Recognize Sexual Assault

This fact sheet defines sexual harassment and sexual assault, as well as, the difference between “consent” and “lack of consent.”

Can you recognize sexual assault?

You must be able to first recognize sexual assault before you can prevent and respond to it. Recognizing sexual assault requires knowing the difference between acceptable (legal) and unacceptable (illegal) sexual behavior. While some situations are easy to identify as sexual assault, others may leave you confused and asking, “Where is the line?”

In fiscal year 2013, the Coast Guard received 197 reports of sexual assault. 166 were Unrestricted Reports and 31 were Restricted Reports.

These numbers do not include unreported accounts of sexual assault.

Offenders may experience the following consequences:

- **Under the Uniform Code of Military Justice (UCMJ)**
  - Death
  - Confinement
  - Or other such penalty as directed by a court martial
  - Imprisonment up to life (in cases of forcible sodomy)
  - Non-judicial punishment (including a reduction in grade and forfeiture of pay)

- **Under civil laws**
  - A felony record
  - Incarceration (with a certain number of years per each count)
  - Registration as sex offender (possibly for life)
  - Restitution to the victim
  - Negative media publicity
  - Psychiatric treatment
  - Significant fines

All service members (except VA’s/HS’s) are required to report rumors/reports of sexual assault. Every member has an affirmative duty to intervene in a developing situation... They will be... held accountable for not taking action when doing so would prevent an assault.

(COMDTINST M1754.10D)

A problem in the Coast Guard

The majority of reported sexual assault crimes are committed by non-strangers.

The Coast Guard strives to protect personal rights, health and safety of its’ members.

What are the consequences of sexual assault for the offender?

Sexual assault is a crime and morally reprehensible. All reports of sexual assault are taken seriously.

The Coast Guard is committed to preventing sexual assault and to holding perpetrators accountable for their behavior to the fullest extent of the law.

All members of the Coast Guard have a responsibility to take actions to eliminate sexual assault.
How are victims and offenders defined?

Victims or offenders can be both men and women.

Gaining power and control is often the reason for sexual assault, not love or romance.

What are the consequences of sexual assault for the victims?

Be assured no matter the situation, if sexually assaulted, it is not your fault.

How does sexual assault affect secondary victims?

They often need some assistance in understanding their feelings of fear, anger, grief, denial, urge to overprotect or retaliate, . . .

What is sexual harassment?

Sexual harassment occurs within the workplace (or is related to work) and is unwelcome sexual advances, requests for sexual favors, and/or obscene remarks or gestures of a sexual nature.

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Be aware that, contrary to popular perception, both men and women can commit sexual assault and both can become victims.

In addition, sexual assault can take place between different genders or between people of the same gender. When same-gender assault takes place, neither the victim nor the offender are necessarily gay (homosexual).

Offenders often sexually assault their victims to humiliate and dominate them. Sexual assault typically involves power and control rather than romance, passion, or sexual gratification.

Sexual assault victims can experience:

- Loss of a sense of security and safety
- High levels of caution about forming new relationships
- Difficulty with sexual relations (some shying away from it; others using hyper-sexuality as an attempt to show power and control)
- Increased risk of dependency on alcohol, tobacco, or drugs
- Increased risk of eating, sleeping, and other disorders
- Development of phobias (such as fear of crowds, being alone, or going out).
- Development of Rape Trauma Syndrome (a form of Post-Traumatic Stress Disorder), (PTSD)

Secondary victims of sexual assault are the family, friends, coworkers and acquaintances of victims. The secondary victims may also experience fear, anger, grief, denial, an urge to overprotect or retaliate, a loss of intimacy or trust, and/or victim blaming (which re-victimizes the victim).

Secondary victims often need some assistance in understanding their feelings and how to best help their loved one who is the primary victim.

Sexual Assault Response Coordinators (SARCs), licensed counselors, rape crisis centers, and/or informational pamphlets can help.

