

UNIVERSITY OF WISCONSIN – STEVENS POINT

INFORMATION CONCERNING SEXUAL ASSAULT

INTRODUCTION

The UWSP community is concerned about sexual assault, particularly acquaintance assault which is the most prevalent form of sexual assault. *Sexual intercourse or sexual contact without consent is not only inappropriate, it is illegal.*

WHAT IS THE LAW?

Sexual assault is any forced or coerced sexual intercourse or contact. It is a crime of violence in which assailants, whether known to the victim or not, are motivated by a desire to humiliate and/or exert power over the victim. (Refer to Wisconsin State Statutes 940.225 and 948.02.)

In short, any sexual contact which you do not want is sexual assault. There are four degrees of sexual assault in Wisconsin.

1.) **First Degree Sexual Assault**

Whoever does any of the following is guilty of a Class B felony:

- a) Has sexual contact or sexual intercourse with another person without consent of that person and causes pregnancy or great bodily harm to that person.
- b) Has sexual contact or sexual intercourse with another person without consent of that person by use or threat of use of a dangerous weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a dangerous weapon.
- c) Is aided or abetted by one or more other persons and has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.

2.) **Second Degree Sexual Assault**

Whoever does any of the following is guilty of a Class C felony:

- a) Has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.
- b) Has sexual contact or sexual intercourse with another person without consent of that person and causes injury, illness, disease or impairment of a sexual or reproductive organ, or mental anguish requiring psychiatric care for the victim.
- c) Has sexual contact or sexual intercourse with a person who suffers from a mental illness or deficiency which renders that person temporarily or permanently incapable of appraising the person's conduct, and the defendant knows of such condition.
- (cm) Has sexual contact or sexual intercourse with a person who is under the influence of an intoxicant to a degree which renders that person incapable of appraising the person's conduct, and the defendant knows of such condition.
- d) Has sexual contact or sexual intercourse with a person who the defendant knows is unconscious.
- e) Is aided or abetted by one or more other persons and has sexual contact or sexual intercourse with another person without the consent of that person.
- f) Is an employee of a facility or program under s. 940.295. (2)(b),(c),(h) or (k) and has sexual contact or sexual intercourse with a person who is a patient or resident of the facility or program.

3.) **Third Degree Sexual Assault**

Whoever has sexual intercourse with a person without the consent of that person is guilty of a Class G felony. Whoever has sexual contact in the manner described in sub. (5)(b) 2. with a person without the consent of that person is guilty of a Class G felony.

(3m) **Fourth Degree Sexual Assault**

Except as provided in sub. (3), whoever has sexual contact with a person without the consent of that person is guilty of a Class A misdemeanor.

CONSENT

"Consent", as used in this section, means words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact. Consent is not an issue in alleged violations of sub. (2) (c), (cm), (d) and (g). The following persons are presumed incapable of consent but the presumption may be rebutted by competent evidence, subject to the provisions of s. 972.11 (2):

- b) A person suffering from a mental illness or defect which impairs capacity to appraise personal conduct.
- c) A person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

DEFINITIONS

In this section:

(ag) "Inpatient facility" has the meaning designated in s. 51.01 (10).

(ai) "Intoxicant" means any controlled substance, controlled substance analog or other drug, any combination of a controlled substance, controlled substance analog or other drug or any combination of an alcohol beverage and a controlled substance, controlled substance analog or other drug. "Intoxicant" does not include any alcohol beverage.

(am) "Patient" means any person who does any of the following:

- 1.) Receives care or treatment from a facility or program under s.940.295 (2) (b), (c), (h) or (k), from an employee of a facility or program or from a person providing services under contract with a facility or program.
- 2.) Arrives at a facility or program under s. 940.295 (2) (b), (c), (h) or (k) for the purpose of receiving care or treatment from a facility or program under s. 940.295 (2) (b), (c), (h) or (k), from an employee of a facility or program under s. 940.295 (2) (b), (c), (h) or (k), or from a person providing services under contract with a facility or program under s. 940.295 (2)(b),(c), (h) or (k).

(ar) "Resident" means any person who resides in a facility under s. 940.295 (2)(b),(c),(h) or (k).

(b) "Sexual contact" means any of the following:

1. Intentional touching by the complainant or defendant, either directly or through clothing by the use of any body part or object, of the complainant's or defendant's intimate parts if that intentional touching is either for the purpose of sexually degrading; or for the purpose of sexually humiliating the complainant or sexually arousing or gratifying the defendant or if the touching contains the elements of actual or attempted battery under s. 940.19 (1).
2. Intentional penile ejaculation of ejaculate or intentional emission of urine or feces by the defendant upon any part of the body clothed or unclothed of the complainant if that ejaculation or emission is either for the purpose of sexually degrading or sexually humiliating the complainant or for the purpose of sexually arousing or gratifying the defendant.

