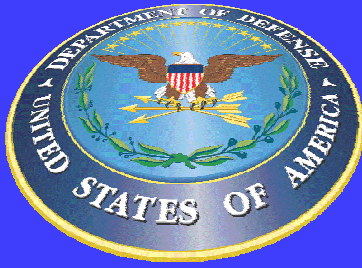


SARC Link

February 2006 / Volume 1



Intoxication and Consent

True or false: One can never consent to a sexual act while intoxicated.

The correct answer is FALSE.

Discuss The Variables

With that in mind, the discussion of the variables involved requires consideration of the following:

- The effect of the alcohol consumption (degree of intoxication) that, at that time, impaired the person's mental abilities to the extent that the person was incapable of understanding the sexual act, its intended motive or result, and its possible consequences
- Factors to consider include the person's consciousness, mental alertness, and ability to physically function and/or communicate coherently

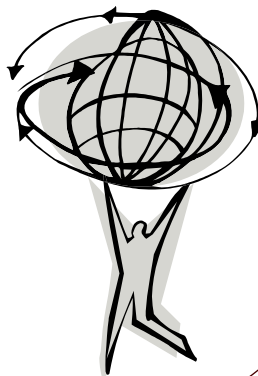
Drinking some alcohol that merely tends to lower what otherwise would be a person's inhibitions or would increase a person's willingness to engage in certain activities does not, by itself, mean that the person is incapable of consenting to a sexual act.

Although determining consent is outside of the SARC's purview, SARCs should utilize the relationships they have

established with the Staff Judge Advocates Office to address any questions their Victim Advocates may have.

Within the Department's training definition of sexual assault, "Consent" shall not be deemed or construed to mean the failure by the victim to offer physical resistance. Consent is not given when a person uses force, threat of force, coercion, or when the victim is asleep, incapacitated, or unconscious."

If you are involved in the Program's training, make every effort to be as familiar with the law as possible and be careful not to overstate or improperly communicate its intent.



Whether someone is too intoxicated to consent to a sexual act involves complex issues and variables that make it impossible to support such a blanket statement.

To illustrate, someone might be too intoxicated to run complex machinery or safely operate a motor vehicle, but is otherwise capable of understanding their surroundings, making basic decisions, and controlling their behavior.

Another illustration is that while pilots may be prohibited from flying an airplane if they consumed any alcohol whatsoever within a previously-designated period of time, their disqualification from flying doesn't equate to being intoxicated or incapacitated from engaging in their other personal activities.

For more information please visit us online at:
www.sapr.mil