



Drawing the Line

The following are some things about the consent incident that you can consider when determining if someone should be disciplined or banned:

1. Seriousness

If the consent incident harmed someone, especially if first aid or medical care was provided, then that is a higher risk to your members if it happens again. There's also potential civil liability for a group that allows someone to attend who has hurt someone before and could do so again. Unwanted sexual touch is also potentially criminal behavior, which makes it more serious.

2. Intent

Does the person who was violated report that it was caused by an accident? A misunderstanding? A miscommunication? A lack of skills or knowledge? Those things are not as serious as a deliberate violation or when coercion or manipulation is involved. However, if someone repeatedly hurts people because of a lack of skills or misunderstandings, then other members are at a higher risk of it happening again.

3. Multiple Accusations

Breakup (s)he-said/(s)he-said incidents unfortunately happen. But when multiple people accuse the same person of violating their consent, a similar pattern can often be seen in the activities or circumstances. Multiple false accusations are extremely rare: of the 4,500 people who responded to the Consent Violations Survey, only 27 people said they had been falsely accused two or more times. Only 7 people reported they had been falsely accused and reported to the police. Compare that to the 1,307 people who reported having experienced a consent incident.

4. Police reports and Restraining Orders

Less than 3% of the kinky victims in our survey reported to the police, and that's because it's a very difficult thing to do, especially if you don't have the help of a victim advocate. Even though a police report is filed, that doesn't mean a real investigation will be done, especially if the violation happened in a kinky scene or relationship. Prosecutors have admitted to NCSF that they are reluctant to prosecute a kink-related assault or sexual assault. To do so, they usually require at least two of the following: 1) an immediate police report rather than delayed reported, 2) medical evidence that is gathered within 48 hours, 3) witnesses, and 4) any emails about negotiations or discussions about what happened between the participants. Even if there isn't prosecution or conviction, that doesn't prove innocence. On the other hand, a Restraining Order has to be defended before a judge, so there has to be evidence it was necessary. If it's good enough for a judge to decide that someone is a danger to another person, clubs and events should react accordingly.

5. Confession

People sometimes step forward and accept responsibility for violating someone's consent. That helps set an example for what is acceptable, and helps them make reparations to their victim. Beware of apologies laced with excuses, justifications or lack of acknowledgement of error.