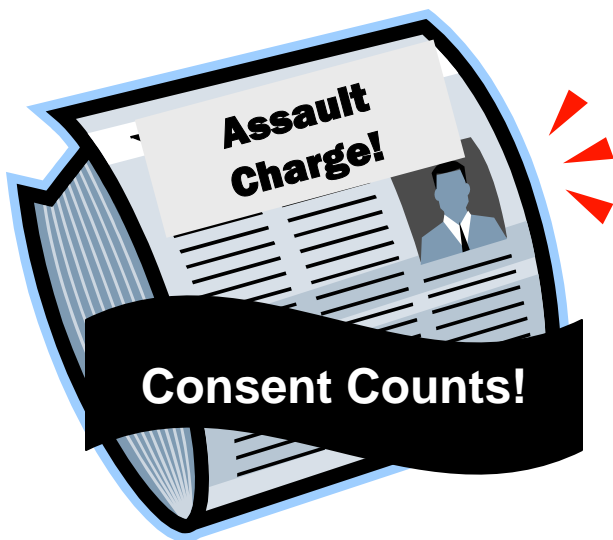




“Consent Counts”
Public Process
Discussion Guide
July 2007 (Rev 1)



www.consentcounts.org

Starting the Discussion: A Discussion Guide for Decriminalizing BDSM “Consent Counts”

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Background

At Creating Change 2007, a group formed to take on the work of decriminalizing leather/kink/fetish/BDSM (leather). Right now, laws that protect people from things like battery could be used against those involved in consensual adult behaviors. What needs to happen is to prevent this from happening while at the same time not weakening the laws that protect those who are victims of violence. This may take 12-15 years to become a reality. To begin this work, the first step was to create of a guide or resource that can be used in the local leather communities. What the local communities are experiencing and thinking will provide input to the national level group on how to take on this task. This grassroots discussion about what consent means is valuable to the leather community and can also be used when working with non-leather groups.

Other communities, like sex workers, are also dealing with laws that are used against them when in fact they are doing things as consenting adults. These common concerns could lead to a broader sexual freedom movement with these diverse communities with the goal to "get the government out of our bedrooms". But for now, input from leather families, groups, organizations, local cities, states, and regions begins the discussion on what consent is and what might be some of the ways to work for decriminalization.

Tentatively the project is called "Consent Counts" rather than "legalize BDSM". There is a fine line between these two concepts. It would be much harder politically to sell to the general public that laws are needed to protect leather adult consensual behaviors. That's why the idea is to create wording in existing laws that protect people who are involved in consensual adult activities and not committing crimes.

This guide can be used at meetings, discussion groups, or events to serve as a jumping off point for this discussion. From now until December 2007, the information gathered from around the United States (and hopefully allies in other countries who have dealt with these issues) will be collected. Those inputs will then be consolidated as the grassroots perspective into a report and presented at a national leather event during 2008, posted to the web site for community use and forwarded to the strategic and legal committees of Consent Counts to be used as a basis for strategic planning to change laws and perceptions.

Using this Guide

The purpose of this guide is to help communities at all levels to have a discussion on the concept of consent within the leather/kink/fetish/BDSM community (the term leather is used to identify these diverse parts of the community during the rest of the guide). As the leather community continues to grow, there are more stories of events being cancelled because of the adult nature of the group or due to the protests of fundamentalist church groups. Within the wider radical right or extremist religious groups, there is more discussion on how to enforce possible criminal charges against those who may be actively involved in public scenes at a dungeon. Families fear losing their children if their kink is discovered. This expanded exposure of the community creates many new questions about the definition of what the leather community does. This guide can be used as a way to begin looking at these complex issues to create a common understanding. Then armed with this understanding, national organizations can better work toward the goal of sexual freedom. This discussion guide and subsequent report will not answer all the questions but will help you as a community member or group to identify and anticipate local issues and work to create a consensus around these concepts.

With such diversity within our community, all the voices need to be included in the discussion. What are the concerns of someone in a corporate position just a few years from retirement who is into leather versus a youth who is part of The Next Generation? This guide can provide a way to discuss the issues that are relevant to your particular experience of the leather community.

The discussion you have will then be compiled and used as part of the basic framework for the summary report that will be compiled and presented at a national leather event during 2008, posted to the web site for community use and forwarded to the strategic and legal committees of Consent Counts to be used as a basis for future planning. Additionally, it can also provide a way for the local community to identify areas of concern and come up with ideas of work that could be done in the local leather community. This local activism doesn't have to wait for a national drive to get going but can start from those in the local discussion group who want to do more and change the way the leather community acts and reacts to legal issues.

