Was Consent provided?

Consent is an informed and freely and affirmatively communicated willingness to participate in a particular sexual activity. Consent can be expressed either by words or by clear and unambiguous actions, as long as those words or actions create mutually understandable permission regarding the conditions of each instance of sexual activity. It is the responsibility of the person who wants to engage in the sexual activity to ensure that s/he has the consent of the other to engage in each instance of sexual activity.

Questions/Factors to consider when determining Consent...

1. Was there a voluntary agreement or assent to engage in sexual activity?
   a. If there was an agreement:
      i. How was it expressed (e.g. verbal, nonverbal?)
      ii. Was it affirmatively communicated?
      iii. Did both parties agree?
   b. If no agreement was expressed, consent may not have been provided.
2. Was the victim incapacitated?
   a. If yes, consent was not provided.
   b. Someone who is incapacitated cannot consent.
3. Was the alleged perpetrator incapacitated?
   a. If yes, it may not be clear whether consent or a voluntary agreement was obtained.
   b. If no, did the alleged perpetrator obtain consent (refer back to 1)?
4. Was consent ever withdrawn by either party?
   a. Consent can be withdrawn at any time.
5. Was coercion, force or threat used?
   a. If yes, consent was not provided.
   b. Coercion, force, or threat invalidates consent.
6. Was either party intoxicated?
   a. If yes, it may not be clear whether consent or voluntary agreement was obtained.
   b. If no, did either party obtain consent (refer back to 1)?
7. Was either party under the influence of alcohol?
   a. If yes, it may not be clear whether consent or voluntary agreement was obtained.
   b. If no, did either party obtain consent (refer back to 1)?
8. Was either party under the influence of drugs?
   a. If yes, it may not be clear whether consent or voluntary agreement was obtained.
   b. If no, did either party obtain consent (refer back to 1)?
9. Was either party under the influence of any other substance?
   a. If yes, it may not be clear whether consent or voluntary agreement was obtained.
   b. If no, did either party obtain consent (refer back to 1)?
10. Past consent does not imply future consent.
11. Silence or an absence of resistance does not imply consent.
12. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.