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Legal Rights: Rape

1. What is rape?
2. Someone told me that if a person I am dating forces me to have sex, it's not rape because I know the person. Is this true?
3. What if someone forces me to have sex when I am under the influence of drugs or alcohol – does this mean it can't be rape?
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1. What is rape?

Rape is a crime. It involves having sex with someone against their will or without their consent.

Under Massachusetts law, penetration must occur for it to be considered rape. Penetration includes oral, vaginal, or anal penetration by either a body part, such as a finger or a penis, or an object.

In addition to rape, there are other sex crimes that do not involve penetration. You can call a rape crisis center (see question 5 below), if you want more information about other sex crimes.

2. Someone told me that if a person I am dating forces me to have sex, it's not rape because I know the person. Is this true?

No – this is not true. Rape is rape regardless of whether you know the person or not.

3. What if someone forces me to have sex when I am under the influence of drugs or alcohol – does this mean it can't be rape?

No. If someone forces you to have sex when you are under the influence of drugs or alcohol it is still considered rape – the bottom line is that you did not consent to engage in sex.

If you are unconscious or very intoxicated, and sexual activity occurs, this can also be rape.

4. What should I do if I have been raped?

If you have been raped, it is important to seek immediate medical care. Many hospitals have rape crisis teams who are specially trained to provide medical care to rape victims.

A health care provider can check for and take care of any injuries you may have suffered. The provider can also test for and take steps to protect you from the rise of Sexually Transmitted Diseases (STDs), such as by prescribing an antibiotic. This should be done right away.

A special medical exam can also be done to collect evidence in case you decide to bring criminal charges.

It is generally advised that a rape victim not eat or drink anything or shower or bathe, douche, or change or wash his or her clothes before seeking medical care. These precautions serve to preserve evidence (such as semen) in case criminal charges are filed.

You may also want to report the rape to the police (see questions 10-11 below). There are also other legal options, such as obtaining a protective order, that you may want to consider as well (see question 6 below; see also the manual section on dating violence).

5. Is there anyone who can help me figure out what to do?

Yes. To help you sort out what to do, and for emotional support, an excellent first step is to call the 24-hour crisis intervention and information hotline at your local rape crisis center. These hotlines are staffed by specially trained counselors.

To be connected with the rape crisis center nearest you, call RAINN (Rape, Abuse and Incest National Network) at 1.800.656.4673 at any time.

The hotline counselor can review with you what is involved in seeking medical care, including making sure you understand why it is so important to seek care right away. She may be able to refer you to a health care provider if you do not have or do not want to see your own doctor.

The counselor can also discuss with you what is involved in reporting the rape to the police, and can help you decide if you want to make a report.

Most rape crisis centers also have someone who can go with rape victims when they seek medical care or speak with the police. It can be very reassuring to have a knowledgeable and supportive person with you, and you should feel free to ask if someone is available to accompany you.

6. Can the counselor give me information about my legal rights and options?

The counselor should be able to give you some basic information about your legal rights and options.

Most rape crisis centers also have a legal advocate on staff or can give you a referral to a

lawyer. If you have specific legal questions or you want to review your legal options in greater detail, such as, whether, for example, you should seek a protective order, you will probably need to speak with the legal advocate or attorney in addition to the hotline counselor.

7. If I call a rape crisis center, will what I tell them be kept confidential?

The basic rule is that communications with a rape crisis counselor are confidential. There are, however, some exceptions to confidentiality, such as when the counselor believes that you are in immediate danger of committing suicide, or that the rape was committed by a family member.

Additionally, if your attacker is charged with a crime, and the case goes to court, there are other possible exceptions to confidentiality. Importantly, under some circumstances, rape counseling records - including information from your conversations with counselors – may not be kept confidential.

You should ask the counselor about the confidentiality before you talk with her. This way you will know what to expect and can make your decisions accordingly.

If a counselor goes with you to the medical exam, she can help you talk to the health care provider about these issues.

Additionally, you should be aware that if you use your parents' health insurance, the insurance company is likely to notify them about the medical care you received. You should talk to the health care provider about this.

8. Will the health care provider contact the police?

The police should not be contacted if you do not want them to be involved, although providers may have different policies about this.

You should make your wishes clear to the health care provider. If a counselor is accompanying you, she can help you make your wishes known to the health care provider.

9. Do I have to tell the police about the rape?

No. You are not required to report the rape to the police. However, there are good reasons to report a rape to the police as soon as possible. Some of these – as noted in the Department of Health publication – include the following:

- * Evidence can be collected before it is destroyed
- * You can provide information while it is still clear in your mind
- * Reporting promptly may make your story more believable to a jury

- * Police will be in a better position to locate and obtain information from potential witnesses
- * Prompt reporting will help the police find and apprehend the rapist.

It can be very helpful to discuss this decision with a rape crisis counselor, as they are familiar with the reporting process. If you decide to report the rape, a counselor may be able to accompany you to the police station to make the report.

10. What is a "statutory rape"? Is it the same as rape?

No. The statutory rape law basically makes it a crime for anyone under the age of 16 to have sex, even if they consent to it. However, the criminal justice system is usually only concerned with cases where there is a significant age gap between the parties, such as where a 15-year-old girl has sex with a 24-year-old man.

Nevertheless, you should be aware that some, although certainly not most, professionals may think they are supposed to report any instance of underage sexual activity to an agency, such as the Department of Social Services.

If you are planning to discuss your sexual activity with an adult, such as a school counselor, it's always a good idea to first ask what his/her policy is regarding keeping confidentiality.