then a disease breached the defenses she’d built against her past. Not AIDS -- alcoholism.

The weekend that changed everything began with one bad choice. She should never have gone to the Bismarck Tavern, a semi-tough bar on the north edge of Fargo’s six-block downtown district. She should never have sat down with Tim Martin, a heavy-drinking ex-boss she hadn’t seen in

years. She shouldn't have had one beer, or the next, or any of those that followed -- especially since even the first beer violated conditions of her five-year probation.

Days later, she awoke sick, naked and alone in the back of Martin's pickup camper. Ashamed. Embarrassed. About to be charged with attempted murder.

During their binge, the two had stayed at the apartment of a mutual friend -- a drifter whom Cyndi had met and befriended at the HIV support group. He reported her drinking to her probation officer. Still blurry on what had happened, she was taken into custody for that violation, while police arrested her companion for DUI.

A Fargo police detective interviewed Cyndi at the local detox center. Her blood alcohol level was .17, almost twice the legal standard for intoxication. "I remember how uncomfortable he looked. He loosened his tie, squirmed around and finally blurted out, 'I've never had to do this before,'" Cyndi recounts. "Then he informed me that it's illegal in North Dakota to have unprotected sex if you're HIV positive and don't tell the other person.

"I told him that Tim and I hadn't had sex, at least as far as I could remember -- it's all sort of a blur to me, even now."

But the erstwhile friend who'd turned her in carried another, far more graphic tale. He told police he'd watched them have unprotected sex -- defined as attempted murder under a 1989 state law that had never before been tested. (The state's governor signed in April a new law that goes even further: It allows judges to jail people and then test them for HIV if they are suspected of exposing others to the virus.)

Was the friend's story true? Cyndi denied it from the first. Others' stories vary: Some witnesses recalled Martin's boozy boasts, back at the bar, about the naked woman in his pickup camper. They say he invited his buddies to use her. A very different version came from a female witness, who remembered seeing Cyndi fending off Martin's attempts to have sex.

Cyndi was sent back to the state hospital's chemical dependency unit. While there, her counselor broke the worst possible news: Not only was she in trouble for drinking while on probation, she was being accused of attempted murder.

Cyndi fingers the front-page newspaper story that brought the tale scathing public attention in her adopted hometown. We're in the living room of her duplex on a pleasant, tree-lined street on the south side of Fargo. Three eight-week-old kittens scramble for the door as daughter Tarsi, 18, arrives home from school and heads for the kitchen.

Her mother is still deep in dark memories of two years ago. "Now, if I was so out of it in the back of his camper -- if the sex ever did happen -- what is that?" she questions. "Was I raped? I sure was in no shape to give my consent. We were both totally wasted. Am I more responsible than the guy who may have raped me?"

Yet the state's attorney never asked her if she wanted to file charges. Nor, apparently, was Martin himself tested for HIV.

The most unbelievable part of the charge, given Cyndi's commitment to education, was the allegation that she had hidden her condition from the man. "After all, I'm a Red Cross -- certified HIV/AIDS educator," she points out with a wry grin. "I'm a lot more likely to stand on a table and shout it out in front of everyone."

But the nightmare was real. Reporters from around the country would soon be dogging her steps from the Cass County Jail to the courthouse. As friends, including the stalwart Cody, struggled to shield her, members of the national media lined the corridors, fighting for a glimpse of the woman whose case would set a national precedent. Bookers for TV talk shows jockeyed for her attention. Writers called her in her jail cell. A photographer for a metropolitan daily captured her distress in a color photo that ran on Page One: Blue eyes wide with anguish, the well-known AIDS activist is peering out from behind bars.

"It was awful, just awful," reports Cody, who stood beside her throughout her public ordeal. "Cyndi was just shattered. And her poor children!"

Public reaction formed two camps -- one predictable, the other a more heartening measure of the growing understanding of AIDS. While some clearly shunned her, friends and strangers alike spoke up on her behalf. People whom she'd never met wrote letters to the editor of the local daily newspaper, castigating the state attorney's decision to pursue his tenuous case. The potential penalty of 20 years in prison, they said, amounted to a life sentence for a woman with AIDS. A spokeswoman for the North Dakota State Health Department opined that the whole incident was being handled inappropriately. Behind the scenes, ACT UP/Minnesota organized a letter-writing campaign pressuring the prosecutor to drop the case.

