

How to Ask for What You Want

by



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- Chairperson
- Lobbyist
- Educational Outreach
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Accommodations: You are Important

Slides
are
available

Is there any accommodation
we can provide that would be
helpful?

Please ask!



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About NCSF

- NCSF is a coalition of kink and consensual non-monogamy groups and businesses: over 140 groups, businesses and professional practices.
- NCSF is an advocacy group that challenges discrimination in government and private sector services
- NCSF provides education about the Alt-sex communities for agencies and professionals
- NCSF was established in 1997 – 28 years of advocacy



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What questions do you have?

Everyone came for a reason. You can write down your questions and Archer will pick them up so you can be anonymous if you prefer.

We will see to it they all get answered.

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State of Consent

Over 20 states have no definition of consent in their sexual assault law, and there is no uniform legal definition of consent according to RAINN.

While the #MeToo movement raised awareness about power inequities, we still have a long way to go.

RAINN (Rape, Abuse & Incest National Network).
https://apps.rainn.org/policy/?_ga=2.96786009.7795869.1618244881-153654016.1618244881

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*Informed consent
requires a
discussion.*

Consent Culture

- ◊ No Means No
- ◊ Yes Means Yes – Affirmative consent
- ◊ Safe, Sane and Consensual (SSC)
- ◊ Risk Aware Consensual Kink (RACK)
- ◊ Explicit Prior Permission (EPP)

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Consent Best Practices

*“What do you think you
need to talk about before
touching someone else?”*

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WHO WILL BE INVOLVED?

Are you able to consent to who will be involved in your activities prior to beginning?



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What do you want to do?

Do you fully understand both the desires and the boundaries of the other participants?

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Where is it okay to touch or not touch?



Are you aware that consent to one thing doesn't mean you have to consent to anything else, and that current consent does not imply future consent?

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When is there a health issue to discuss?



Do you feel you have enough information to understand and to agree to any potential risks involved, and inform each other about any change(s)?


This includes: Are you aware of your choices about STI prevention and pregnancy planning and/or prevention? Are these choices being respected by all of your partners?

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Why do you want to do this?

Are you basing your consent on your autonomous desires rather than what you are being asked to do, or rather than what you've seen someone do with other people?

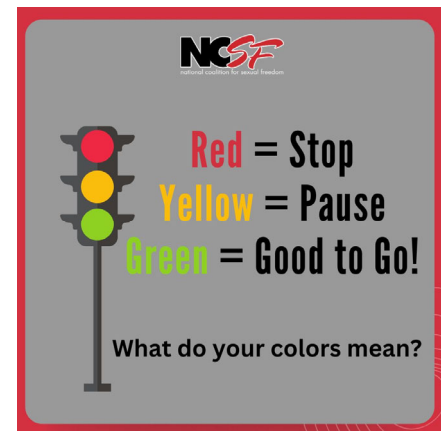
**YOU DON'T
HAVE TO DO
SOMETHING TO
STAY IN A
RELATIONSHIP.**



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How can you stop what's happening?

Are you free to withdraw prior consent at any time during the activity?



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Ability to Consent

What are some things you need to consider when it comes to someone's ability to consent?

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Each person should understand everyone's limitations or barriers to their ability to consent to the planned activities, such as age, diminished mental capacity, or use of drugs or alcohol.

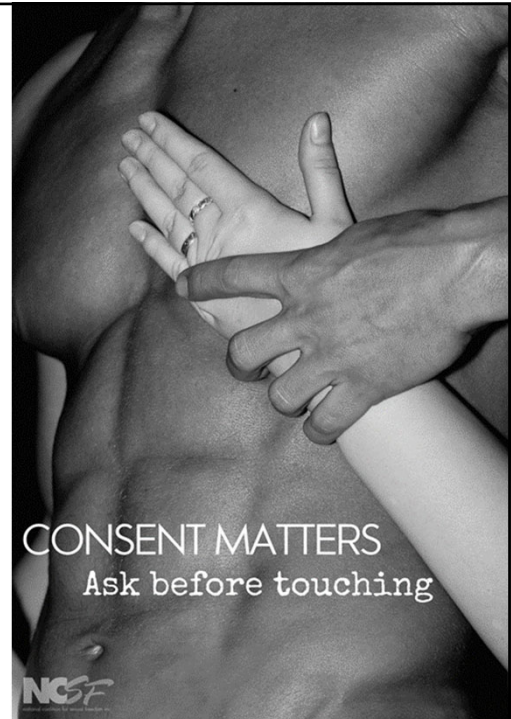
SOBER CONSENT COUNTS.
IMPAIRED PEOPLE CANNOT CONSENT.
NOTIFY STAFF IF YOU FEEL SOMEONE IS IMPAIRED.

