

# Attorney and Client Guide to FALSE ACCUSATIONS

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Man has worried about balancing the scales of justice since the dawn of civilization. Naturally, we want to protect those in our society who are least able to defend themselves. But, at the same time, we want to safeguard the rights of those whose lives and incomes can be destroyed by a single false accusation of child molestation, spousal or child abuse, rape, or another heinous crime.

Even the 10 Commandments addressed the damage a malicious claim can cause by admonishing believers “not to bear false witness against your neighbor.”

Unfortunately, in recent years, legitimate efforts to protect our citizenry have become so politicized that anyone accused of sexual or physical abuse of a child or spouse faces an uphill battle fighting fabricated memories, unproven “pop science” theories, and a growing tendency to believe the accused is “guilty until proven innocent.”

Persons falsely accused of crimes have always required experienced legal representation. However, these days, defendants face the added burden of an ever-mounting body of laws that make it increasingly difficult to find that judicial balance.

At stake is the very freedom of the accused and everything that defines his or her life – family, friends, work, and reputation.

Some of the types of cases and issues that most affect the falsely accused include:

- **Child Molestation** – One of the most frightening statistics for defendants in these cases is that while a majority of accusations are later shown to be false, this crime has the highest conviction rate of any felony charge. An accusation of molestation can start in a divorce/custody battle and lead to removal of your children and, ultimately, to a lengthy prison sentence and a high incidence of suicide.
- **Physical Abuse of a Child** – Expanded legal requirements to report possible physical abuse combined with the unchecked power of Child and Family Services and other state employees to define corporal punishment can lead to costly and traumatic legal battles for the falsely accused. Again, legitimate outrage related to obvious cases of abuse has been used by politicians and social agencies to garner votes and secure increased funding.

- **Shaken Baby Syndrome** – This is another instance where emotion often trumps evidence. The role of the defense team is to teach a jury the difference between scientific research and the opinions of an advocate when it comes to brain trauma. Putting on such a defense is not only difficult but expensive, because most of the testimony relies on medical experts and interpreting highly technical supporting studies.
- **Rape** – The allegation has always been easy to claim and difficult to defend. In addition, state legislators have in recent years given prosecutors a new weapon by allowing them to introduce unsupported allegations made by other persons who were allegedly assaulted by the defendant. These claims need not have resulted in a conviction. In fact, there doesn't even have to be an existing criminal charge or a prior police report.
- **False Memory Syndrome** – Despite extensive evidence of the failings of “repressed memory” testimony, this unorthodox methodology continues to be in vogue among certain therapists. Thousands of women have made sexual allegations against their parents as a result of this “pop science” fad, devastating families and resulting in civil and criminal cases involving alleged molestations that never occurred.
- **Spousal Abuse** – While Penal Code sections do not differentiate between a man and a woman, in practice, there is a gender bias in enforcement of the law. The vast majority of persons entrusted to enforce these laws favor a woman's testimony, and experience shows that when both parties claim abuse, the prosecutor nearly always proceeds with charges against the man and releases the woman.
- **Internet Stings** – Pretty much everyone has seen television programs where police use a decoy to arrest someone for allegedly attempting to have sex with a minor. Not only do defendants face long prison terms, but, if convicted, they must register as a sex offender every time he or she changes residence as well as once every year for the rest of their lives.

Politicians have upset the delicate scales of justice when it comes to accusations of child or spousal abuse. Since the deck is so stacked against the defendant, I recommend those who even suspect they might be accused always do the following:

- **Pretext Phone Calls** – Police will often enlist the services of the accuser to try and trap you into apologizing for an action in exchange for a promise not to talk with authorities. Don't do it! Just hang up the phone.
- **Search and Seizure** – Do not give your permission for a search, but never physically obstruct an officer.
- **Interrogations** – It's best not to talk with law enforcement officers if your attorney's not present. Just say these words: “I'm going to remain silent. I want a lawyer.”

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## **FALSE ACCUSATIONS VICTORIES BY BERG & ASSOCIATES:**

- In People v. Endicott, one of the most notorious cases in Tehama County history, our client was charged with numerous counts of sexual molestation of five boys over a period of 30 years. Berg & Associates forced the government to reveal a tape recording showing one of the alleged victims recanted his accusation. Police had concealed that information, but we forced the prosecutor to conduct a search of the Sheriff's Department computers to discover it. In addition, Berg & Associates presented an expert witness in erectile dysfunction who testified it was unlikely our client, at age 69, had the sexual stamina to perform as the boys claimed. In 2007, a jury deadlocked on 11 of the counts and found him not guilty on 14 others.
- In People v. Pezzonella, another notorious case, this time in Shasta County, Berg & Associates successfully defended a teacher accused of repeatedly having sexual intercourse with a developmentally delayed 13-year-old student of his. After several hung juries, where many of the jurors found the defendant innocent, all charges against him were finally dismissed.
- Other notable successes include People v. Schmitz, People v. Napier, People v. Pizzaro, and People v. Van Metter.

## **WHY CHOOSE BERG & ASSOCIATES . . .**

Our business is protecting you and your family with the best possible legal representation. Your crisis is our crisis. We fight hard for you.

Berg & Associates is a Northern California law firm based in Redding and Chico. We have experienced and highly qualified attorneys and support staff who specialize in criminal defense, divorce, family law, and personal injury cases. We also have a full investigative team.

Berg & Associates is small enough to provide personalized services, yet is large enough to guarantee a spirited in-depth defense fully protecting your rights.

Our offices are conveniently located in Shasta and Butte counties at:

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