

Hanging Out & Hooking Up



Building Respectful Relationships

Sexual contact without consent is a crime, so understanding how the law defines consent is crucial for anyone and perhaps especially for teens who may be starting to explore sexual relationships. This issue of *The PLEA* will look at matters such as what happens when someone has been drinking or is under the influence of drugs, what difference, if any, it makes when the people involved are in a relationship, sexting and tips for staying safe.

Understanding and respecting the laws about consent is enough to keep people on the right side of the law, but there is much more to building respectful relationships than making sure you have consent to engage in any sexual activity. This issue of *The PLEA* also examines dating relationships and explores ways to establish and maintain healthy relationships. You'll also find information to help you recognize the signs of an unhealthy relationship and have opportunities to explore myths and stereotypes that may contribute to abuse and violence within a relationship.



Know No

When it comes to any kind of sexual contact – from touching to kissing to intercourse – everyone has the right to say “No” to anyone, at any time.

No one has the right to engage in sexual activity with another person without their consent – ever. If the other person does not consent, sexual contact is a crime called sexual assault.

Sexual Assault

When it comes to sexual assault, it is important for teens to understand that agreeing to certain things does not mean that you are agreeing to any or all sexual activity. Sexual assault is when another person has sexual contact with you without your consent. Sexual contact without your consent is sexual assault even if you...

- o agreed to go home with the other person or invited them into your place
- o agreed to go out on a date
- o agreed to some sexual activity with them but not all sexual activities
- o agreed to the activity in the past

These rules apply to people who have never met before, people who are going out and people who are married. Victims of dating violence who have been physically or sexually assaulted have the same legal options as those assaulted by strangers. Many, many incidents of dating violence go unreported. Studies suggest that victims of sexual assault are much more likely to report the crime when it is committed by a stranger rather than a friend or date. Often people don't think of dating violence as potentially criminal behaviour and may even blame the victim.

From Statistics Canada...

- ★ The sexual assault rate is 1.5 times higher for children and youth than adults.
- ★ The majority of sexual offences committed against youth under 18 were sexual assaults with no or minor physical injuries.
- ★ While both boys and girls are vulnerable to sexual violence, over 80% were female.

Only Yes Means Yes

Respecting someone's wishes when they say "no" is an important rule to live by, but it is also important to remember that only yes means yes. When it comes to sexual activity, just because someone says nothing it does not necessarily mean that they want to continue or go further.

Under Canadian law, consent must be affirmative **and** ongoing. Affirmative consent means that a person communicates their consent freely through words and/or actions. The Supreme Court of Canada has ruled that there is no such thing as *implied* consent. For example, consent cannot be implied simply because the person doesn't object to or resist sexual advances, is silent or otherwise passive.

Because consent must also be ongoing, consent can be withdrawn at any time through words or actions – even if a person initially agreed to the sexual activity. The University of Victoria's Anti-Violence Project puts it this way...

The person wishing to initiate an act (e.g., hold hands, make out, cuddle, touch different body parts, etc.) or change an act (e.g., switch from kissing to touching) is responsible for initiating the conversation about consent... Having established consent for one activity does not mean that consent has been established for all activities. Just because someone consented to dance with someone else, it doesn't necessarily mean they consented to having their body touched. Just because someone consented to having their body touched, doesn't mean they have consented to making out. Just because someone consented to making out, it doesn't mean that they have consented to having sex.
Check in every step of the way.

Having the courage to ask questions and to speak up about what you want and don't want can improve relationships and help both partners stay safe. Not sure how to start the conversation? Check out the *Navigating Consent* section of the *Heart Your Parts* website.

Alcohol and drugs are frequently associated with sexual assault. This is sometimes referred to as drug facilitated sexual assault. It is important to note that the *Criminal Code* states that it is not a defence that a person believed that the victim consented to the activity where the accused person's belief was...

- the result of self-induced intoxication
- willful blindness (deliberately avoiding getting clear consent in a questionable situation)
- the result of the accused not taking reasonable steps to find out if the victim was consenting



Consent shouldn't be confusing. If it is, it's not consent.

Teens are not the only ones who may be confused about the legal definition of sexual consent in Canada. According to a 2015 study conducted by the Canadian Women's Foundation, while the vast majority (96%) of Canadians surveyed agreed that sexual activity should be consensual, only about 1/3 understood what sexual consent actually means.

Some Canadians falsely believed that consent becomes less important the longer couples are together and 10% wrongly believed that consent was not required at all between spouses or long term partners. Over 20% of those surveyed mistakenly believed that if a woman sends a man an explicit photo through text or email it is always an invitation to offline sexual activity.



The Age of Consent

Respecting personal boundaries is one key element of any healthy and respectful relationship. However, for young people there are also legal considerations that deal with the age of consent. In Canada, the age of consent to most sexual activity is 16, with two “close in age” exceptions.

