

Consent Violations

For all the positive acknowledgements BDSM has received in terms of its ability to improve communication, increase intimacy, and encourage greater tolerance, there are times when the lifestyle is ill served by its community.

There has been an apparent rash of consent violations which has been plaguing various events and organizations. These range from tragically negligent behavior that is very likely criminal, to misunderstandings which might have been best avoided with stronger communication practices and less assumptions made by all involved.

Time to Adult

So much of what I have seen could have been avoided with a little common sense, tenacity, and communication. Often I bear witness to incidents that are more likely the result of a certain Frenzy of anticipation and the rush to do “all the things” than a result of blatant and dangerous disregard.

Stop looking to everyone to protect you from yourself. The helicopter parent you had is not there to save you from the world – and you are not so special that everyone has to look out or protect you. I say this to everyone, top and bottom alike, *You* need to protect yourself and cannot afford to be lazy about it. Do the homework, ask the questions, and make the effort needed to ensure and preserve your safety. Ignorance is not a defense. Just because it’s no fun having to be responsible for yourself does not make it excusable to remain ignorant of what assumes two very important things: that you are Aware and accept Accountability of the Risk inherent in BDSM practices.

I am NOT saying that someone who was in a consent violation invited it, asked for it, or was irresponsible. I’m saying

that EVERYONE needs to educate themselves to be Aware of the Risks and all that entails. Just because you want to have fun does not mean you get to ignore the effort involved in its planning. Top and Bottom alike, there is too much excuse making and not enough accountability sharing. This does NOT include clear and unequivocal consent violations – which is just the community’s way of avoiding the words Assault or Rape.

Sensible vs Legal

BDSM activity, even where clearly consensual, can be and frequently is, prosecuted under state criminal laws dealing with assault, aggravated assault, sexual assault or sexual abuse. Such criminal prosecution can arise in various circumstances. Furthermore, in some jurisdictions, any BDSM activity can become scrutinized. For example, striking or “impact” is illegal regardless if it’s mutually desired and agreed to (even with written consent or a scene contract). As such, YOU the participant (top or bottom, dominant or submissive, etc) are responsible for knowing which activities bear risk in the eyes of the law – again, your ignorance is not a defense.

What is Consent?

This shouldn’t need much explanation, but here goes: Consent is voluntary, positive agreement between all participants to engage in specific activity. PERIOD. If the below hasn’t been followed, then it’s not consensual. As such, there are a few minimums for someone to be able to consent to an activity:

- All parties have been well informed of the discussed activities – you can’t rightly agree to that which you don’t know
- All parties accept responsibility for communication, risk, and outcomes – voluntary positive agreement means

mutual responsibility for consequences

- Has a time frame or limit for when and where activities will take place – is properly planned for and will not be random or ad-hoc (particularly for psycho-emotional S&M)
- All parties have explicit permission to engage in the agreed activities – no one is participating if they aren't on the same page and in agreement
- Agreements made of sound mind (without impairment of alcohol, drugs, medications, etc)*

*If you aren't of sound mind, then you can't consent to BDSM activities. May also include sleep deprivation and other factors which can cause impaired judgment. Please note that a person's state of mental impairment *is not a defense* for having committed assault.

What are Consent Violations?

Pretty much anything not handled in the above are likely therefore Consent Violations, and these really have only three main categories:



consent violations are often criminal

Sexual Assault & Rape – Sexual assault is a crime. Ergo, the term sexual assault refers to sexual contact or behavior that occurs without explicit consent of the victim. This includes but is not limited to:

- Fondling or unwanted sexual touching
- Penetration of the victim's body, also known as rape, or attempted rape
- Forcing or Coercing a victim to perform sexual acts, such as oral sex, or penetrating the perpetrator's body*

**Force doesn't always refer to physical pressure. Perpetrators may use emotional coercion, psychological force, or manipulation to coerce a victim into non-consensual sex. Some perpetrators will use threats to force a victim to comply, such as threatening to hurt the victim or their family or other intimidation tactics.*

Assault – Anything that that is OUTSIDE clear consent is likely considered Assault, and is pursued as a criminal activity. This includes:

- Consent withdrawal: Use of safe-words, safe-signs, or explicit withdrawal is ignored
- Breaking limits: Activities go beyond agreed activities, scope, or parameters
- Coercion, Manipulation, Forced: Being pressured, tricked, or threatened into agreeing to an activity or entering into a power exchange relationship.

Abuse – To an outsider, elements of BDSM can seem abusive. The reality is that Abuse and BDSM practices are vastly different because the activity is actively and mutually desired, versus forced upon through manipulation, coercion, or isolation. The difference is that Abuse...

