Sex Crimes

Is politician’s ambition behind South Dakota witch hunt?

July 1, 2002 By Stacie Stukin

On April 23, the South Dakota Department of Health paid a visit to the dorm room of Si Tanka-Huron University freshman Nikko Briteramos. The 6-foot-5-inch African-American basketball star from Chicago opened the door in his boxers. While he answered a health official’s questions, a young woman slipped out of his dorm room. Later that day, Briteramos, 18, was arrested for doing what comes naturally in college -- that is, having sex.

Why the Big Brother business? Nearly a month earlier, after donating blood, Briteramos was notified by the same health department that he had tested HIV positive. South Dakota is one of 31 states to have criminalized HIV transmission; its law penalizes those who know they are positive and intentionally expose another person to infection. So when health workers discovered Briteramos *in* -- or close to -- *flagrante*, they called the cops. Briteramos became the first person to be prosecuted under the two-year-old statute and could face up to 45 years behind bars. When the investigation was complete, the state had tested more than 200 Huron (pop. 11,800) locals for HIV (sex partners of Briteramos and their chain of partners); three came up positive, all of whom allegedly cozied up to the frosh *before* he was diagnosed.

The media shower was immediate. Even as the Si Tanka-Huron community issued statements of support for the popular Briteramos, the governor weighed in with “This is no different than pointing a gun at somebody and pulling the trigger.” Disreali Briteramos, Nikko’s dad, defended his son, comparing the arrest to a lynching and serving up sound bites such as “HIV already existed in this community, and he contracted it here. Nikko is not a viro-terrorist.” According to *The Plainsman*, Huron’s daily, papa Briteramos also accused health officials of failing to offer his son counseling, but enlisting the kid’s buddies in surveilling the positive teen instead. And he charged that the whole affair was an election-year ploy by county prosecuter Michael Moore, running for state attorney general.

The judge responded to the hoopla by slapping on a gag order. Still, Moore denied that he had a political agenda and told *POZ*, “The health department protecting confidentiality is very important. But in a situation where a person is committing a crime in front of their eyes, the department has an obligation to waive confidentiality.” Health department rep Barb Buhler responded to Disraeli’s accusations only by saying, “Our standard practice is to talk to the individual involved.”

Certainly, turning Briteramos over to the law was unusual. “Our concern as a public-health agency

is to stop transmission of the disease," said Buhler. "In this instance, that's what we felt needed to be done." Then again, South Dakota isn't exactly an old AIDS hand. The state has the nation's second-lowest AIDS rate; only 22 HIV cases were reported in 2001.

This AIDS panic got a woman in nearby Aberdeen (pop. 24,800) thinking. When she realized that her husband, a former member of the town's mostly closeted gay community, may have been exposed to HIV, she took it upon herself to alert the police. Soon, two gay men were arrested under the same HIV statute exercised the previous week. William Kenneth Jenigen, 35, was charged with six counts of spreading HIV to unknowing partners, and his former lover, Jay Lee Woods, 41, with three counts. So far, no one tested in the course of the investigation has been HIV positive.

Scott Kuck, Jenigen's lawyer, said that it was well known in Aberdeen's gay scene that Jenigen has HIV, but the investigation still proceeded witch-hunt style. Local police made calls well after 11 p.m. requesting that certain gay men come to the station and name sex partners. "The general public doesn't know they can tell the cops to take a flying leap," Kuck said. "These guys answered the questions honestly."

Kuck denies that the men who cooperated view themselves as victims of a crime: They knew the risks sex entailed. Still, he said, "Defending this case is going to be difficult." Since he'll need to show that Jenigen's sexual partners were aware of his HIV status, Kuck will have to call to the stand people who may not be "out" -- and for whom honesty may prove the priciest policy.

At press time, Briteramos, Jenigen and Woods had all entered not guilty pleas at their pretrial hearings; Briteramos' trial is scheduled for late July, but Jenigen's and Woods' have not been set. Until then, the two are under bizarre "supervision": They must check into the sheriff's department daily and keep a detailed journal of their actions for review. They are also banned from dating. Whatever the verdict, policing positives may end up sending the very message public health officials oppose: that it's best not to know your HIV status.

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