Additional information can be found at the "Consent Counts" web site at www.consentcounts.org.

Helpful Hints for Facilitators

The discussion guide raises many challenging questions. Hosting a community discussion is an excellent opportunity to open a dialogue around these issues. But it can feel risky without an expert on hand to answer technical or legal questions. There are some areas where gathering facts is important such as if there have been raids, cancelled events or police harassment of leather community members. Getting the facts right may be helpful to find test cases around consent. However, much of the discussion is about personal perception and understanding of the concerns around consensual leather activities. Each individual can add to the discussion.

Below are some suggestions for facilitating a discussion of “Consent Counts” to create an open and engaging discussion:

1. Decide what level you would like to have this discussion – examples: within your own leather family, within your club or organization, at a munch or leather event, as a workshop discussion or online in a chat room or on a discussion group.

Who is the group you want to have the discussion with: _____

2. Set a time and place to have the discussion. Build in some lead time so that participants can look at the discussion questions, gather data or get the word out about the discussion. Produce fliers, send out emails, and let members of the community know about it. If there is a large response, consider that several smaller groups will provide better discussion (8-10 attendees) rather than a large group (20+). Find other dates, times, or facilitators if a large group is expected. Most groups can be productive for 60-90 minutes so if you want to go into more depth on any of the topic questions, it is better to have a series of discussions that last 60-90 minutes instead of trying to do an all day workshop on the questions.

Date of Discussion: _____

Time of Discussion: _____

Location of Discussion: _____

3. Review the discussion guide and write down questions that come to mind (if support is needed, contact the “Consent Counts” web site at www.consentcounts.org. Review the Frequently Asked Questions ahead of time and be able to explain the project goal, mission statement and timeline.
4. Sample agenda (for a 90 minute meeting):
 1. Opening/Welcome (2-3 minutes)
 2. Introductions (name, where from, why here) (5 mins)
 3. Consent Counts project overview (5 – 8 mins) – page 6
 4. Framework for discussion (how the discussions will go) (2-3 mins) – page 8
 5. Legal/Current Status Questions (10 mins) – page 8
 6. Community Perception (15 mins) – page 8
 7. Consent (30 mins) – page 9
 8. Summary/Action Items (10 mins)
 9. Thanks/Closing (5 mins)
5. Copy or post/project the discussion questions for everyone to see.

6. Check out the logistics and layout of the room. Arrive early to set up and greet those attending. Ask someone to be the recorder or incorporate note taking into the discussion by using flip charts or boards.
7. Be aware that there may be very different opinions on these questions and providing space to hear all the voices is one of the key jobs of the facilitator. Creating ground rules can be helpful to ensure that everyone has a chance to speak and creating an environment that uses a brainstorming approach where no idea is wrong. Add your own rules or let the group decide how to conduct the discussions so that the environment is welcoming to all voices.
8. Let the interests and experiences of the group guide the questions and discussions. Some questions may only take a few minutes to address while others may require additional sessions. Keep the discussion going and try to avoid long discussion on facts, personalities or the same point if no additional insights are being added. Other questions or areas may come up during the discussion. If there are other questions, add them or keep track of them as this may be a source of additional workshops or discussion topics.
9. Observe announced time schedules. If more discussion is needed, set up another time. If there are issues that require more in-depth discussion, setting up a small committee to discuss the main issues and report back to the group can also be helpful.
10. Your local community insights can only be added into the final report if the key points are recorded and sent to the “Consent Counts” web site. Be sure that the recorder or notes are transcribed and sent in before the project is considered complete.
11. Remember you don’t have to be a legal expert or a community leader to host a discussion. You just need to capture what the community thinks and be able to point them in the right direction if they want more information or to get more involved in the “Consent Counts” drive.

Project Overview

Why decriminalization?

The goal of this project is to begin to define the scope of what the leather/kink/fetish/BDSM community (the term leather is used for this group through out the rest of this guide) does in our relationships as consensual adults and to ensure our sexual freedom and privacy. This scope of this project is to make it clear that existing criminal laws, such as battery, should not apply to consensual adult leather activities.

Once the leather community creates a concept of consent, there may be enough common ground to consider joining a larger drive to decriminalize all consensual adult sex and work with allies to make these changes. Being able to clarify what we do in the leather community can be used to open discussions with allied or other groups who want the right to the same sexual freedoms.

This project is not working to legalize BSDM by creating new laws that would protect our leather relationships and activities. It is working to understand that leather, when consensual, does not fall under the many laws designed to protect individuals. Ultimately, this helps to ensure that those laws are not used against the leather community.