- Undermines trust and communication
- Denies support, connection, or encouragement
- Minimizes or removes personal agency or empowerment

- Use of fear and/or manipulation such as guilt, shame, etc
- Occurs anytime, anywhere, without motive or reason
- Intended to cause physical, mental or emotional damage

What are not Consent Violations?

Sometimes, even with all the consent derived and preparations made, things go awry. What often separates an honest mistake from a clear consent violation is *mutual respect* and *timely addressing of the problem* at hand. These are often things the community acknowledges as part of the risks in certain activities. If a risk seems too risky for you, then you don't have to do it – that's part of developing your Limits – and something that tops and bottoms alike should be doing.

Think about it this way, if you don't want to get hit in the nose -OR- if you don't want to be banned, outlawed, or prosecuted for hitting someone in the nose, then don't practice martial arts. All BDSM activity has risks, but the key is whether ALL parties involved fully understand and are consenting to both the Activity and the Risks involved. Those risks we try to minimize and mitigate, but they are always there and will arise at some point. This is why the acronym like RACK exists – Risk Aware Consensual Kink. All parties need to acknowledge risks, and determine which risks are acceptable. If it's not a good fit, then don't do the scene.

Since, legal statutes can vary widely, take this as a “common sense” guideline realizing that such circumstances may be highly subjective in the eyes of the law – and the law has the final say. That said, these are things I would consider to be “Honest Mistakes” but are clearly grey areas, depending on how it plays out:



Regret is not a consent violation

▪ **Emotional Dissonance**

- Surprise: experience was more intense than anticipated and was ended sooner than planned
- Disappointment: experience didn't live up to expectations or ended sooner than desired
- Acute Stress Reactions: confusion, detachment, temporary fugue states
- Abreaction: experience creates an adverse reaction and is handled readily and appropriately to minimize trauma or harm (includes panic attacks, PTSD triggers, and others)

▪ **Physical Complications**

- Allergic reactions, Surface infections
- Bruising, weals, cuts, rash, abrasions, irritations, burns
- Drops blood pressure, blood sugar levels, dehydration
- Muscle spasms, nerve impingements, hyper-extensions, dislocation
- Medicinal and prescription related complications

In the above examples, one can say that these are potentially bad scenes. Face it, mistakes happen and WILL happen – it's

just a matter of time. The question is whether you handle it appropriately, responsibly, timely, and compassionately. Case Example: if the experience is more intense than was expected, but all activity was handled within the agreed boundaries and definitions, then this is more about being unprepared than a consent violation. However, if a safeword is used to stop a scene because of the surprising intensity, and that safeword is ignored, then it IS a consent violation (use of the safeword is withdrawing consent and MUST be honored).

This is why having thorough preparation is REQUIRED. Can you look at the above list and say you have Actively Minimized these risks and accounted for them? If not, then you are increasing your risks – simple.

Protecting Yourself

How to minimize the risk of a bad scene is really mostly a matter of common sense. However, it seems to me common sense has left the building and taken a back seat to a self-indulgent 6yr old. Basics are therefore things like knowing your partner, establishing trust, informing yourself, shared responsibility, and ensuring you have back-up plans. Here's a quick checklist for tops and bottoms alike to be used as a bare minimum:

- Full knowledge and explanation of the proposed activity; all questions answered?
- Provided references for expertise in said activity?
- Provided references as a “responsible partner”?
- Activity is permitted in venue according to guidelines or express permission?
- Agreed upon safeword, safe-sign, or other stop signal?
- Agreed time frame and duration, including check-in periods?
- Factors such as health, medications, allergies, etc. have been discussed?

- Mutual aftercare needs have been agreed to and accounted for?
- Emergency contacts are known and accessible if required?
- Safe-call contact is on standby (particularly for private meetings)?
- All parties have explicit permission to engage in the agreed activities?

If you can't reasonably check this off, well... it's your ass on the line.

Closing

That's it. For 99% of the issues around consent it really comes down to its either (A) it is consensual, or (B) it's a form of assault or abuse.

Being blatantly stupid doesn't equal a consent violation – though it could mean negligence or reckless endangerment. Ergo, matters of gross ineptitude by all involved are not necessarily consent violations UNLESS someone lied/misrepresented the activities, risks, or skills in order to get consent (i.e manipulation/coercion is Assault).

Additional Resources

NCSF

–
<https://ncsfreedom.org/key-programs/consent-counts/consent-counts.html>

NELA

–
<https://nelaonline.org/general-programs/domestic-violence-outrageach>

– Sir Vice

