

Hanging Out 101



Consent and Respectful Relationships

Sexual contact without consent is a crime. Understanding how the law defines consent is crucial for anyone who may be starting to explore sexual relationships, especially teens.

This issue of *The PLEA* discusses consent in sexual relationships, from consent while under the influence of drugs or alcohol to concerns surrounding sexting. As well, it explores ways to establish and maintain healthy relationships. This information will help you understand and respect the laws about consent, and understand and respect each other.

Sexual Assault

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

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



These rules apply to people who have never met before, people who are spending time together, people who live together and people who are married to one another. In fact, sexual assault is more common between friends and partners than it is between strangers. In 2019, for example, the victim knew the perpetrator personally in over half (52%) of the sexual assaults reported that year. However, many incidents of dating violence go unreported. Often people don't think of dating violence as potentially criminal behaviour and may even blame the victim.

Some Canadian Statistics...

- ★ In 2022, a total of 35,215 sexual assaults were reported
- ★ In Canada, 1 in 4 girls and 1 in 8 boys experience sexual abuse before the age of 18
- ★ In 2022, 30% of women reported having been sexually assaulted at least once since age 15
- ★ The rate of sexual assault against people with disabilities is about 2 times higher than those with no disabilities
- ★ The rate of sexual assault against Indigenous women is approximately 3 times higher than among non-Indigenous women
- ★ In 2021, rates of sexual assault were highest amongst people aged 15-24
- ★ LGB+ people are almost 3 times more likely to be physically or sexually assaulted
- ★ 70% of trans youth have experienced sexual harassment

Statistics provided by *Statistics Canada*, *Ontario Coalition of Rape Crisis Centres (OCRCC)*, and *Canadian Women's Foundation*

The Age of Consent

Respecting personal boundaries is key to healthy and respectful relationships. There are also legal considerations that deal with the age of consent.

In Canada, the age of consent for sexual activity is 16 years old, but there are important exceptions for younger individuals:

- ▷ Youths aged 12 or 13 may consent to sexual activity with someone who is **less than** 2 years older than them
- ▷ Youths aged 14 or 15 may consent to sexual activity with someone who is **less 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 exploitative

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

Ages of Consent in Canada

Partner's Age	20+					●
	19				●	●
	18			●	●	●
	17			●	●	●
	16			●	●	●
	15			●	●	●
	14		●	●	●	●
	13	●	●	●		
	12	●	●			
		12	13	14	15	16
						<i>Your Age</i>



Mistake of Age

The law is clear. First, sexual activity without consent is sexual assault. Second, young people who are not at the age of consent cannot consent to any sexual activity. A person below this age cannot legally provide consent, regardless of what they say or do. If an individual is charged with sexual assault in these circumstances, they can't simply say they believed the other person was old enough to consent. They must have taken all reasonable steps to find out the age of the other person.

The Impact of Drugs and Alcohol on Consent

There are a few important things to remember when we're talking about sexual activity, consent and intoxication due to the use of drugs or alcohol.

If a person is intoxicated, they may not be able to consent to sexual activity. Engaging in sexual activity with a person who can't consent is sexual assault. If a person is passed out or passing in and out of consciousness, they can't consent. Even if the person is conscious the entire time, they may still be too intoxicated to consent.

On the other hand, individuals cannot generally use their own drunkenness as an excuse for not getting consent. Under the law, self-induced intoxication, including from the use of alcohol or drugs, is not a valid defence to a charge of sexual assault. Being drunk or high can make obtaining consent confusing, but it is **NOT** a defence.

Failing to check for clear consent and failing to take reasonable steps to ensure consent is present because that person is too drunk or too high is not excusable. The Supreme Court has said this many times and it is also part of the *Criminal Code*.

Even where a person is so intoxicated that they lose voluntary control over their actions (called automatism) they can still be found guilty of sexual assault if they did not act reasonably with respect to consuming whatever they consumed that put them in that state. Situations where automatism will provide a defence are extremely rare, and even rarer when we're talking about alcohol rather than drugs.

