

**SURVIVAL GUIDE  
FOR THOSE ACCUSED  
OF A SEX CRIME IN  
SAN DIEGO**



**SURVIVAL GUIDE FOR  
THOSE ACCUSED OF A SEX  
CRIME IN SAN DIEGO**

*First Edition*

By David P. Shapiro, Esq.  
The Law Office of David P. Shapiro,  
APLC



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# INTRODUCTION

*“Accusations fit on a bumper sticker; the truth takes longer.” ~ Michael Hayden*

Your life has been thrown into chaos. Police have arrested you and hit you with extremely serious criminal charges. For instance: sexual assault, battery, rape, indecent exposure, domestic violence, stalking, or child molestation.

Now what? Whatever happened, happened. You cannot undo the past, but you can be strategic about the future. The attorneys at the Law Offices of David P. Shapiro know this is a frightening, confusing, and difficult time for you. We are here to help.

We have created the following e-book as

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a survival guide for individuals arrested and charged with sex crimes. We will focus on the needs of those in San Diego, California, but we hope to reach further and help even more people with this content.

Maybe you are guilty as charged. Maybe you are guilty of something, but are overcharged and thus at risk of an undeserving sentence. Maybe you are totally innocent. In any case, you are rightfully panicked about what your sex offense charges might mean for your future, freedom,<sup>3</sup> and finances.

In this series, **you will find:**

- ✓ Tips on what to do directly upon arrest;
- ✓ Legal information on different types of sex crime charges;
- ✓ Insight on how to make amends and rebuild your life.

The goal of this book is not to excuse sexual assaultive behaviors. Not at all! It is to educate you and other defendants in a compassionate and understanding way to ***prevent crimes from recurring and help people heal***. We want

readers to get the help they need—legally and personally—to find a brighter path. You are at the beginning of your journey. You are, at least to some extent, in charge of your future. No matter your circumstances, you can improve your life; it all starts here.

**Want immediate insight? Call (619) 295-3555 to schedule a free case evaluation with a team member from our San Diego based criminal defense law firm.**

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# **TRIAGE AFTER YOU HAVE BEEN ARRESTED ON A SEXUAL ASSAULT CHARGE**

*“Take the first step in faith. You don’t have to see the whole staircase, just take the first step.” ~ Dr. Martin Luther King Jr.*

Whether it has been one hour or one week since your arrest, you should take certain actions as soon as possible. You need to protect your rights, safeguard your future, and avoid making your current situation worse. When in doubt, use one of your “free phone calls” to talk to one of the team members at the Law Offices of David P. Shapiro. Our number is (619) 295-3555. Here

are three steps to take directly upon arrest for sex crimes.

**1. EXERCISE YOUR RIGHT TO REMAIN  
SILENT**

In reading your Miranda rights, the arresting officer will tell you that you have the right to remain silent. Use this Fifth Amendment right against self-incrimination. Do not say anything to law enforcement during your arrest. The officers can use anything you say during arrest against you in a court of law. No matter what the police say or promise, do not speak about any criminal allegations until you have a lawyer present. If you must say something, unequivocally tell the police you refuse to talk to them until you have a lawyer. You may face intense pressure from the authorities. Do not give in. Speaking to law enforcement about the basis of a criminal accusation, particularly a sex crime, rarely (if ever) will benefit your case.

## **2. RETAIN A QUALITY, EXPERIENCED CRIMINAL DEFENSE ATTORNEY ASAP**

The police will take you to the station or jail for the booking process. Police will record your fingerprints and take a mug shot. You will then go to the holding cell. The police must give you one free phone call, but they do not have to do so right away. They may make you wait until the booking process is complete. Once you get to make your phone call, use it to phone a reliable family member who can hire you a quality, experienced criminal defense attorney. The sooner you retain a qualified defense attorney, the better. If you cannot afford an attorney to represent you, the judge will appoint a public defender at your first court appearance.

## **3. PREPARE FOR YOUR FIRST COURT DATE**

Ideally you can get the criminal defense attorney of your choosing on board to represent you prior to your first court date (arraignment). This is especially critical when charged with a sex crime as a high bail may be at issue. After pleading not guilty at the arraignment, the court

will set at least one (two if felony charges) future court dates. You and your attorney will prepare for any and all future court dates by reviewing the discovery (evidence against you) and developing an effective strategy to maximize your chances at obtaining a successful outcome. Hire a reputable, experienced, criminal defense law firm and follow your attorney's advice.

# **WHAT RIGHTS DO YOU HAVE IF YOU ARE ARRESTED FOR SEXUAL CRIMES IN SAN DIEGO?**

Arrest and criminal charges in San Diego do not immediately disempower you. You still have rights. Police sometimes violate these rights before, during, and after taking people into custody. This could lead to unfair and inhumane treatment. Know your rights to protect them.