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Check your privilege! Be aware that some people are historically disenfranchised – because of their race, nationality, sexuality, gender identity, age, mental health, health, economic status, experience or social status, among others.

For example, a group organizer has more privilege than a person who is brand new.



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Are you aware of cultural differences and are you making sure that the language you're using has the same meaning with everyone involved?

Often words have different meanings, and people with different cultural backgrounds need to be respected.



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A woman with bright blue hair and bangs is looking directly at the camera. She is holding a silver alarm clock in front of her face with both hands. The clock's hands are visible, and the time is approximately 10:10. In the top left corner of the image, there is a logo for NCSF (National Coalition for Sexual Freedom) with the tagline 'national coalition for sexual freedom'.

It's always a good time to ask for CONSENT.

Some people have been violated before, so they have a trauma response. They can have a strong reaction to something you might think is minor because of flashbacks to past experiences. People can freeze, fight or fawn in stressful situations, but that is not consent.

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Consent to Kink

What do you think you need to talk about before using erotic force or restraint?

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Explicit Prior Permission for Consent to Kink




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EPP
**Explicit Prior
Permission
for consent to
BDSM!**


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“Consent is not a defense to assault.”

Not a single appellate court decision anywhere in this country that has accepted consent as a defense in an assault or abuse prosecution arising from BDSM conduct.



**consent
counts**



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NCSF's database of consent cases involving BDSM

Case Index	Law Review Articles
<ul style="list-style-type: none"> • California v Samuels 4/28/1967 • Massachusetts v Appleby 4/1/1980 • Iowa v Collier 5/25/1985 • Helton v Indiana 12/1/1993 • New York v Jovanovic 12/21/1999 • Lawrence v Texas 6/26/2003 • Nebraska v Van 11/12/2004 • California v Febrissy 7/1/2006 • Govan v Indiana 9/9/2009 • Rhode Island v Gasper 10/30/2009 • Commonwealth v John Carey 7/23/2007 • United States, Appellee v Miles 3/24/2014 • State of Oregon v. Sunny Sky Stone 3/22/2023 	<ul style="list-style-type: none"> • Sex Is Not A Sport: Consent And Violence In Criminal Law 2001-2002 • Beyond The Pleasure Principle: The Criminalization Of Consensual Sadomasochistic Sex 2001-2002 • Morality-Based Legislation Is Alive And Well: Why The Law Permits Consent To Body Modification But Not Sadomasochistic Sex 2006-2007 • The Right to Be Hurt: Testing the Boundaries of Consent February 2007 • Pain, Pleasure, And Consenting Women: Exploring Feminist Responses To S/M and Its Legal Regulation in Canada Through Jelinek's The Piano Teacher 2007 • Consent to Harm 2007-2008 • Autonomy, Dignity, and Consent to Harm 1/29/2008 • The Moral Limits Of Consent As A Defense In The Criminal Law 2009

<https://ncsfreedom.org/consent-legal-cases-3/>

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5 steps to get Explicit Prior Permission for Consent to Kink:



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EVERYONE NEEDS AN EXIT STRATEGY!