Sexual harassment occurs within the workplace and is unwelcome sexual advances, requests for sexual favors, and obscene remarks or gestures of a sexual nature where:

- Submission to such conduct is made either implicitly or explicitly a term or condition of employment.
- Submission to or rejection of such conduct is used as a basis for employment decisions.
- Such conduct has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment.

This definition includes unwelcome display or communication of sexually offensive materials and harassment based on perceived or stated sexual orientation.
Sexual offenses include:

- Rape
- Sexual assault
- Sexual contact and acts (aggravated or abusive) that are unwanted (or attempts to commit these acts), for example,
  - unwanted touching of areas typically covered by a bathing suit; or
  - kissing against another person’s will that is aggravated, abusive, or wrongful; and
  - unwanted and inappropriate sexual contact for sexual gratification (this could include shoulder rubs).

Sexual assault is intentional sexual contact with a person who does not or cannot consent, characterized by:

- Use of force
- Threats
- Intimidation
- Abuse of authority
- The introduction of alcohol or drugs to overcome the victim

Sexual assault is when a person:

1. Commits a sexual act upon another person (who does not or cannot consent), characterized by:
   - threatening or placing that other person in fear;
   - causing bodily harm to that other person;
   - making a fraudulent representation that the sexual act serves a professional purpose; or
   - Inducing a belief by any artifice, pretense, or concealment that the person is another person.
2. Commits a sexual act upon another person when the person knows or reasonably should know that the other person is asleep, unconscious, or otherwise unaware that the sexual act is occurring; or
3. Commits a sexual act upon another person when the other person is incapable of consenting to the sexual act due to:
   - impairment by any drug, intoxicant, or other similar substance, and that condition is known, or reasonably should be known by the person; or
   - a mental disease or defect, or physical disability, and that condition is known or reasonably should be known by the person; is guilty of sexual assault and shall be punished as a court-martial my direct.

(Article 120, UCMJ)

Sexual assault is typically not about romance and sexual desire. It’s about exercising power over and humiliating another human being, using sexual conduct as a weapon. It violates the Coast Guard Core Values of **Honor, Respect, and Devotion to Duty**.
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**What is consent?**

**Consent** is **words or overt acts** by a competent (sober, conscious, and of age) person indicating a **freely given agreement** to participate in sexual conduct.

Consent can be **denied or withdrawn at any point** (even if, for example, the two people have had sex in the past or have made suggestive remarks or acts).

An expression of refusal or lack of consent through words or conduct means there is no consent. Even if two people are being intimate, one person can say no at any time to certain acts, and ask their partner to stop.

Lack of verbal or physical resistance or submission resulting from the accused’s use of force, threat of force, or placing another person in fear does not constitute consent.

The following actions **do not** constitute consent:
- The victim’s lack of response or “just laying there”
- The victim’s lack of verbal or physical resistance
- Submission (is not consent) resulting from,
  - Use or threat of force
  - Placing another person in fear
- A sleeping, unconscious, or incompetent person cannot consent:
  - Unconsciousness due to sleep or alcohol consumption, or
  - From any other conditions which render the person substantially incapacitated.
- Declining participation in the act
- Communicating unwillingness to engage in the sexual act

Other facts about lack of consent:
- A current or previous dating relationship shall not constitute consent
- Consent is not implied even though a married or dating couple have been intimate in the past.

**Words and actions which indicate that a person does not consent** include:
- Not now
- I’d rather be alone
- I’m not sure
- I’m not ready for this
- I don’t feel good about this
- You’ve been drinking
- I’ve been drinking
- Pushing away, moving away, trying to leave
- Crying
- Silence

If you are in doubt whether the other person consents or not, ask. If after you ask and the answer is not a clear, “yes,” then DO NOT engage in sexual conduct with that person.

Clear communications can help you avoid making wrong assumptions about a partner’s intentions and getting into serious trouble because of it.

**Consent cannot be given by a minor.**