



Liability Issues for Groups and Events

Because of the lessening of stigma as well as the number of new people who are attending groups and events, NCSF has seen a dramatic rise in kinky people reporting assault and sexual assault to the police as well as suing for medical expenses and libel in civil court. NCSF encourages you to take action to protect your leadership and members by establishing a consent policy and dealing actively with consent incidents.

Here are some of the ways NCSF has seen a criminal investigation or civil lawsuit impact groups:

CRIMINAL COMPLAINTS

1. Witnesses are subpoenaed in criminal trials. That means anyone who saw what happened during the consent incident can be called into court and is therefore outed because they don't have anonymity.
2. The Board of Directors, Dungeon Monitors and any other staff member may be interviewed by a detective as part of the investigation. You can also be called into court as a witness to the activity, or to testify as to your group's consent policy and rules, or to discuss how you dealt with the incident when it was reported to you.
3. You could lose your venue for a variety of reasons including liability and insurance issues due to criminal complaints made about activities that take place on their premises.

CIVIL LAWSUITS

1. As an organizer of an event, if you are aware that someone has committed a consent violation that resulted in physical injury, then your group can be sued by someone who is injured by them or if their property is damaged.
2. General Liability (CGL) policies and D&O insurance may not cover a civil lawsuit if the Board was made aware that the member had committed a consent violation that resulted in injury, yet they are allowed that person to remain a member.
3. The Volunteer Protection Act does not protect a volunteer from liability for harm "caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer." The act does not prohibit lawsuits against volunteers nor does it provide any protection for nonprofits.
3. If your group is aware that one of your Board Members, Dungeon Monitors or staff members has violated someone's consent, and they are allowed to remain in a position of authority, then the group and the Board may be held civilly liable if that person injures someone whom they meet through the group.

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