Mission Statement

Decriminalize consensual BDSM behavior in the United States

Note: Because the legal system of each country is distinct, it is necessary to do this on a country-by-country basis and potentially state by state, so that the driving force is led by people from that country/state. This part of the project has a United States perspective. Longer term goals should include developing support, networking and discussion with other countries that already have decriminalized adult consensual behavior or countries that face the same issues of government/legal harassment.

Goals/Timeline

- Immediate (Today) – Identify project, plan first 12 months – initial meeting occurred at Creating Change 2007 with a Leather Leadership Roundtable. An additional meeting was held at Leather Leadership Conference 2007 which presented the information in more detail. “Consent Counts” web site and initial concept was previewed at International Mr. Leather. Discussion Guide released in July 2007 as well as stickers with web site information.
- Short Term (1 Year) – Present a consolidated community perspective in the form of a report regarding consent/ decriminalization of BDSM at a national leather event during 2008, post the report to the web site for community use and forward it to the strategic and legal committees of Consent Counts to be used as a basis for future planning. Gather inputs from the community from July to December 2007 (through discussion groups at the family, club, local city, state or regional areas. These key factors will be compiled in December 2007/January 2008 and then in February 2008, a survey will be sent back out to the community to ensure the key points have been captured, to gather demographic information and to see which points are the highest concern areas. In March, the results will be compiled into a report for presentation and posting in the community.
- Long Term (12-15 Years) – Once this report is presented and circulated, it will be used in

two ways. First, using the report as a basis to create legal language that clarifies that consensual BDSM is not the intent or purpose of laws such as battery if the behavior is between consenting adults. The report will also provide some more concrete examples and situations which show that laws are being used against the leather community. Second, with a clearer definition of what leather is or is now available, discussions with other allied groups can begin to educate, outreach and create coalitions working for a larger sexual freedom goal based on privacy and consent.

The “Consent Counts” Organization

1. Work will be done through four committees (see appendix for names/contact information or check www.consentcounts.org)
 - National steering/coordinating
 - Strategic planning
 - Legal
 - Public Process
2. The national steering, legal and strategic committees will be using the report from the public process committee to begin the long term work on the project. The public process committee is creating tools to be used by groups at the local and regional level on what consent is for the leather community. The discussions are aided by this resource guide. The public process committee is looking for groups or organizations in different demographics/areas of the country to create local community roundtable discussion groups.

The Public Process

In the next few months, the leather/kink/fetish/BSDM (leather) community will be asked for their opinion and views on what consent means for our lives. These comments will be consolidated and presented at a national leather event during 2008, posted to the web site for community use and forwarded to the strategic and legal committees of Consent Counts to be used as a basis for future planning. The report will then be used to create legal language around decriminalizing consensual adult leather activities and to begin creating a larger sexual freedom movement working with other allied groups.

The following are a series of discussion questions for your local leather community. Inputs could be from yourself, your leather family, local clubs, organizations, business or from discussions at leather events. The guide is creates a 60-90 minute session to discuss some of the key questions. The group is then asked to report their results back to the "Consent Counts" web page.

This guide can also be used as an organizing tool for more community discussion. References on related courses and resources are included. The answers your community provides begins to build a community or a grassroots view of what consent is all about. It will also be the first step towards the goal of decriminalizing BDSM. We need all of our voices so please take notes on the discussion. Pass this guide on to others in your community who may not attend events or be hooked into the web/online community so they can be heard as well.

Questions for Discussion:

Legal/Current Status (recommended discussion length: 10 minutes)

1. What are your local laws that could be used against BDSM activity (assault, prostitution (play parties with cover charges), polyamory, any of our consensual adult activity)?
2. Has there been any cases in your local community where the laws or the fear of the law have been used against the BDSM community or activities (not just arrests or raids but possibly lack of access – hotels not willing to book our events or cancelling them when they find out what we do)?
3. How would you respond if there was an arrest, raid or lack of access situation that came up in your community (do you have resources that are kink friendly/supportive/involved)?

Community Perception (recommended discussion length: 15 minutes)

4. How do you think the leather community is perceived by the larger community? GLBT? Vanilla?
5. What about leather activities makes the larger community nervous? What leather activities does the larger community not want to see us doing?
6. Do we want leather to become mainline or acceptable or should the leather community keep our own niche as secretive or outlaw with the larger community?

Consent (recommended discussion length: 30 minutes)

There are many considerations under consent including age of consent, diminished capacity (mental retardation, drugs, torture, and domestic violence), and safe, sane, consensual. Use the questions to look at some or all of these areas and to expand the list to create a better understanding of the scope of consent.

