

Confronting A False Accusation Of Sex Assault That Could Ruin Your Life

November 19, 2013 | by Einhorn Barbarito

Being falsely accused of rape or sexual assault is something that can truly ruin your life. There are various reasons why a person may make a false assertion, and these claims, when false, make it harder for real victims of sexual assault to come forward. However, when a false accusation of rape occurs, if you are arrested and charged with a sex crime it is a very serious matter. The most fundamental and important piece of information that you can receive is do not give any statements to the police even if you feel you have done nothing wrong. You have a right to remain silent and a right against self incrimination. You cannot be compelled to make a statement. To perfect that right, you must assert it. That means that if questioned by a police officer, you must invoke your [fifth amendment](#) right to remain silent. That requires you to specifically ask for an attorney and that you will not speak without an attorney being present. At that point, all questioning must cease.

Many people think that by giving their versions of event, they are helping themselves. However, that is ordinarily not true where you do not have specific information regarding what the complaining witness alleges. She will report her version of events to the police. However, if she does, the police will seek to get your side of the story without telling you all of her allegations. Without knowing what the specific allegations there are, you may well provide information that makes you sound guilty. That old proverb “silence is golden” is especially true when you are a suspect in a criminal matter, especially a sex case based upon words alone.

If you are charged with a sex offense, the consequences are significant and may include prison time and your classification as a Megan’s Law offender. Sexual offenses are graded or classified based upon the type of act involved, ranging from sexual contact to sexual assault. Sexual contact is either a third or fourth degree offense which can result in incarceration.

Although you can claim that you didn't have sex, if there is an allegation of penetration, it is far more serious and can be classified as a sexual assault – a first or second degree offense. Penetration means either vaginal intercourse, fellatio or anal intercourse by insertion of a hand finger or other object into the anus or vagina. Penetration cases are categorized as sexual assaults. The classification of any sexual offense also depends not only upon the sexual act but also depends of the age of the parties. If the complaining witness is less than 16 years of age and you are more than 4 years older, the charge is elevated. Under certain circumstances, the offense is aggravated by the nature of the relationship between the complaining witness and the accused such as where a relative is accused of having sex with a related child under the age of 16. The use of physical force or coercion is also an aggravating factor. The offense which may be lodged against you depends upon a description of the events given by the complaining witness.

It is absolutely vital that you seek the assistance of an attorney who is experienced in defending against allegations of sexual assault. A qualified attorney will recommend hiring a private investigator to obtain statements from individuals who may have information which will prove your innocence. The background information can also be used regarding the complaining witness. However, her prior sexual history is not necessarily relevant and may actually be excluded from any trial based upon the Rape Shield Act, which prohibits the use of evidence regarding the complaining witness' prior sexual history unless it is relevant to a specific issue in the case. In many cases of false accusations, it is clear that consent would be a central issue of the case.

If, for example, at a party you and the complaining witness have been drinking, your position could be that any sexual activity that occurred was consensual. However, the complaining witness may assert that she was too drunk to give her consent. It then becomes an issue to be determined at a trial. The State would attempt to establish that her level of intoxication was so high that she could not have the capacity to consent. Other issues also exist including statements that she may have made immediately following the party. Additionally, if there exists evidence of torn or rip clothing, physical injury to her would all be things that would have to be addressed and investigated.

Again, the most important information to take away from this post is for you is give no statement and retain an experienced criminal defense attorney with experience in sex crimes.