



Is this Assault?

1. It can be considered assault or sexual assault if...

- Your withdrawal of consent or safeword/safe sign is ignored and intimate activity continues.
- Your partner goes beyond the limits of what you agreed to do before you started.
- Your partner pressured, tricked, threatened or forced you into activities or a relationship you don't really want.

2. My limits were violated, but everything else we've done was consensual – is it still 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.

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

Even if you have done certain things with someone before, you have the legal 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 will not prosecute, but that is not the same thing as deciding that the violation didn't happen, or that it was okay.

4. 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.

5. 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. If you can't drive, you can't consent. If you're taking prescription medication which prohibits driving, then you can't consent.

6. 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. When you are doing BDSM, 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 is not clear, to stop what is happening until consent is reaffirmed.

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 BDSM activity wasn't negotiated or wasn't explicitly forbidden, and when it happened, I didn't say no for some reason?

BDSM activities must be agreed upon in advance because we are doing intense physical or emotional things that inherently carry a higher risk. Predators often try to take advantage of loopholes by doing things they haven't brought up or discussed while in the midst of a scene. This is one reason to make it clear you don't ever re-negotiate to add things in the midst of a scene. You may not be of sound mind to be able to consent, or you could be in such a submissive headspace that it's difficult or impossible to protest. If someone chokes you, for example, and you haven't discussed it other than to say you like rough sex, then that is assault.

9. 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.