(c) "Sexual intercourse" includes the meaning assigned under s. 939.22 (36) as well as cunnilingus, fellatio or anal intercourse between persons or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal opening either by the defendant or upon the defendant's instruction. The emission of semen is not required.

(d) "State treatment facility" has the meaning designated in s. 51.01 (15).

MARRIAGE NOT A BAR TO PROSECUTION

A defendant shall not be presumed to be incapable of violating this section because of marriage to the complainant.

DEATH OF VICTIM

This section applies whether a victim is dead or alive at the time of the sexual contact or sexual intercourse.

PENALTIES:

Penalties for conviction of a criminal or civil action based on a crime of sexual assault or rape range from fines, financial restitution and probation to imprisonment, depending on the degree of the assault.

First degree sexual assault is a class B felony. A person found guilty of first degree sexual assault may be imprisoned up to 20 years.

Second degree sexual assault is a class C felony. One found guilty of second degree sexual assault can be imprisoned not more than 10 years and/or fined not more than \$10,000.

Third degree sexual assault is a class D felony. The penalty for a third degree sexual assault is imprisonment for not more than five years and/or a fine of not more than \$10,000.

Fourth degree sexual assault is a class A misdemeanor. The penalty for fourth degree sexual assault is imprisonment for not more than nine months and/or a fine of not more than \$10,000.

Procedures for campus actions can be found in UWS/UWSP Chapter 17. Penalties for students found guilty of sexual assault by the Student Rights and Responsibilities office range from probation to suspension/expulsion. The University may also take whatever action it deems necessary to provide for the safety of the members of the university community. The University will also report each sexual assault to the city police, without reference to individuals.

HOW OFTEN DOES SEXUAL ASSAULT OCCUR?

It is difficult to know exactly how many sexual assaults occur because sexual assaults often go unreported. However, below are some facts of which you should be aware:

Nationally in 2009, there were 88,097 sexual offenses reported (Federal Bureau of Investigation). In **Wisconsin**, 4,633 sexual assaults were reported in 2009. Across the **UW System Campuses**, there were 253 sexual assaults in 2010...157 of which were acquaintances. At **UW-Stevens Point**, there were 4 reports of sexual assault during 2010. Two of these sexual assaults were acquaintances.

WHAT SHOULD YOU DO IF YOU OR SOMEONE YOU KNOW HAS BEEN A VICTIM OF SEXUAL ASSAULT?

- Seek medical attention immediately. A hospital visit is highly recommended. It is important to preserve evidence toward the proof of sexual assault.
- Report any sexual assault or attempted sexual assault to a university official. No other action will be taken unless so determined by the victim.

- Seek assistance from a professional counselor. Free counseling is available at the UWSP Counseling Center.
- Consider options of initiating disciplinary action through the Office of Student Rights and Responsibilities and/or seeking a legal response by reporting the assault to the Stevens Point Police Department. It is always the victim's choice about what course of action to pursue.

Our primary concern is that victims of sexual assault receive appropriate support and assistance. We also understand that confidentiality is of the utmost importance to victims.

PREVENTION INFORMATION

Both men and women should be especially careful in situations involving the use of alcohol or drugs. Alcohol and drugs can interfere with your ability to assess situations and to communicate effectively.

PROTECTING AGAINST STRANGER ASSAULT

Walking On/Off Campus:

1. Always be aware of what is going on around you. Stay alert to your surroundings.
2. Walk with confidence. Hold your head up and shoulders straight.
3. At night, stick to well-lighted, populated areas and walk with another person. Avoid walking alone or in isolated areas.
4. Use campus escort services.
5. Take special precautions in parking lots, stairwells, elevators, bath-rooms, and dark areas with shrubbery. Studies show that many assaults by strangers occur in these places.
6. If you suspect that you are being followed, go to a place where there are other people as soon as possible. If you choose to run, run as fast as you are able and scream to attract attention or summon help.
7. Follow your gut instincts. If you sense that you may be at risk or in danger, try to get out of the situation. For example, if you see a suspicious looking person or someone who makes you feel uncomfortable in a parking lot, leave the area. Report your suspicions to the authorities.

In Residence Halls:

1. Lock your door at all times, even if you run down the hall for just a few minutes to visit a friend.
2. Do not prop security doors open.
3. In residence halls accessed only by a special key, do not let anyone without such a key enter, no matter how presentable their appearance or how plausible their request seems. Simply tell them, "I would like to help you out, but we are very concerned about security in this residence," and direct them to campus security for assistance.
4. Be especially aware of security during vacation periods, when there are fewer people on campus.

REPORTING

Anyone who is aware of a sexual assault must report it to the Coordinator of Rights and Responsibilities. Such reporting is for statistical purposes only; no other action is required unless so directed by the victim.