It's also important to understand that not remembering something because you were intoxicated does not mean you were acting involuntarily and does not provide a defence to a charge of sexual assault.



Victims of Sexual Assault

Anyone can be the victim of sexual assault, regardless of age, race, gender, sex, or status. It can happen morning, noon, or night. It can happen with a stranger, a family member, or a friend. Sexual assault is never okay and it's never the victim's fault.

If you or someone you know has been sexually assaulted, it is important to understand that there is no one right way to respond. Victims need support, but what is helpful to one victim may not be what another wants or needs. There are different options available, including contacting the police, a friend or family member, a school counsellor or a sexual assault centre or hotline, such as the Kids Help Phone. Victims don't have to feel alone. Help and support is available.

Sexting Gone Viral

Child Pornography & the Publication of Intimate Images

In recent years, with the explosion of social media and different methods of file sharing, the misuse and mishandling of intimate images has become a hot topic.

Sharing Images Without Consent

It is illegal to share intimate images (where the individual is nude or semi-nude, or is engaged in explicit sexual activity and has a reasonable expectation of privacy) **without the consent** of the person in the picture.

Criminal Code - Publication, etc., of an intimate image without consent

Section 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.

Section 162.1 was added to the *Criminal Code* in the wake of disastrous cases, such as that of *Rehtaeh Parsons** and the resulting debate about sexting, revenge porn, cyber-bullying, and related issues.

When individuals 18 or older each consent to exchange intimate images privately it is generally legal. However, consent is critical, not just to the original exchange but to any sharing that occurs afterward. It is also vital for individuals to understand that once an image is shared, even with consent, it is very easy to lose control over it once it is in someone else's hands.

Child Pornography

In Canada it is an offence to possess, access, produce or distribute child pornography.

Criminal Code - Definition of Child Pornography

Section 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 Supreme Court of Canada, in *R v Sharpe*, outlined exceptions where recording and possessing such images may be permissible:

- the activity in the image/recording must be lawful
- only those who participated in or recorded the activity may possess the image/recording
- all parties must have consented to both the activity and the creation of the image/recording
- the image/recording must remain private

If all of the conditions (or "*Sharpe* factors") are not met, those under the age 18 who engage in sexting could be found guilty of child-pornography, an extremely serious charge. However, since the *Criminal Code* now includes an offence of sharing intimate images without consent, instances of sexting between teenagers that cross the line are arguably more suited to a charge under this section of the *Criminal Code*.

** At the age of 17, Rehtaeh Parsons took her own life after "sexually degrading" intimate images of her were shared on social media following an alleged sexual assault. In the aftermath the victim was bullied and harassed.*

Child pornography charges were initially laid against two teens. The teens were also originally charged with sexual assault. However, 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."

The Bridgewater Dropbox Case

In the fall of 2016 and following the addition of Section 162.1 to the *Criminal Code*, 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.”

The Bridgewater teens initially faced charges of both unlawfully sharing private images and child pornography. The case was among the first to use the new law to address the sharing of intimate images without the individual’s consent. After numerous adjournments, due to the complexity of the electronic evidence and the number of individuals involved, the trial was scheduled for fall 2017. However, prior to trial the teens pled 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 complied with the conditions their convictions were to have been erased after three years.



#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, X, Instagram, TikTok, 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](https://www.needhelpnow.ca).

Dating Relationships

It's important to recognize that the concept of "dating" can vary greatly depending on who a person is, 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. Understanding these basic concepts is a great start to building a healthy and respectful relationship.