**Even during consensual nonconsent (CNC).
You can STOP what's happening
by using your safeword or safe signal!**

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Liability

*What are some things
you should avoid?*

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PERSONAL INJURY PAYOUTS

- These incidents don't go to court because the people involved don't want to have to **pay \$5,000-10,000** for an attorney to fight the case and perhaps draw media attention to the case or their club.
- The injured person doesn't even have to sue you because most people who report to NCSF **pay up immediately** rather have their personal lives or brand damaged. It can draw the attention of law enforcement to clubs, and people risk being outed to their employers and the whole thing published on the internet forever.
- This usually **involves injuries** – often from punching or choking – or accusations of **sexual assault**. How it happens is that individuals and groups/events received a demand letter if they or one of their presenters, organizers, volunteers or attendees is involved. The risk of attendees causing injury is why groups need rules to prohibit against risky behavior, such as choking and consent violations to show their own rules were violated.

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Organizers and owners are putting their own lives in other people's hands if they allow risky behaviors. In the past few years, we've seen:

Lifestyle House party: choking injury, **payout \$40,000** – the host choked his partner and she had a stroke. The owners and the host both paid. The home owners had to take out an equity line on their house.

Lifestyle Club: a volunteer teaching massage was accused of sexual assault, **payout \$10,000**. There wasn't even a witness, just the accusation. The club didn't want to ruin their brand or raise their club to the attention of law enforcement.

BDSM group: accusations of force oral sex during aftercare, against someone banned by another group. Payout solely by the group and directors **was \$24,000** – because there were FetLife Writings that he'd done this before, he was banned by other groups, yet he wasn't banned by this group.

Kink Event: injury from consensual branding on two people, **\$75,000** and counting due to medical bills, missed work, pain and suffering, mental health issues.

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High Risk and Ultrahazardous Activities

- No branding
- No breaking bones
- No injuring kidneys
- No nerve damage
- No erotic choking or suffocation



Explicit Prior Permission doesn't allow serious injury including:

- No serious, permanent disfigurement
- No loss of function of a limb or organ
- No risk of causing death



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CHOKING

Mainstream News Articles – 2000-2024 – 58 deaths due to choking & suffocation during alleged rough sex/kinky sex:
 50 people were convicted of murder/manslaughter (17 since 2017)

- 5 committed suicide
- 1 were acquitted
- 2 weren't charged
- 14 of the victims were kinky
- 16 of the perps were kinky

NCSF IRR Data - 2014-2024 – out of 688 criminal reports (excluding sex worker issues):

- 49 involved choking, suffocation & breathplay (45 since 2017)
- 8 deaths
- 6 people were choked to unconsciousness
- 26 reported to the police – more than half
- 40 of the victims were kinky
- 47 of the perps were kinky

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Choking Liability Risks

If a 3rd party played a substantial factor in the death – such as allowing choking/strangulation and breath play at an event, or teaching attendees how to do choking/strangulation breathplay even though it is well-known that it can cause death, then you can be held liable in a wrongful death lawsuit.

Federal Law: Title 18 USC § 113; Assault within Maritime and Territorial Jurisdiction (2013) states choking/strangling and suffocation are illegal.

Recent Research has found there are serious health risks associated with choking:

- Up to 40% of fatal strangulations have no signs of injury (de Boos, 2019).
- Memory issues: Those who have been choked show a need for more neural resources to do memory tests (Huibregtse, 2022).
- Structural Brain Damage: There is no 3-4 second “rule.” Once blood flow is stopped and then re-established, the brain tissue suffers from damaging proteins and lipids, and pro-inflammatory mediators are produced, triggering cell death (Busl and Greer, 2010).
- Mental Health: Women who had been choked more than five times in the past month were more likely to feel sad, lonely, anxious, and depressed compared to women who haven’t been choked (Herbenick et al., 2021).

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The latest Appellate Case involving choking: Oregon v. Sunny Sky Stone

- Defendant admitted to choking her in March 2020 with an electrical cord and claimed that she had consented to his conduct for sexual reasons.
- The court instructed the jury that consent is not “a portion or element of” the crimes of strangulation or second-degree assault.
- The Defendant claimed that he asked her if he had a “green light,” and claimed she said yes, indicating her consent. Defendant testified that he was “gentle” in tightening the cord and was “looking for taps, looking for struggle.” He perceived her to be enjoying being choked.
- The survivor contended that she lost consciousness and fell to the floor hurting her knees. Defendant told the police that she did not, and he testified at trial that he “wasn’t looking for a loss of consciousness, just a gray, because it is dangerous.” He also denied that he injured her knees in the incident, asserting that her knees were red from something else.
- Defendant acknowledged on cross-examination that strangling someone is dangerous and could cause death and stated that “that’s why you include them.”