Any University employee who witnesses a sexual assault on campus or receives a report that a student has been sexually assaulted is required by 1989 Wisconsin Act 177 to report the assault to the Director of Student Rights and Responsibilities. Report forms are available on the Web page, and are also available in the offices of the Chancellor, Counseling Center, University Health Services, Student Rights and Responsibilities, Residence Hall Directors, Protective Services, Academic Deans, and Department Chairs. All completed reports should be submitted to:

Office of Student Rights and Responsibilities Phone: (715) 346-2611
First Floor, Delzell Hall

LEGAL RIGHTS OF VICTIMS

Each individual has the option to pursue appropriate law enforcement, student conduct, protective services, counseling, medical assistance and to be assisted by campus authorities in finding appropriate services.

Should a victim choose to prosecute legally, that person should be aware of Wisconsin Statute 950, which addresses the legal rights of victims. A victim has legal rights and is eligible for the services under this chapter only if the victim reports the crime to law enforcement authorities within 5 days of its occurrence or discovery, unless he or she has a reasonable excuse not to do so.

Sections of 950.04 and 950.045 of the Wisconsin Statutes identifies the following basic rights of victims and witnesses of crime:

- To be informed by local law enforcement agencies and the district attorney of the final disposition of the case. If the crime charged is a felony or is specified in ch. 940 or s. 948.02, 948.03 or 948.05, the victim shall be notified whenever the defendant or perpetrator is released from custody. The victim shall be notified of a pardon application by the governor.
- To be notified that a court proceeding to which they have been subpoenaed will not go on as scheduled, in order to save the person an unnecessary trip to court.
- To have the court provided with information pertaining to the economic, physical and psychological effect of the crime upon the victim of a felony and have the information considered by the court.
- To receive protection from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts, and to be provided with information as to the level of protection available.
- To be informed of financial assistance and other social services available as a result of being a witness or a victim of a crime, including information on how to apply for the assistance and services.

- To be informed of the procedure to be followed in order to apply for and receive any witness fee to which they are entitled.
- To be provided, whenever possible, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants.
- To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence.
- To be provided with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process and the juvenile justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances.
- To be entitled to a speedy disposition of the case in which they are involved as a victim or witness in order to minimize the length of time they must endure the stress of their responsibilities in connection with the matter.
- To have the family members of all homicide victims afforded all of the rights under subs. (1) to (4) and (6) to (9) and analogous services under s. 950.05, whether or not they are witnesses in any criminal proceedings.
- To be entitled to provide written statements concerning parole and pardon applications.

CAMPUS CONDUCT PROCESS

Should a victim choose to bring charges against another student through the student conduct process, the following steps will be followed:

- A written report will be filed with the office of Student Rights and Responsibilities.
- An adjudication officer will be assigned and interviews will be conducted to determine whether violations of UWSP Chapter 17 have occurred.
- Rights of the victim, the conduct process and victim services will be reviewed.
- If evidence suggests a violation of our community standards, the adjudicating officer will notify the accused student in writing, stating the charges and setting a date for a hearing.
- The procedures outlined in UWSP Chapter 17.05 and 17.06 will be followed pertaining rights of the accused.
- The alleged victim is not present at the hearing, however, content and details of the initial report may need to be discussed during the hearing.
- After the adjudicating officer has obtained all available information on the case, a written decision will be rendered.
- If the accused is found to be in violation of one or more sections of Chapter 17, sanctions will be imposed. Sanctions may include probation, suspension, removal or restrictions within the student's residential community, alcohol assessment, psychological assessment and/or other requirements determined by the adjudicating officer depending on the severity of the case.
- The victim will be notified about the outcome of the case when it is completed.
- The accused shall have 10 days to submit an appeal to the office of Student Rights and Responsibilities if they so choose.
- The office of Student Rights and Responsibilities shall exercise authority when deemed necessary to restrict contact between individuals, determine housing changes if appropriate during or after the hearing, and make other decisions intended to bring order to the academic environment.

SERVICES/SUPPORT AVAILABLE FOR VICTIMS OF SEXUAL ASSAULT

Campus Resources

Counseling Center
Delzell Hall - 3rd Floor
346-3553

Equity and Affirmative Action Office
210 Old Main
346-2002

Protective Services
George Stien Building 001
346-3456

Residence Hall Directors
601 Division
346-3511

Student Health Promotion
004 Allen Center
346-4313

Student Health Services
Delzell Hall - 1st Floor
346-4646

Student Rights and Responsibilities
Delzell Hall - 1st Floor
346-2611

Women's Resource Center
Lower Level Dreyfus Univ. Center
346-4851

Community Resources

Community Connections
345-5976

Family Crisis Center
1616 River Drive
343-7125

Portage County Health and Human Services
817 Whiting Avenue
345-5350

Portage County Sheriff's Dept.
1500 Strongs Avenue
346-1400

Sexual Assault Victim Services, Inc.
1608 West River Drive
office: 343-7114
crisis: 343-7125

St. Michael's Hospital
900 Illinois Avenue
346-5000
346-5100 (24 hour emergency services)

Stevens Point Police Dept.
1515 Strongs Avenue
346-1500

