



**Michael Johnson**, a young gay Black man living with HIV, has been incarcerated since his arrest in October 2013, on charges that he violated Missouri’s antiquated HIV felony law.<sup>1</sup> The Missouri law does not require any proof that Johnson intended to infect anyone, or whether he even thought he might infect someone, only that he knew he was HIV positive and cannot prove that he disclosed that fact when he had sex with another person.

Any sexually active person living with HIV living in Missouri could be in Johnson’s position – in jail, his life completely derailed if not destroyed. At the time of his arrest, Johnson was a student and star wrestler at Lindenwood University in St. Charles, a suburb of St. Louis, Missouri. His education and wrestling career probably are over.

In Missouri – a state where the U.S. Department of Justice (DOJ) found chronic racism in law enforcement’s treatment of African American men – a complicit press has portrayed Johnson as a sexual predator. In this case, a young Black gay man living with HIV is being prosecuted for felonies that come with severe penalties based on consensual sex with others who willingly engaged in unprotected sex. In fact, if social media comments can be believed, Johnson was sought out as a sexual commodity by a number of his partners, who openly boasted of their sexual experiences with him.

Prosecutions such as this one ignore the fact that anyone who had unprotected sex with Michael Johnson put him, as well as themselves, at risk. Treating Johnson’s past sex partners (who now are complainants in his criminal case) as victims puts the government seal of approval on their avoidance of responsibility for personal decisions about their sex lives, as Johnson might have done had he run to the police precinct to report the person he thought may have infected him. Having unprotected sex is poor judgment, not a criminal act.

HIV criminal laws largely are based on myths, not medical science. Their enforcement often is informed by homophobia, racism, and the broad discomfort in our society with the sexuality of those outside the mainstream. Felony charges will continue to be brought against people like Johnson for having sex while HIV positive unless Missouri advocates and community leaders tell those who made and enforce these laws that they are not going to take it anymore.

The prosecution of Michael Johnson:

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<sup>1</sup> Johnson was arrested based on charges under [Missouri Revised Statutes 191.677](#) for acting “in a reckless manner by exposing another person to HIV without the knowledge and consent of that person to be exposed to HIV”.

- Reflects decades-old ignorance about the actual risks, routes and real-life realities of HIV transmission;
- Ignores guidance from the [U.S. Department of Justice](#), and multiple [medical](#) and [public health agencies](#) that have condemned this type of prosecution and HIV-specific criminal laws;
- Tells people of color and LGBT people that it is not safe to get tested for HIV;
- Tells people who have the courage to get tested that having sex could make them a felon;
- Will have no proven, positive impact on anyone's sexual risk-taking or exposure to HIV or to any other incurable sexually transmitted infection, such as HPV or herpes;
- Is at direct odds with the Missouri Health Department's investment in HIV prevention initiatives;
- Reinforces stereotypes and stigma about HIV and people of color;
- Undermines health care providers' relationships with their HIV positive patients and their ability to keep people in care and in a trusting relationship with their providers;

**Johnson's trial is scheduled to begin on May 11, 2015.**

According to police reports:

- Johnson tested positive for HIV on January 7, 2013
- The initial alleged incident that precipitated his arrest occurred on January 26, 2013.
- The alleged incident was reported to police on May 29, 2013 and assigned to a detective on June 3, 2013.
- Johnson was first interviewed by police on October 7th and arrested on October 10, 2013.

Johnson is currently charged with 1 class A felony, 1 class B felony and 3 class C felonies based on statements by five complaining witnesses, one of whom has tested positive for HIV. A 6<sup>th</sup> person also claims that he had unprotected sex with Johnson and has tested positive for HIV but no charge has yet been filed based on that allegation. Bail was set at \$100,000 cash.

Under Missouri law a class A felony is punishable by a minimum of 10 years in prison and a maximum of 30 years or life in prison. A class B felony is punishable by a minimum of 5 years in prison and maximum of 15 years. And a class C felony is punishable by a maximum of 7 years in prison, or one year in jail, and a fine up to \$5,000.

*Official information about Johnson's case can be obtained from the Missouri criminal court website (<https://www.courts.mo.gov/casenet/cases/searchCases.do>) by entering case number 1311-CR05915-01 into the system.*