

## Is this Assault?

### 1. It is assault if...

- Your safeword, safe sign, or your withdrawal of consent is ignored.
- Your partner goes beyond the limits of what you agreed to do before you started your BDSM play or before starting a power exchange relationship.
- Your partner pressured, tricked or threatened you into doing BDSM or agreeing to a power exchange relationship, or forced you into activities or a relationship you don't really want.

### 2. Can I say no to something if I consented to a power exchange contract?

Power exchange contracts are not legal contracts. A power exchange contract is like a commitment vow, it's an agreement that lasts as long as everyone involved is okay with it. You always have the right to leave a relationship. If you are doing BDSM or engaged in a power exchange relationship and want to stop, you have the legal right to insist that your partner(s) stop. A pattern of consent violations, including emotional abuse, stealing, and threatening behavior, may be considered domestic violence and also can be reported to the police.

### 3. Is it rape or criminal assault if I've done BDSM before with the person who violated my consent?

Yes, ethically and legally it is wrong. Even if you have done certain things with someone before, you have the right not to do those activities again. If you have done BDSM with someone before, you may both agree that tacit or ongoing consent to those particular activities exists until you withdraw consent. But legally you can always withdraw your consent, and if you withdraw consent to any activities or to a power exchange relationship then your partner has to stop.

If you go to the police in this situation, whether there will be an arrest or criminal charges will not be entirely up to you. Police and prosecutors will make those decisions based on the specifics of the laws where you live, but also based on their judgment about how a jury would react to the facts and whether or not they think they can win the case. They may decide that they cannot prosecute if you have a history of playing with the person who violated you, but that is not the same thing as deciding that it didn't happen, or that it was okay.

### 4. My limits were violated, but everything else we've done was consensual – is it still criminal assault?

It may be assault if any activity is done that goes beyond what you consented to or your previously stated limits. Someone also might violate your consent through poor communication, misunderstanding, technical accidents, lack of knowledge, or lack of expertise. Errors, miscommunications and misunderstandings can occur if you don't fully discuss the desires and limits of those involved, taking into account familiarity with each other and the activities planned.

### 5. Am I partially to blame if I said “yes” up until I said “no”?

Absolutely not. If a partner deliberately goes beyond what you agreed to, violates your limits, or continues an activity after you withdraw consent, then it is assault. Many people who have experienced rape, assault or abuse blame themselves, and that's a normal way to feel, but the person responsible for the harm that you suffered is the person who harmed you. It is the bottom's ethical responsibility to be clear about limits and to communicate that consent is withdrawn, and it's the top's legal obligation, even if the bottom's communication was not clear, to respect withdrawal of consent.

### 6. If I don't resist physically, does that mean it isn't rape or sexual assault?

Physical resistance is not always possible or safe. Victims often shut down in response to assault, emotionally and physically. It is still assault if you withdraw consent or safeword, but don't physically resist.

**7. What if I don't say no during the BDSM activities, even though my previously negotiated limits were violated?**

If you negotiated limits prior to the scene, and a partner ignored those limits, then your consent was violated. Sometimes people are in subspace or are otherwise in some mental state that interferes with the ability to withdraw consent or safeword. If this happens to you and you feel violated, your feelings of violation are valid. However if you involve the criminal justice system, it may be more difficult to prove there was criminal assault unless you have evidence (email or text messages of the limits) and/or witnesses to the activities and your prior negotiation.

**8. What if the activity was negotiated or wasn't explicitly forbidden, but I didn't say no for some reason?**

If the activity falls within what you agreed to, and you didn't withdraw consent, then the top may not have known that you wanted it to stop. Misunderstandings and miscommunications can cause bad feelings, and they can also create a situation where it is, in the eyes of the law, unclear that consent was given or that consent was withdrawn. If serious injury occurs in such a situation, criminal prosecution may result.

**9. I was drunk and/or my partner was drunk, does that mean it wasn't rape or criminal assault?**

A person's state of mental impairment is not a defense for committing assault. If you aren't of sound mind, then you can't consent to BDSM activities.