

Congress of the United States
Washington, DC 20515

February 22, 2019

Hon. William Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530-0001

Dear Attorney General Barr,

We are writing to request clarity regarding how the Department of Justice (“the Department”) addresses the act of nonconsensual condom removal, popularly known as “stealthing,” both in general departmental guidance and specifically through the Department’s Office of Violence Against Women (“OVW”).

Nonconsensual condom removal during sexual intercourse is extremely dangerous. It can lead to lasting consequences, such as unplanned pregnancies and sexually transmitted infections, and is also a violation of trust between two sexual partners. As detailed in a 2017 report published in the *Columbia Journal of Gender and Law*, “Survivors experienced nonconsensual condom removal as a clear violation of their bodily autonomy and the trust they had mistakenly placed in their sexual partner.”¹ Many experts agree that nonconsensual condom removal is a form of sexual assault.² As one lawyer at Day One, a New York City-based organization working to end dating abuse, described it, “The stealthing partner has unilaterally decided what kind of sexual act will be participated in by both parties.”³ We agree that this clearly meets any reasonable definition of sexual assault.

The Department regularly issues guidance to and collects data from city, university and college, county, state, tribal, and federal law enforcement. It is our belief that the Department should specifically require inclusion of data on incidents of nonconsensual condom removal in sexual assault reports submitted by state and local law enforcement and when publishing statistics regarding the prevalence of sexual assault in our country.

The Department is tasked with providing “federal leadership in developing the national capacity to reduce violence against women and administer justice for and strengthen services to victims of

¹ ‘Rape-Adjacent’: Imagining Legal Responses to Non Consensual Condom Removal, *Columbia Journal of Gender and Law*, Vol. 32, No.2, 2017

² Suzannah Weiss, “7 Things to Understand If You Want to Practice Good Consent,” <https://www.bustle.com/p/7-things-to-understand-if-you-want-to-practice-good-consent-15823904>, (January 25, 2019); Nandita Raghuram, “Yes, ‘Stealthing’ Is Sexual Assault-& Survivors Can Take Legal Action,” <https://www.refinery29.com/en-us/2017/10/174753/what-is-stealthing-rape-sexual-assault-consent>, (October 4, 2017).

³ Quoted by Nandita Raghuram, “Yes, ‘Stealthing’ Is Sexual Assault-& Survivors Can Take Legal Action,” <https://www.refinery29.com/en-us/2017/10/174753/what-is-stealthing-rape-sexual-assault-consent>, (October 4, 2017).

domestic violence, dating violence, sexual assault, and stalking.”⁴ Therefore, we respectfully submit that it is your duty to provide leadership on this issue. Ambiguity about what behaviors are considered sexual assault both confuses law enforcement and endangers victims. Without consistent data on sexual assault across the country, we run the risk of not having the facts necessary to combat it.

We urge the Department to explicitly address nonconsensual condom removal when issuing guidance to state, local, and tribal agencies and when collecting data from those same entities. Additionally, we request information regarding the Department’s current protocol regarding sexual assault statistics reporting.

Specifically, we would ask that you provide responses to the following questions:

1. Does the Department collect data regarding the practice of nonconsensual condom removal? If so, how does it collect this data?
2. Is the practice of nonconsensual condom removal specifically mentioned in Department data collection guidelines and/or protocols for law enforcement? If so, where is it mentioned and how is the guidance communicated to local law enforcement?
3. Is the practice of nonconsensual condom removal addressed in Department resources for victims of crime? If so, how?

We look forward to receiving your responses to these questions and appreciate the opportunity to work with the Department of Justice in setting appropriate reporting standards that reflect a comprehensive understanding of sexual assault, including nonconsensual condom removal. Thank you for your attention to this matter.

Sincerely,



CAROLYN B. MALONEY
Member of Congress



RO KHANNA
Member of Congress

⁴ U.S. Department of Justice Office of Violence Against Women, Mission statement, <https://www.justice.gov/ovw/about-office>.