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## Medicine Balls: Criminalising Herpes By Dr Phil Hammond

Last week, Northampton traffic officer David Golding pleaded guilty to a charge of Grievous Bodily Harm and was sentenced to 14 months imprisonment because his ex-partner had been diagnosed with genital herpes. Mr Golding previously had genital herpes, but was unaware that he was currently infectious and there was no evidence that transmission was deliberate or malicious. His 'crime' was failing to disclose his previous history of infection to his partner, who claimed she would never have had sex with him had she known – even with a condom. Golding went down for "reckless transmission of an incurable sexually transmitted infection (STI)" and the Crown Prosecution Service (CPS) went back to the dark ages.

The law on deliberate transmission dates back to 1861. When HIV became prevalent, the Home Office consulted experts to draw up a 'shopping list' of STIs to distinguish potentially life threatening infections from those it would be ridiculous to criminalise.

It was never implemented because of allegations of discrimination by the HIV lobby. However CPS guidelines were drawn up: *"7. The courts have recognised that person-to-person transmission of a sexual infection that will have serious, perhaps life-threatening, consequences for the infected person's health can amount to grievous bodily harm under the Offences against the Person Act 1861... Therefore, the transmission of that infection can constitute the offence of inflicting or causing grievous bodily harm, which when intentional can attract a sentence of life imprisonment."*

Genital herpes affects 1 in 10 (around 6 million people in the UK) and is usually so trivial people don't know they have it. Outbreaks can occasionally be very unpleasant, but never life-threatening, tend to get less severe in time and effective treatments are available. It's also impossible to prove who transmitted the virus to who and when.

70% of the population carry at least one of the HSV viruses by the age of 25, often without noticing symptoms. In the vast majority of cases, herpes is transmitted – either facially or genitally – under the radar without either partner being aware.

In no way can infection be considered deliberate or serious. It's a cold sore gone south.

Of those who know they have herpes, some don't tell their partners about a previous infection, partly because of the ridiculous stigma that this court ruling has entrenched. As Nigel Scott from the Herpes Viruses Association put it: *'It is the existence of a stigma that gives this charity its raison d'être. We spend most of our time trying to calm people down and re-educate them. Some people talk of suicide when they are diagnosed and we know of at least two cases where this has occurred. This is why many people find disclosure difficult.'*

If the six million people in the UK with genital herpes set about prosecuting for deliberate transmission, the courts would do nothing else. Herpes can lie dormant for years, so you'd need to track down all previous sexual partners, including those with cold sores who went 'down below'. Criminalising herpes is as ludicrous as sending people to jail for passing on head lice, glandular fever, flu, threadworm, warts and chickenpox.

Mr Golding is extremely unfortunate to be infected with the triad of incompetent legal representation, an ignorant judge comparing HSV to HIV and then misinterpreting the CPS guidelines, and a medical 'expert' who called herpes 'incurable'. In nearly all cases, there's nothing to cure. We all carry all sorts of viruses for life, and most we don't even know about.

The stigma surrounding herpes can be traced to publicity surrounding the discovery of the antiviral drug acyclovir by Wellcome in 1974, and its launch in 1982. Profits need publicity, and Time magazine duly obliged by describing herpes as 'the new sexual leprosy' (1980) and 'the new Scarlet Letter' (1982). In fact, the main complication of herpes is how much a person wants to let the infection get to him or her psychologically. And if you live in Northampton, being sent to prison.

[http://www.cps.gov.uk/legal/h\\_to\\_k/intentional\\_or\\_reckless\\_sexual\\_transmission\\_of\\_infection\\_guidance/](http://www.cps.gov.uk/legal/h_to_k/intentional_or_reckless_sexual_transmission_of_infection_guidance/)

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