Practically speaking this means that...

- ▷ youths aged 12 or 13 may consent to sexual activity with someone who is no more than 2 years older than them
- ▷ youths aged 14 or 15 may consent to sexual activity with someone who is no more than 5 years older than them

provided that

- ▷ the other person is not in a position of trust or authority to the young person
- ▷ the other person is not someone the young person is dependent on
- ▷ the sexual activity is not exploitive

When an exception does not apply, individuals under the age of 16 cannot legally consent to any sexual activity. When an exception does not apply, sexual contact with someone under the age of 16 is sexual assault.



Sexting

Parents and teens may have concerns about sexting and be unclear about its legality. They may have seen media reports of teens facing criminal charges, some as serious as possessing or distributing child pornography. Perhaps they have heard about newer laws designed specifically to deal with the sharing of intimate images. In any event, when it comes to trying to make some sense of it all, it almost always comes back to one thing – consent.

In Canada, it is generally legal for two consenting adults to send or receive sexually related images. It is also legal for two teens to share their own sexually related images – if they are at the age of consent, both parties consent and the images are kept private.

When it comes to sexuality and relationships, most people place a very high value on some level of privacy, not wanting their personal communications and displays of affection to be exposed for others to see. While the modern world of information and communication technology offers us the ability to communicate with friends, family, and relationship partners in very fast and effective ways, it also exposes us to risks to our privacy and this is particularly the case with sexting.

- The Canadian Journal of Human Sexuality, Fall 2011

Case Study: The Bridgewater Dropbox Case

Sexting gone viral, child pornography & the publication of intimate images

In the fall of 2016, six teenage boys were in youth court in Bridgewater, Nova Scotia to face charges in relation to sharing numerous intimate images of girls under the age of 18. In most instances, the girls initially sent intimate images of themselves to their boyfriends. The boys, however, went on to share the images with one another through the file-sharing service Dropbox. According to police, this sharing went “beyond what the young women had agreed to.”

While young people sharing intimate images of themselves with a boyfriend or girlfriend might not immediately be associated with child pornography, under the law it could amount to it. Section 163.1 of the *Criminal Code* deals with child pornography.

Child Pornography

s.163.1 (1) In this section, "child pornography" means

(a) a photographic, film, video or other visual representation...

(i) that shows or depicts a person under the age of 18 engaged in sexual activity,
or

(ii) the dominant characteristic of which is the depiction, for a sexual purpose, of a sexual organ or anal region of a person under the age of 18

The punishment for child pornography offences, depending on the circumstances, can be as great as 14 years imprisonment for adults. Offenders are also placed on the National Sex Offender Registry.

Child pornography charges against minors – individuals under the age of 18 – have been rare in Canada. Typically, sexting does not amount to child pornography under the law. In part, this is due to a 2001 ruling by the Supreme Court of Canada that established the “intimate photo exception.” Under this exception, images of individuals under the age of 18 but over the age of consent are not considered child pornography provided that they are...

- 🕒 taken by one of the individuals involved
- 🕒 consensual
- 🕒 kept private, and
- 🕒 not depicting physical or sexual abuse

In recent years however, with the explosion of social media sites and the many options for file sharing, the misuse and mishandling of intimate images has become a hot topic. In the wake of disastrous cases, such as that of Rehtaeh Parsons*, there was much debate about sexting, revenge porn, cyber-bullying and related issues. In 2015, amidst mounting pressure for lawmakers to respond, the *Criminal Code* was amended to create a new offence for the non-consensual distribution of “intimate images.”

Intimate images are broadly defined as images where the individual is nude or semi-nude, or is engaged in explicit sexual activity and has a reasonable expectation of privacy. Unlike our child pornography laws, the age of the individual depicted doesn't matter. What does matter is consent.

Publication, etc., of an intimate image without consent

- 162.1 (1) Everyone who knowingly publishes, distributes, transmits, sells, makes available or advertises an intimate image of a person knowing that the person depicted in the image did not give their consent to that conduct, or being reckless as to whether or not that person gave their consent to that conduct, is guilty
- (a) of an indictable offence and liable to imprisonment of a term of not more than five years; or
 - (b) of an offence punishable on summary conviction.

The Bridgewater teens initially faced charges under our child pornography laws as well as charges under this newer section of the *Criminal Code*. The case was among the first to use the new law to address sharing of intimate images without consent. After numerous adjournments, due to the complexity of the electronic evidence and the number of individuals involved, the trial was scheduled for the fall of 2017. However, prior to trial the teens plead guilty to sharing intimate images and the child pornography charges were dropped. Speaking on behalf of the Crown, the prosecutor noted...

“The charge of intimate images was the one that best fit the circumstances of this case, so with that concession on the part of the defence we were satisfied with those guilty pleas.”

