

COUNTDOWN ON SPANNER

c/o Central Station, 37 Wharfdale Road, London N1

SM and the law

In December 1990 16 gay men were given prison sentences of up to four and a half years or fined for engaging in consensual SM activity. This followed a police investigation called Operation Spanner, prompted by a chance finding of a videotape of SM activities. Their convictions have now been upheld by both the Court of Appeal and the Law Lords.

Despite what you may have read in the newspapers, for the most part the men were convicted of the everyday offence of assault occasioning actual bodily harm. Their defence, that they had all consented to the activities, was denied.

SM in itself is not 'illegal'. However, if the police discover you have engaged in SM activities which cause injury, you and your partner could be prosecuted for assault. **This applies to sadomasochists of all sexualities.**

The evidence

The evidence against the Spanner men comprised home videos and their own statements. When they were questioned by the police, the men were so confident that their activities were lawful (because they had consented to them) that they freely admitted to taking part in the activities on the video.

Without these statements and the videotape, the police would have had no evidence to present against the men and would have found it impossible to bring any prosecutions.

The law of assault

In law, you cannot, as a rule, consent to an assault. There are exceptions. For example: you can consent to a medical practitioner touching and injuring your body; you can consent to an opponent hitting and injuring you in sports such as rugby or boxing; you can consent to tattoos or piercings if they are for ornamental purposes, and you can use consent as a defence against a charge of what is called *Common Assault*. This is an assault that causes no injury.

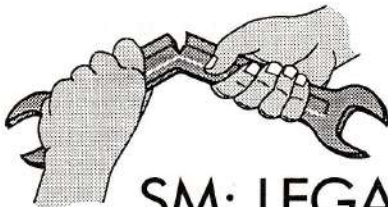
The judgement

The Law Lords have ruled that SM activity provides no exception to the rule that consent is no defence to charges of assault occasioning *actual bodily harm* or causing *grievous bodily harm*. These are defined as activities which cause injuries of a lasting nature. Bruises or cuts could be considered lasting injuries by a court, even if they heal up completely and even if that takes a short period of time. Grievous bodily harm covers more serious injury and maiming.

Is SM now illegal?

SM activity is an illegal assault if it results in marks or injuries which are more than transient and trifling. These words are highly subjective and open to interpretation.

The following are likely to be considered illegal: heavy beatings which leave marks which last for more than just a very short period of time; any activities which leave scars, bruises etc. A heavy love bite could now be unlawful.



SM: LEGALITY. VALIDITY. EQUALITY.

There are many areas of SM activity which are well clear of the ruling. Fantasy sex, role playing and dressing up are outside this judgement. So you can wear as much leather, rubber, uniforms and fetish gear as you wish. Bondage falls outside the judgement too, if there are no lasting marks. And shaving, mummification and water sports are unlikely to be considered assaults. It is likely that mild corporal punishment, where there is no injury, would be considered trifling.

However you should be aware that the judgement does not define what is trifling and transient and the ruling is open to many interpretations. So any prosecutions which attempt to define these need to be fought, supported by the best, well-informed legal advice.

How to protect yourself

This leaflet cannot encourage you to break the law. However it can offer you advice on what you should avoid.

If you believe you may have engaged in SM activity which could be classified as *actual bodily harm* or *grievous bodily harm* then you can only be prosecuted if there is evidence against you. This evidence could be your own statement, or that of another participant. The evidence could be in the form of documentation such as letters, photographs, cassette recordings or videos.

Talking to the police

If you are questioned by the police, remember that, whatever you say, **you are under no obligation to say anything to them**, even if they arrest you. Don't be taken in by a friendly copper who "just wants to help you through this difficulty". They have no right to search your home unless they have a warrant.

Don't be taken in by statements by them to the effect that, if you admit the offence, things will go easier for you in court. Or that, if you give them details of other people's activities or identities, they will go easy on you or let you off. Without your statement they may have no evidence to convict you or your friends.

Always insist on having a solicitor present when you are questioned.

These are your rights.

Documentary evidence

A video tape, photograph, cassette recording or letter which identify the individuals engaging in SM scenes which could now be unlawful will provide the police with good evidence with which to bring a prosecution. Be aware also that identification of individuals can come from recognisable surroundings or body markings such as tattoos or piercings.

Legal advice

Listed below are solicitors who are familiar with the Spanner case and are willing to provide advice and legal representation to people involved in SM activities. (If you know of any others please let us know.)

Angus Hamilton	071 226 8235	(office hours)
	0836 592688	(24 hours)
John Lovatt	071 247 9336	(office hours)
	0459 131744	(24 hours)

Monitoring

If you are charged for any activity involving adult consensual sadomasochism please inform Countdown on Spanner, c/o Central Station, 37 Wharfdale Road, London N1.

This leaflet was prepared by Countdown on Spanner, adapted with thanks from a leaflet produced by SM Gays, BM SM Gays, London WC1N 3XX

Countdown on Spanner is a mixed sexuality campaign for SM rights, fighting to overturn the Spanner convictions, defend the rights of all to engage in consensual adult SM and to educate and inform the public about sadomasochism.

Countdown on Spanner meets at 7.30pm on the last Sunday of the month at Central Station. All welcome.

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