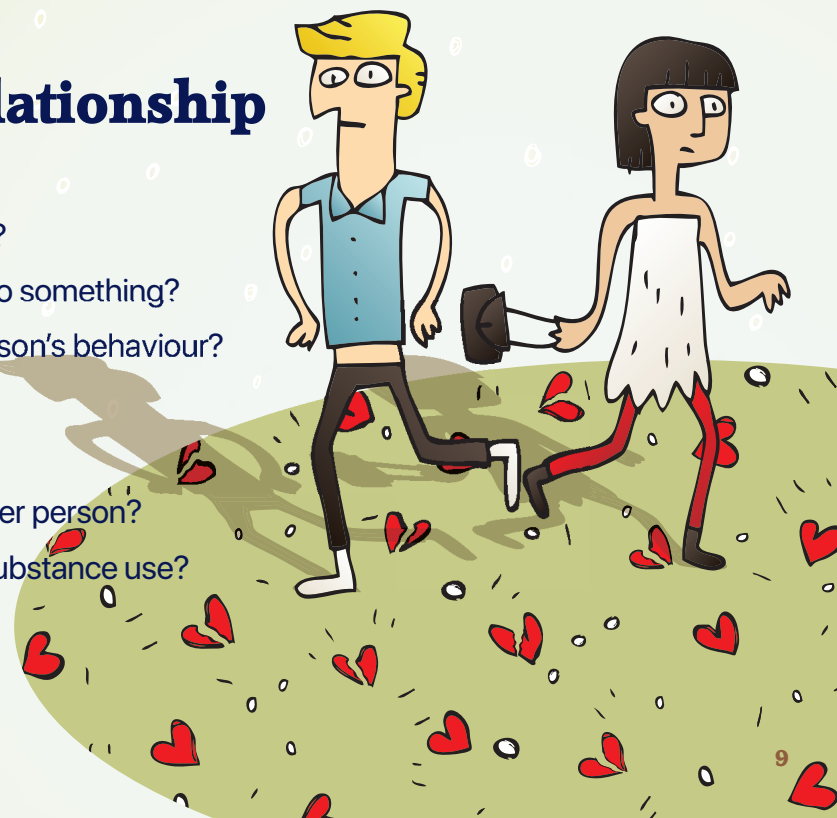
- ♥ Healthy relationships are based on mutual respect. Everyone deserves and is entitled to be treated with **kindness** and **respect**.
- ♥ Everyone has the right to **choose** whether they want to date someone or spend time with them.
- ♥ Everyone has a right to **privacy**. Individuals are free to 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.

It's important to remember that both partners in a relationship have these rights and responsibilities. However, your dating rights do **not** mean that you get to decide what is right for someone else.

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?



Dating Violence

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 occur at any "stage" of the relationship, from the first date to early on to throughout a lasting relationship. It may continue even after the relationship has ended. Although dating violence can involve couples of any age, teen relationships are particularly at risk.

For many teens, dating often includes 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 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, excessive criticism, threats of harm, spreading rumours, or sharing private images without consent

For anyone experiencing violence in a relationship, recognizing abuse can be difficult—especially if the abuser is an individual who claims to care about them. It may be particularly confusing if there are times when the relationship seems really good and everything seems healthy. It is important for teens to understand that manipulation can be a slow and creeping process, which makes it very challenging to recognize.

Getting help when a relationship becomes violent can be difficult for anyone. For teens it is further complicated since beginning to date typically coincides with a stage of growing independence. Many teens are reluctant to seek guidance or help from adults because of the fear of 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 experience 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.



***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 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.

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

The impact of put-downs and name calling is often underestimated 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. This is an example of toxic language in a relationship.

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 controlling behaviour that signifies treating the person more like a possession than a person.

***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.***

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.

***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 and able to consent.





PLEA 

Legal Information for Everyone

Order Free Class Sets at teachers.plea.org

Graphics credit Shutterstock.

© 44.2 2024-12

Public Legal Education Association of Saskatchewan
teachers.plea.org | plea@plea.org | 306.653.1868

ISSN 0715-4224 (Print)
ISSN 1918-1116 (Online)