

Sexual Interference and Invitation to Sexual Touching

The same as sexual exploitation except the person committing the crime is not in a position of trust or authority.

A Person in a Position of Trust and Authority:

- Has a responsibility to protect a child's safety;
- Is responsible for the child's well being;
- Helps the child develop spiritually, emotionally, physically, etc;
- Includes a family member, neighbour, coach, teacher, religious leader, family friend, group leader.

The Children & Family Services Act

- A child, under 16 years of age, is in need of protection if they have been or are at risk of being sexually abused by a parent or guardian, or if the parent or guardian knows or should know of the possibility of sexual abuse by another person, and fails to protect the child.
- A person who suspects that someone under 16 years of age is or was being abused, whether proven or suspected, is legally obligated to report that information to a child welfare agency. Punishment for professionals or officials can be fines up to \$5000 and/or imprisonment. Other people can face fines up to \$2000 and/or imprisonment.
- No action can be taken against a person for reporting abuse, unless the report is done falsely and maliciously.



About Avalon Sexual Assault Centre Who We Are

Avalon Centre is the only sexual assault centre in the Halifax Regional Municipality. We are a registered, not-for-profit, community based, charitable organization. The agency was established in 1983 and incorporated in 1984. We are a women-centred organization and provide a leadership role in ending all forms of sexual violence against women and children. We are committed to providing support programs, counseling, education, and advocacy for women affected by sexual violence. Our vision is to eliminate sexual violence, social injustice and other forms of oppression.

We gratefully acknowledge the core funding support provided by the Province of Nova Scotia, Department of Community Services; Capital Health; and the Law Foundation of Nova Scotia.

All donations from the public are gratefully accepted. Tax receipts will be issued upon request. We are an Associated Member of the Metro United Way's Donor Option program.

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Sexual Assault: Consent and Age of Consent

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Consent and Age of Consent

What is Consent?

The Criminal Code of Canada defines consent as a voluntary agreement between two people to engage in a specific sexual activity at a specific time.


- Consent that is obtained through pressure, fear, force or threats of force (either to yourself or to someone else), is not voluntary consent.
- No means no.
- Saying yes to one sexual activity does not mean yes to every sexual activity.
- If a person is a child, is drunk, has passed out, is asleep, has been drugged, or is dependent on the abuser, they are unable to give consent.
- The person must give an overt indication of consent (for example saying yes).
- Silence, passivity or ambiguous conduct do not imply consent.

Also, remember that:

- Consent is based on choice.
- Agreeing to having sex because of guilt, pressure, sense of obligation or just to fit in with the group is not true consent.
- Consent is possible only when there is equality between both people.

Using Consent as a Defense to a Sexual Assault Charge

Consent cannot be used as a defense if:

- Someone else (a third party) says “yes” for the person.
- The person is not capable of giving consent because they are a child, are drunk, are passed out, are asleep, have drugged, are dependent on the abuser, etc. 
- The accused abuses a position of trust, power or authority, such as a teacher, an older sibling, a parent, a babysitter, a relative, a coach.
- The victim says “no”.
- The victim says “yes” and then withdraws or takes back consent. **At any time a person may change her/his mind. At the point a person withdraws consent, continuing the sexual activity becomes a criminal act.**
- The accused was drunk or high.
- The accused did not determine if the victim consented or said yes.
- There is no such thing as implied consent.

Consent means saying “yes” because you want to!! No always means no. If someone tells you to stop a sexual activity, and you continue with it, you are committing a crime.


SEXUAL ASSAULT IS A CRIME.



Age of Consent Under the Criminal Code of Canada

Age of Consent

The age of consent to engage in sexual activity of any kind is 14. A child under age 12 can **never** give legal consent to sexual activity. A person between the ages of 12 and 14 can only give consent if:

- The other person is 12 or older, but under the age of 16, and is less than two years older than the person giving consent: a 12 year old can consent to sexual activity with someone who is age 14, but not age 15. 
- The other person is not in a position of trust, or authority, such as a teacher, a minister, a doctor, a babysitter, a relative.
- To engage in anal sex, both people must be 18 years of age or older, or married to one another.

There is no consent if:

- One person is between 14 and 17 and the other is in a position of trust and authority.
- One person is older than 16 and the other person uses authority, threats, lies or force to get consent.

If both persons are under the age of 14, but are 12 or over, charges cannot be laid unless the older person is in a position of trust or authority.

Sexual Exploitation

Charges can be laid if someone who is in a position of trust or authority over a person under the age of 18, has or attempts to have sex with that person; touches that person in a sexual manner; invites that person to touch to them in a sexual manner.