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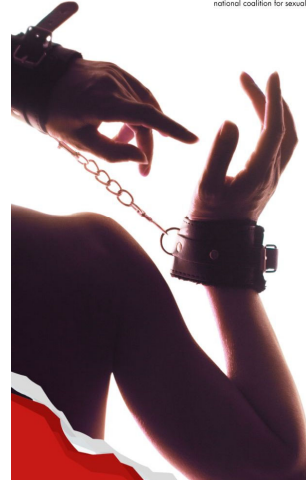
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HARM REDUCTION



The following is legal in every State and under **Explicit Prior Permission**, and reduces the risk of harm that can be caused by choking:

- Breath play where you tell someone to hold their breath or obstruct their own nose or mouth
- “Neck holding” where a hand is placed on someone’s neck without any pressure from pressing or squeezing (typical in pornography depictions of choking and in power exchange roleplay)
- Pressing on the collar bone to simulate the pressure of choking without blocking the blood vessels or airway.
- Gags, hoods, and collars that are not intended to impede the normal breathing or circulation of the blood



Even with **CONSENT**, you shouldn't seriously injure someone in a sexual or erotic context.

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Dealing with Consent Incidents

How do you think parties and clubs should deal with consent incidents?

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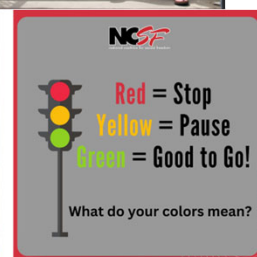
Consent Culture

Groups are responsible for creating a culture that values consent:

- Regularly provide education about consent to help prevent incidents at your events
- Establish a consent policy for events and parties, and make it publicly available
- Have clearly marked delegates available to help if there is a consent incident

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NCSF Consent Signs



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Consent Policy

No touching people or personal property without permission.

Anyone can withdraw consent at anytime during the activity.

Each person must make sure everyone involved has the mental and emotional ability to give informed consent to the activities.

Consent is given verbally, not by body language.

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Consent Policy for Kink

Treat everyone as an equal and only engage in verbal roleplay if you have permission.

- For example, don't call someone "slut" or "mistress" unless you have permission

Negotiate as equals before either person assumes the role.

Verbal consent must be given, including whether there is contact with breasts or genitals.

Don't renegotiate in the middle of a scene to add activities because thinking may be impaired.

CONSENT COUNTS

Consent Matters embraces the freedom of expression achieved when informed consent is present. **NCSF**

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Talking About What you Want to Do is Foreplay!



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There are many ways to support NCSF!

- **Join:** Become a Coalition Partner, Supporting Member or Individual Member. By becoming a member, you support our lobbying efforts, Incident Reporting & Response, Kink Aware Professionals Directory and Professional Outreach.
- **Give:** Make a tax-deductible donation to the Foundation of the NCSF. Or ask your group to do a fundraiser and donate to NCSF.
- **Volunteer:** Volunteer and be part of the solution! Give your energy to NCSF efforts that impact your lives, those of your friends and loved ones, and the community at large.
- **Spread the Word:** Order free NCSF brochures and materials, and take them to your groups and events.
- **Wear with Pride:** Shop for NCSF merchandise at Amazon, and wear your support of NCSF with pride.
- **Support KAP:** If you are a lawyer, doctor, therapist or other professional who can offer "Sex-Positive Support for Kink and Non-monogamy," please add your listing to the Kink Aware Professionals Directory. NCSF manages the largest known free directory of kink and polyamory Aware professionals.



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TO REACH TESS

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Additional Resources:
Slide Deck and Links

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