

Marital Rape and the Law

It is illegal in all 50 states for a husband to rape his wife. Marital rape exemptions were done away with in Texas on September 1, 1994. A victim of marital rape can make charges in the same manner as other sexual assault cases. This is done by making a report to the proper law enforcement authorities. The interview and examination process would be the same as with other types of sexual assault. Texas has gender neutral sexual assault laws.

There have been marital rape cases successfully prosecuted in the United States, however only a small percentage of these cases actually make it to a criminal trial. Other women have chosen to sue their husbands in civil court for financial compensation for their injuries and suffering.

Why is marital rape so damaging to the survivor?

Individuals who are raped by someone they share a life, home, and even family with can experience profound psychological injuries. They are not only violated sexually but their intimate relationship has been betrayed as well. Many victims of marital rape have to cope with a deeply seated lack of trust in their partners, acute fear, self-doubt and the overwhelming reality that this sexual attack is likely to happen again. Research has shown that survivors of marital rape are much more likely to be victimized on multiple occasions than victims of stranger or non-stranger rape. These facts are coupled with the reality that most Americans still view marital rape as being "less harmful" than stranger rape, so a survivor may experience limited support from others.

Resources

National Online Resource Center on Violence Against Women

www.vawnet.org

Rape, Abuse and Incest National Network

www.rainn.org

1-800-656-HOPE (4673)

National Domestic Violence Hotline

www.ndvh.org

1-800-799-7233

1-800-787-3224 TTY

TAASA

Texas Association Against Sexual Assault

6200 La Calma, Suite 110

Austin, TX 78752

Phone: 512-474-7190

Fax: 512-474-6490

www.taasa.org

National Sexual Assault Hotline
Free. Confidential. 24/7.

1-800-656-HOPE

Rape in Marriage



TAASA
Texas Association Against Sexual Assault

6200 La Calma, Suite 110
Austin, Texas 78752

www.taasa.org

What is Marital Rape?

Marital rape is the term used to describe nonconsensual sexual acts between spouses, ex-spouses, or intimate long-term partners. These sexual acts can include: intercourse, anal or oral sex, forced sexual behavior with other individuals, and other unwanted, painful, and humiliating sexual activities. It is rape if your partner uses force, threats, or intimidation to get you to submit to sexual acts.

Types of Marital Rape

Force-Only Rape

Partners use only the amount of force necessary to coerce their spouses. Battering may not be characteristic of these relationships.

Battering Rape

Partners rape and batter their spouses. The battering may happen concurrently, before or after the sexual assault.

Obsessive Rape

Partners use torture or perverse sexual acts against their spouses. They are willing to use force to carry these activities out.

Source: License to Rape: Sexual Abuse of Wives by D. Finklehor & K. Yllo



Myths and Facts



MYTH: Marital rape isn't as serious as rape by a stranger; it's just one spouse not being in the mood and the other spouse insisting.

FACT: Marital rape is just as violent, just as degrading, and oftentimes, more traumatic than rape by a stranger. Partners who rape are often portrayed as jealous, domineering individuals who feel a sense of entitlement to have sex with their "property."

MYTH: Marital rape isn't offensive – after all, they have had sexual intercourse before. What's one more time?

FACT: Many victims, trapped in a reign of terror, experience repeated sexual assaults over a number of years. The trust and intimacy in a marriage is destroyed when the person who has promised to love and protect commits such a brutal and violent crime. Compared to women raped by strangers and those whom they don't know well, marital rape survivors report even higher rates of anger and depression.

MYTH: When someone marries, consent to sexual intercourse is part of the marriage contract.

FACT: Sexual expression of love is one thing. Forced, brutalized sex is another. No one consents to violence by marrying nor do they waive their right to protection.

MYTH: If prosecutions are allowed for marital rape, a lot of innocent spouses will have rape charges filed against them by angry, vengeful spouses who hope to bargain for a better property settlement in a divorce action.

FACT: This myth is built on the ill-founded belief that people are innately vengeful and willing to go through the tortures of a courtroom trial in order to "get back" at their spouses. There are many other types of complaints which a spouse could file in retaliation that would require less public exposure and trauma. Further, our legal system has built-in mechanisms to determine the merits of a complaint. Police investigators, prosecutor discretion, and jury deliberation are employed to learn if a criminal charge is true or false. Why should marital rape be treated differently?

MYTH: Marital rape is simply one spouse's word against the other. It would be difficult to prosecute and hard to prove.

FACT: Difficulty in prosecution should not determine whether something is a crime. Treason, conspiracy, child abuse, and incest are also difficult to prove but nevertheless should be prosecuted.