7. What does consent mean in terms of leather/kink/fetish/BDSM community?
8. What are the limits of consent? Are there things you should not be able to consent to?
9. Who can give consent? What limits do we draw about age, mental ability or health etc.?
10. How do we distinguish the difference between consensual BDSM and domestic violence or abuse?

Reporting Results

A summary of what was discussed should be sent to info@consentcounts.org. The summary should be done in word or text format so it can be easily copied and pasted into the final report. Please spell out all acronyms the first time they are used and provide enough details so that someone who is unfamiliar with the details gets a clear idea of the main points. Provide a contact email to follow up if there are any questions.

Consent Count Discussion Group Information

Date of Discussion: _____ Location of Discussion (city/state): _____

Number who attended: _____

Groups, organizations or businesses represented: _____

Contact point – name: _____ email: _____

Consent Count Discussion Summary

Legal/Current Status

1. Local laws used against BDSM activity
2. Local cases where the above laws or fear of the leather community has limited access or ability to gather
3. Community response (actual or theoretical) to an arrest, raid (what community resources do you have to do this)

Community Perception

4. Leather community perception by the larger community
5. Leather activities that make the larger community nervous or that the larger community doesn't want to see us doing
6. Should the leather community become mainline/acceptable or stay secretive/outlaw with the larger community

Consent

7. Consent in leather/kink/fetish/BDSM community
8. Limits of consent – what can we agree to do
9. Limits on who can give consent – age, mental ability, health
10. What is the difference between consensual BDSM and domestic violence or abuse?

APPENDIX

References – please feel free to add to this list (contact information required so we can check with the author to list their work here)

Leather/Kink/Fetish/BDSM Related

1. The Right to be Hurt. Testing the Boundaries of Consent. Vera Bergelen (vbergelson@kinoy.rutgers.edu). Rutgers Law School (Newark) Faculty Paper. Year 2006, Paper 27.
2. Sadomasochism: Powerful Pleasures. Journal of Homosexuality. Volume 50, Numbers 2/3.
3. Beauty in Darkness: the history of BDSM. <http://beautyindarkness.blog.ca/?tag=prostitution>

Other Consent Groups/Concerns

Sexual Harassment & Rape

1. Peer Education – Got Consent? <http://www.umaine.edu/peered/consent.htm>
2. Everywomen’s Center – Educator/Advocate Program – Got Consent? <http://www.umass.edu/ewc/programs/ea/consent/>
3. Maine Campus – Got Consent? <http://media.www.mainecampus.com/media/storage/paper322/news/2003/01/30/News/got-Consent.Posters.Set.To.Raise.Campus.Awareness-355982.shtml>
4. University of Hawaii – Got Consent? - <http://www.hawaii.edu/cgi-bin/uhnews-arc?20030515084149>
5. Violence against Women Committee Annual Report – 2004 – 2005 - www.unh.edu/diversity/pdf/VAWCAnnualReport2004-05.pdf
6. Syracuse University – Take Back the Night Week - http://sunews.syr.edu/story_details.cfm?id=1784

Sexual Rights

1. National Coalition for Sexual Freedom – coalition of 40+ educational & social groups for equal rights of consenting adults (incident response, kink aware professionals - <http://www.ncsfreedom.org/index.htm>
2. The Woodhull Freedom Foundation & Federation – organization for research, advocacy, and public education to affirm sexual freedom as a fundamental human right - <http://www.woodhullfoundation.org/about/what.aspx>
3. Planned Parenthood – Sexual Rights - <http://www.plannedparenthood.org/sexual-health/sexual-health-relationship/sexual-rights.htm>
4. The People’s Movement for Human Rights Learning - The Human Right to Freedom of Sexual Orientation - <http://www.pdhre.org/rights/sexualorient.html>
5. World Association for Sexual Health – Declaration of Sexual Rights - http://www.worldsexology.org/esp/about_sexualrights_english.asp
6. CNSNews.com – Sexual Freedom Activists Target ‘Archaic, Unjust’ Sex Laws – June 01, 2004 - <http://www.cnsnews.com/ViewCulture.asp?Page=%5CCulture%5Carchive%5C200406%5CCUL20040601b.html>

Facilitator Resources - Additional Related Education/Workshops

1. Your eyes say “Yes”, but the law says “No”. – Workshop by Andrew Park
2. Spanner Case in Great Britain - http://en.wikipedia.org/wiki/Operation_Spanner
3. San Diego Six Bar Raid
4. Attleboro Raid

