Judicial Prejudice and HIV

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During the past several years, we've seen a disturbing trend in the frequency and severity of legal cases that criminalize people with HIV. Criminalization backfires as a public health measure because it deepens stigma and makes people afraid to get tested and treated for the virus. Thirty-four states and two U.S. territories have statutes that criminalize HIV exposure and transmission, according to the Positive Justice Project, and at least 80 prosecutions for consensual sex, biting and spitting have occurred in the United States in the past two years alone. Many of those prosecutions were despite the fact that there was no transmission of HIV. (In some cases condoms were used—which meant there was little risk for HIV infection—and in the cases involving spitting or biting, there has never been a recorded case of HIV transmission through saliva.) Here, we share some of your recent comments on HIV criminalization.

> Most of the egregious prosecutions of HIV-positive people are unconstitutional to begin with. The Nebraska law making autonomous bodily functions like sneezing or vomiting a felony for HIV-positive people is a case in point, as is the case of the woman sentenced to eight years for "failing to disclose," despite two witnesses and a front-page newspaper article indicating otherwise. In these cases, the convictions are patent violations of basic constitutional principles regarding the evidence of guilt and could [lead to legal] appeals that could [end up in] the Supreme Court.**—Jeton Ademaj, City and State Withheld**

> Last time I checked, it takes two people to have sex. The [HIV-negative] partner is just as responsible as the person who is HIV positive, because, in most cases, they have a choice to use a condom.... Also, the results from the recent National Institutes of Health HPTN 052 study show that [in heterosexual HIV-serodiscordant couples], if the HIV-positive partner is on antiretroviral treatment, there is only a 4 percent chance of HIV transmission—even if no condom is being used.
> **—Daniel Angelis, City and State Withheld**

> What are the repercussions for [HIV-positive] individuals who are with partners and knowingly infect them, and don't care? I honestly think that this has to be addressed. Many people are having sex, unwittingly, with partners who are engaging in secretive and risky sexual behaviors. These people need a voice in the conversation, but not the paranoid and insane voice that is permeating bad legislation.
> **—Liz Morten, City and State Withheld**

> Someone needs to do something to combat the ignorance that is putting young men in prison for a long time even though the transmission of the virus did not take place. Having [safe] sex and still

being put in prison? The people bringing these cases have a lot to answer for.
—Joel Jordan, Marshall, Texas

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