At sentencing, the judge noted that the experience of the victims and their families had been “complete hell” but also indicated that he was encouraged that those charged had expressed remorse and accepted responsibility for their actions.

The teens received conditional discharges and were each required to perform 50 hours of community service, attend counselling, not access or store pornography and not have contact with the victims or their families. If they comply with the conditions their convictions will be erased after three years.

* At the age of 17, Rehtaeh Parsons took her own life after a “sexually degrading” intimate image of her was shared on social media. Friends and family have indicated that the teen was sexually assaulted, photographed and then harassed and humiliated relentlessly. Child pornography charges were eventually laid against two teens. While the teens were also initially charged with sexual assault, following Ms. Parsons’ death, the Crown decided they didn’t have enough evidence to proceed with those charges. To read Rehtaeh’s mother’s reaction to the Bridgewater case, search “Leah Parsons” + “They knew what they did was wrong.”



#ChangetheStory

The Canadian Centre for Child Protection has developed a website designed to provide information for youth who have been affected by an intimate image being shared beyond what they had intended. The site provides detailed information to help youth get sexual pictures and videos removed from the internet and regain control over the situation. Whether the image is on Facebook, Twitter, Instagram, YouTube, Google, a peer’s phone or elsewhere, there are tools and resources available now. The site also has answers to many frequently asked questions and tips for finding and providing help and support. Check it out at NeedHelpNow.ca.

Dating Relationships

It's important to recognize that the concept of "dating" can vary greatly depending on who you are talking to, their age, life experience, culture, religion, and gender. But, regardless of these differences, healthy relationships – whether casual or well-established – have many elements in common: respect, communication and trust.

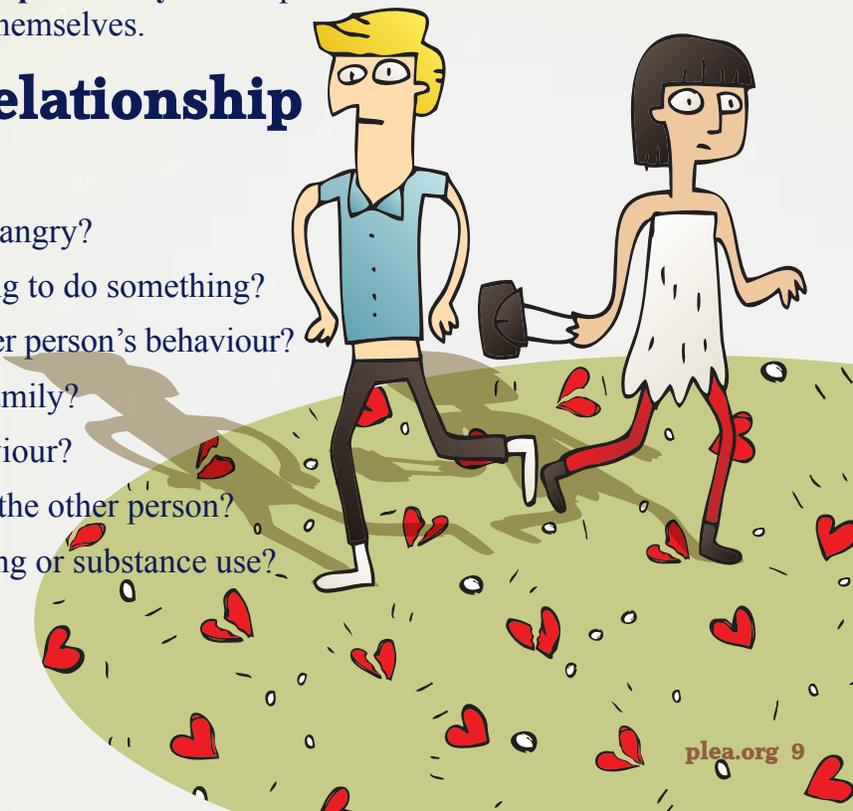
Everyone, regardless of who they are, has certain rights. When you become involved with someone else, you still have these rights. Being in a relationship doesn't change what you can or can't choose for yourself. And it doesn't change what the people you're dating can or can't choose for themselves. Understanding these basic concepts is a great start to building a healthy and respectful relationship.

- ♥ Healthy relationships are based on mutual respect. Everyone deserves and is entitled to be treated with **respect**.
- ♥ Everyone has the right to **choose** whether they want to date someone or otherwise spend time with them.
- ♥ Everyone has a right to **privacy**. Individuals are free to choose what personal information they want to share and what they want to keep private.
- ♥ Everyone has the right to keep their **independence** and spend time with their own friends and family.
- ♥ Everyone has the right to set **boundaries** in their relationship and decide for themselves what activities are right for them.
- ♥ Everyone has a right to be **safe** and have a relationship that is free from violence and abuse.
- ♥ Everyone has the right to **end a relationship** without being harassed or bullied.
- ♥ Individuals in a relationship have a **responsibility** to respect that the other person in the relationship has these same rights.
- ♥ Individuals in a relationship have a **responsibility** to accept the choices that the other person in the relationship makes for themselves.