“Consent Counts” Organization/Contacts

- National Steering/coordinating
 - Judy Guerin – Woodhull Foundations - iquerin@woodhullfoundation.org
 - Ricci Levy – Woodhull Foundation – rlevy@woodhullfoundation.org
 - Glenda Rider – National Coalition of Sexual Freedom (NCSF) - GlendaCPFA@aol.com
 - Levi Halberstadt – NCSF - levi@ncsfreedom.org
 - Chuck Renslow – The Leather Archives and International Mr. Leather - chuck@chuckrenslow.com
 - Barbara Nitke - barbara@barbaranitke.com
 - Sheryl Dee – sheryl.dee@gmail.com
 - Plus: institute@lovethatworks.org; leathrsail@aol.com; vivienne@nelaonline.org; organizer@tnlr.org; onyxravyn@aol.com
- Strategic planning - sassytongue@gmail.com, glovedtop@aol.com
- Public process - Pat Baillie – leatherwomenunited@gmail.com
- Legal - Anna-Maria Thomas - AMT413@aol.com

Frequently Asked Questions

1. Why does consent have to do with me?

If you have a scene and hit someone, you can be charged with assault. If you are kinky, the laws could be used to show you are an unfit parent and endangering your child who knows nothing of your private life. These and many more are ways that the current laws can be used against you.

2. What should I do if I am charged or have problems?

Contact NCSF immediately for legal support and guidance. Do not sign or admit to anything before talking to a lawyer.

3. How can we do more in our community right now?

You can begin a speaker's bureau that can talk to local law enforcement and lawyers in your area to educate them on the leather community. Meet with the ACLU prior to your events and work against domestic violence and abuse. Be out and visible in your community and take a page from the GLBT community where prejudice and fears drop when a person knows someone who is into leather.

4. How do I know if I am in a leather relationship or an abusive one?

There are many good resources in the leather community to help clarify the difference. Most domestic violence centers don't understand the leather community and are not always the best sources of information on leather versus abuse. One of the easiest to understand comparisons was a statement from the Lesbian Sex Mafia (LSM) on the difference between SM & Abuse (<http://www.lesbiansexmafia.org/smandabuse.html>):

SM: An SM scene is a controlled situation.

ABUSE: Abuse is an out-of-control situation.

SM: Negotiation occurs before an SM scene to determine what will and will not happen in that scene.

ABUSE: One person determines what will happen.

SM: Knowledgable consent is given to the scene by all parties.

ABUSE: No consent is asked for or given.

SM: The “bottom” has a safeword that allows them to stop the scene at any time should they need to for physical or emotional reasons.

ABUSE: The person being abused cannot stop what is happening.

SM: Everyone involved in an SM scene is concerned about the needs, desires and limits of others.

ABUSE: No concern is given to the needs, desires and limits of the abused person.

SM: The people in an SM scene are careful to be sure that they are not impaired by alcohol or drug use during the scene.

ABUSE: Alcohol or drugs are often used before an episode of abuse.

SM: After an SM scene, the people involved feel good.

ABUSE: After an episode of abuse, the people involved feel bad.

5. How do I get myself or my organization involved in “Consent Counts”?

Contact Pat Baillie as the chair of the public process work at pat@consentcounts.org or check the web site at www.consentcount.org. You can ask to be added to the resource/supporting organization list and keep up on the project. Your inputs to help are vital to collecting information for the summary report. Also you can get more involved with legal, strategic or national planning on this project is vital.

Consent Counts Public Process Discussion

www.consentcounts.org

Date:

Location:

Outline:

1. Opening/Welcome (2-3 minutes)
2. Introductions (name, where from, why here) (5 mins)
3. Consent Counts project overview (5 – 8 mins)
4. Framework for discussion (how the discussions will go) (2-3 mins)
5. Legal/Current Status Questions (10 mins)
6. Community Perception (15 mins)
7. Consent (30 mins)
8. Summary/Action Items (10 mins)
9. Thanks/Closing (5 mins)

Key Questions:

Legal/Current Status

Local laws used against BDSM activity

Local cases where the above laws or fear of the leather community has limited access or ability to gather

Community response (actual or theoretical) to an arrest, raid (what community resources do you have to do this)

Community Perception

Leather community perception by the larger community

Leather activities that make the larger community nervous or that the larger community doesn't want to see us doing

Should the leather community become mainline/acceptable or stay secretive/outlaw with the larger community

Consent

Consent in leather/kink/fetish/BDSM community

Limits of consent – what can we agree to do

Limits on who can give consent – age, mental ability, health

What is the difference between consensual BDSM and domestic violence or abuse?