When People with HIV Became Suicide Bombers

April 2, 2014 By Mark S. King

Maybe we should blame the criminal prosecutions of people with HIV on the mythical legend of Gaetan Dugas, also known by his slanderous nickname, Patient Zero. Dugas was a gay flight attendant from Canada who, according to Randy Shilts' 1987 book *And the Band Played On*, was among the first people with HIV in the United States.

As the story goes, energetic Dugas (right) spent lots of time in the very early 1980?s getting laid in practically every city with an airport, even after learning he had the mysterious new "gay cancer." He wanted to go out with a bang, the book claimed, and he didn't particularly care who he might infect in the process. The book repeated rumors that after sex with bath house tricks Dugas would point out his skin lesions and then announce, "now you have it."

Except the story isn't true. Two years ago, Shilts' former editor admitted the book needed a "literary device" and had encouraged Shilts to create the epidemic's first "AIDS monster." The scandalous sex life of Gaetan Dugas fit the bill nicely. Dugas died in 1984, never having the opportunity to answer his accusers regarding his alleged behaviors.

Instead of placing responsibility with everyone having sex, the book painted people with HIV as suicide bombers. The damage, to the truth and to the public image of people with AIDS, still reverberates today.

Laws exist in more than 30 States that criminalize people with HIV for not disclosing their status to sexual partners. Even where there are no HIV-specific laws, charges range from assault to attempted murder to bioterrorism. It should be noted that the vast majority of prosecutions do not involve the transmission of HIV. Often, the person charged used a condom, had an undetectable viral load, or engaged in sexual behavior that could not have infected their partner.

Anyone with HIV and a pissed off ex-lover should feel worried, since these cases often become a matter of whom you believe. Prosecutors and unfriendly juries are often shocked that people with HIV are having sex at all. They could care less about condoms or undetectable viral loads. They just want people who don't disclose their status to face serious charges.

A lot of people see this as righteous and are taking the bait. Many of us know someone infected by a sex partner who lied about their status, and we want that jerk to pay for it. This sense of vengeance plays into the hands of a conservative legal system that is more than happy to send some diseased fags to jail. For a really long time. Regardless of the actual harm inflicted.

This issue is a real mine field of emotion, justice, science, and payback. Fortunately, an upcoming event

will bring together advocates, legal experts and people living with HIV to discuss criminalization and map out a strategy to address it.

"HIV is Not a Crime" is the first national conference on HIV criminalization. It will be held on June 2-5, 2014, in Grinnell, Iowa. Yes, Iowa. Some of the most effective activism around this issue is happening there, where State legislators are actually re-thinking their own laws and health policies as a result of smart advocacy and education. I urge you to alert your local HIV advocates about this important event.

Regardless of your views on criminalization, we can all agree that anyone who intentionally seeks to harm another person should be held accountable for it. That's why we have laws against hurting other people.

But why are there laws on the books specific to HIV non-disclosure? HIV has its very own laws ordering people to disclose if they have it. The same cannot be said for other infectious viruses such as Human Papillomavirus (HPV) or Hepatitis C, which actually kill more people each year. The reason, in the mind of many advocates, is because those viral conditions are not as closely associated with gay sexuality. Or race. Or the disenfranchised. I hope you're getting the picture.

Criminalization is not limited to whether or not someone discloses, even if those scenarios capture our imagination the most. Laws have other ways to punish those with HIV.

Charges for an unrelated crime can be elevated if the defendant is HIV positive. Prostitution, or spitting at a cop, or punching somebody in the face in a bar, can carry more severe sentences based on the fact the accused is HIV positive.

In other words, defendants are guilty of living with HIV. That should give you real pause.

Surveys conducted by The SERO Project indicate that knowing about the risk of being charged with non-disclosure is an impediment to HIV testing. After witnessing how people with HIV are being treated by the judicial system, getting tested might feel like exposing yourself to potential prosecution.

These prosecutions do not rely upon the context of HIV disclosure, either. "The moral obligation to disclose increases with the degree of risk present," said Sean Strub, founder of The SERO Project and one of the organizers of the Iowa conference, "but the context of the sexual encounter is also a factor. In the context of a committed relationships, the disclosure obligation is much greater than in a sex club, for example."

The key point here is morality. Disclosing your status is a moral issue, not a criminal one. Even in the worst years of AIDS, when the virus reliably killed you, we called our doctors to start treatment when we got infected. We didn't call the cops. Blaming someone for our own risk behaviors seemed ludicrous. It still does.

You wouldn't know it from news reports, which often feature race-driven cases of predatory men lurking around the countryside infecting the populous. Suicide bombers continue to titillate the media.

Look closely at the stories and you will find that "not disclosing" is usually equated with "intentionally infecting." It's as if sex of any kind on the part of someone with HIV is malicious. One side effect of HIV

infection, it would seem, is a pathological bloodlust.

Never forget that these juicy legal stories represent the lives of real people. Sentences amounting to decades are being wielded. The convicted are having to register as sex offenders. In the often confusing landscape of sexual risk and negotiation, the person with HIV is facing grave consequences for decisions often made in the heat of the moment, or simply because they chose to protect their privacy when no risk to their partner existed.

HIV criminalization does nothing to reduce the impact of a new HIV infection. It doubles it.

Mark

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