Signs of an Unhealthy Relationship

Within the relationship, does one person...

- ♥ worry about making the other person angry?
- ♥ need to ask permission before deciding to do something?
- ♥ apologize or make excuses for the other person's behaviour?
- ♥ feel isolated from other friends and family?
- ♥ deal with jealous or controlling behaviour?
- ♥ constantly receive calls or texts from the other person?
- ♥ worry about the other person's drinking or substance use?
- ♥ feel fearful or threatened?
- ♥ have unexplained bruises or injuries?



I heard you were flirting with Taylor last night. What's up with that? You're mine.

Jealousy and possessiveness can be early warning signs of violent or abusive behaviours. People often excuse the behaviour, thinking that it only happens because the person loves them so much. This type of behaviour is not about love. It's about power and control.

Ditch your friends. You spend too much time with them anyway. I don't like it when we're apart.

It might seem flattering that someone wants to spend all their time with you and only you. But healthy relationships are about balance. Any attempts to isolate you from friends and family or other activities that are important to you is not a sign of love or affection. It is a sign of wanting power and control.

I don't like it when you dress like that.

In a healthy relationship, people are free to make their own decisions. Dictating what type of clothes a person wears is a controlling behaviour that signifies treating the person more like a possession than a person.

Are you really that stupid? Good thing you've got me!

The impact of put-down's and name-calling is often underrated and may be justified as harmless joking around. But, the fact is that this behaviour is hurtful and damaging to a person's self-image and confidence.

No? You say you love me – it's time to prove it.

It is unreasonable, unfair and disrespectful to expect sex in return for anything. Sexual activity must be free and voluntary – and only when both people are ready.

I am sorry I grabbed you like that. It's just that I can't take it when we aren't together. I love you so much I don't want to let you go.

Teenagers and relationships can make for some intense emotions. Sometimes this intensity is used to justify unacceptable or abusive behaviours. Abusive behaviour is not okay, even when emotions are intense. Behaviour like this is about power and control, not love and respect.



Dating Violence – Twisted Love*

Dating violence can happen to anyone, regardless of their race or religion, income, gender or education. It can happen between heterosexual couples and same-sex couples. It can happen at any “stage” of the relationship, from the first date to early on in the relationship to throughout a lasting relationship. It may continue even after the relationship has ended. And, although dating violence can involve couples of any age, teen relationships are particularly at risk.

For many teens, dating is an opportunity to establish a relationship on their own terms, often with little guidance or direction from adults or peers. The privacy or even secrecy that often surrounds teen relationships can complicate the issue of establishing and maintaining a safe and healthy relationship. As with any new experience, teens may not know what to expect or demand in a relationship. They may be unsure about what is and what is not appropriate or acceptable behaviour.

Dating violence can take on many, many forms. It may involve a single act of violence – such as a sexual assault or date rape – or it may be part of a pattern of abusive behaviour within a dating relationship. The abuse may be...

- physical – hitting, punching, pulling hair, pushing or shoving
- sexual – any non-consensual sexual contact, taking advantage of someone’s sexuality, or sexual harassment
- emotional or psychological – jealousy, control, excessively critical, threatening harm or spreading rumours or private images

For anyone experiencing violence in a relationship, recognizing that a person who supposedly cares for them is actually abusive can be difficult to accept. It may be particularly confusing when there are times when the relationship seems really good and everything seems fine.

Getting help when a relationship becomes violent can be difficult for anyone. For teens it is further complicated by the fact that the time when many teens begin dating coincides with the time when they are seeking independence for themselves. Many teens are reluctant to seek guidance or help from adults because they fear losing control of this private – even secret – part of their lives. Others may fear not being taken seriously, as adults may often refer to teen relationships as nothing more than “puppy love” or a passing crush.

For these reasons peers can play a vital role. Teens are more likely to confide in other teens and are also more likely to be influenced by what their peers say about healthy and unhealthy relationships. Sometimes just being able to talk about their experiences can help someone who has experienced violence to feel less isolated and alone. It can provide an opportunity to send a clear message that dating violence is unacceptable and wrong. It can help end the silence and the shame that allows the abuse to continue.

* The term “twisted love” is taken from a PBS show on dating violence, part of their award winning *In the Mix* series. The show features victims and perpetrators of dating violence and offers some insight from therapists as well as legal options from members of the legal community. The show also highlights a workshop conducted by teens designed to expose cultural and media stereotypes that contribute to abusive tendencies. You can check out excerpts on their YouTube channel, *In the Mix*.



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plea.org | plea@plea.org | 306.653.1868

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