At school, Tarsi (whose last name, unlike Duke's, is Potete) received the support of several concerned teachers and her good friends. A few less-benign classmates did slyly ask her to spell her last name, wondering if the woman in the news was her mother. "The name Potete is real out-there," Tarsi volunteers. "Around here everybody is a Johnson or an Olson."

"So what did you tell them?" Cyndi asks curiously.

The lovely 18-year-old gives her mother a typical teen-age look of exasperation: "That you didn't do it, of course."

Her confidence, it turns out, was well-placed. The legal drama quickly turned to farce when it reached the courtroom. Martin -- who has a criminal record of his own -- denied that they'd had sex; when he'd told the story to police, he said, he'd just been bragging. He added, "Cyndi's a nice person. I've known her a long time. She used to baby-sit my kid." He turned toward her and apologized: "I didn't want to be here, Cyndi. They made me." (Martin in fact had to be subpoenaed to appear.)

Next, the so-called "witness" who'd turned Cyndi in to probation recanted his story. He'd been, he

claimed, misunderstood.

Faced with his star witnesses' failure to support his case, the state attorney dropped charges. The attempted murder case was dismissed. But the probation violation was more problematic. Cyndi was sentenced to a year and a day in the North Dakota State Penitentiary. She served six months, followed by three more at a Fargo halfway house, Centre Inc., before returning home to daughter Tarsi, then 16, and 7-year-old Duke.

Though the legal nightmare was over, the damage had been done. Cyndi Potete had become, for the moment, a seeming parody of the responsible behavior she had worked so hard to inspire. She's learning to hold her head up again: "I made a mistake. I paid for it. It's not who I really am."

She adds: "The paper made it sound like I was out there trying to pick up this fine, outstanding citizen and give him AIDS. That's not like it was at all, in any way. Yet this is like being accused of child abuse. Even if you're innocent, people always sort of think you did it. And Fargo people are real reserved. They're too polite to ask. I wish they would, so I could answer them. You always wonder what they're thinking."

Cody believes that even in her pain, Cyndi was sharing a gift with the community. "Despite the terrible price Cyndi paid and what she suffered, the incident has probably had a positive effect overall on awareness of HIV and AIDS in North Dakota," he says. "There was very little discussion of the disease in the local news media before all this happened. A lot of information was made available, and anyone who honestly went looking for knowledge now has a much better understanding."

Of battles fought across the landscape of her life, Cyndi's plunge into North Dakota's legal system may have been the most bitter -- facing her apocalypse just when she had something to lose.

But as sure as April's floods turn to mud in May, as sure as warmth and sun dry tears, the resilient AIDS activist has begun to re-emerge on the other side. Buoyed by her own strength and caring friends, she is recovering her confidence and firmly keeping her demons at bay.

She is desperately determined to avoid alcohol. Recently she convinced her physician to prescribe Antabuse, which produces a sensitivity to alcohol so violent that even one swig of a beer results in copious vomiting, dizziness and other reactions. "He was worried about what Antabuse would do to me -- you know, with AIDS and all," she says. "I told him that alcohol could kill me long before AIDS gets the chance." For once, luck was on her side: Unknown to her or her doctor at the time, Antabuse is now being studied for its anti-HIV effect.

Cyndi is back: Reaching for hope, resurrecting her mission, taking pleasure in the self-respect and accomplishments she has fought to preserve against long odds.

She holds no grudge against the state, whose misguided attempts to thwart the epidemic dragged her into a most unwelcome spotlight. She is comfortable in Fargo, where she holds to the high ground, and where her story (the whole story) cannot drown her buoyant spirit.

“I like the community. I like the neighborhood. I like having my kids go to schools without guards standing at the door,” she says. “You might find some ignorance here, but it’s nothing that can’t be cured with education.”

North Dakota is the only place she’s ever lived with AIDS. It’s where she has carved out a home, forged friendships, fought against the darkness and found hope she shares with those who know her well. “To survive AIDS, I need people around me who care. I have that. I have wonderful friends. I want to be an individual… to be somebody… to do good things,” says Cyndi Potete, who’s waded through deep water to reach the firm ground beneath her feet. “I’m not just a number here. In North Dakota, despite everything, I know I still can make a difference.”

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