## **THE RIGHT TO REMAIN SILENT**

The Fifth Amendment gives you the right to remain silent. The Miranda warning is the list of rights police officers read arrested individuals prior to their attempts to solicit a confession. While officers do not have to read you these



rights, if they do not, they may not be able to use anything you say as evidence against you in court. Politely refuse to answer police questioning until you have had the opportunity to consult a quality, experienced, criminal defense attorney.

### **THE RIGHT TO CONSULT AN ATTORNEY**

You have the right to consult with an attorney and have the attorney present with you during any police questioning. Do not let officers persuade you to answer questions until your lawyer is present. You can request an attorney even prior to being formally arrested. If you cannot afford to retain a private attorney, the court will appoint a public defender.

### **THE RIGHT TO HUMANE TREATMENT**

You are innocent until proven guilty. Unfortunately, police brutality, unfair treatment, and unnecessary use of force occur daily in the United States. No matter your alleged crime, officers must give you food and water, basic medical care, and refrain from beating you while in a holding cell or during questioning. If police

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punish you or treat you unfairly while you await trial, they have violated your rights.

### **THE RIGHT TO A SPEEDY TRIAL**

Police and other legal system staff members may not delay your trial. If you are in custody, you have the right to a preliminary hearing within 10 court days of your arraignment (first court appearance). If you are not in custody, the law entitles you to a preliminary hearing within 60 calendar days of your arraignment. If the courts miss these deadlines, you have the right to dismissal-unless your attorney instructed you to waive your right to a speedy trial.

# **HOW TO CHOOSE A CRIMINAL DEFENSE ATTORNEY FOR A SEX ASSAULT CHARGE**

During the tumultuous time after a sexual assault arrest, your defense lawyer should be your guide, confidant, and support system. Your attorney should be your greatest advocate. Whether you are guilty or innocent, your attorney should fight for what is fair and just for *you*, not for the alleged victim, the prosecution, or anyone else. Here are four ideal things to look for in your attorney.

## **EXPERIENCE WITH YOUR ALLEGED CRIME**

Find a lawyer that has represented other clients that faced the same or similar charges.

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Do not be afraid to ask for the attorney's success stories and client testimonials.

### **KNOWLEDGE OF THE LOCAL COURT SYSTEM**

If you get arrested in San Diego, find a good criminal defense attorney who practices here in San Diego. A local attorney will most likely know many of the judges and prosecutors—people who could be assigned to your case and have a positive or negative impact on its outcome. For example, your attorney may know to avoid the courtroom of a judge who is especially harsh on people charged with sexual crimes; or even when and where are the best places to resolve your case by way of a plea bargain, if doing so is in your best interest.

### **FAIR COST VS. VALUE OF SERVICES**

If you have the means to retain a quality, private defense attorney, do so. While public defenders come at little to no cost, they typically have limited time to give your case the individualized attention it deserves. Compare the cost versus value of an attorney's services

before you choose yours. Know how much your attorney's fees will cost ahead of time. Ask what services come, and do not come, with your fees. All of that should also be addressed in the law firm's retainer agreements. If they are not, that may be a red flag about that law firm.

### **PERSONALIZED APPROACH TO CRIMINAL DEFENSE**

Each criminal case is different. Your attorney should not use a one-size-fits-all approach to your criminal defense. He or she should work closely with you to identify your specific case goals. Look for a lawyer who truly cares about what happens to you, and who has the time and resources to dedicate to your case. Your choice of attorney can profoundly affect your future—and may even determine whether you spend an extended period behind bars. Choose wisely.

# **HOW TO MANAGE YOUR JOB, FRIENDS, AND LIFE AFTER AN ARREST FOR SEXUAL ASSAULT**

When police arrest you for an alleged sex crime, the rest of the world does not stop. During a detention, arrest, court dates, and possible jail time or other punishment, other components of your life will continue to move forward. How do you keep your job, relationships, and life intact after an arrest? Start with these steps.

## **BE ON A NEED-TO-KNOW BASIS**

First, keep in mind that an arrest is not a conviction. If you are innocent, tell your friends and family members as much. Let them know it is a misunderstanding and that your lawyer is

working to clear the charges. If you are guilty, it is up to you how honest you want to be with your friends and family. Your attorney will help you know when is the best time to tell people about your mistakes. Telling others that you committed the crime too early can work against you in court.

It is often best to be on a need-to-know basis only with friends and family until your case ends. Tell your loved ones that police have arrested you and that you are working with an experienced criminal defense attorney. You do not need to divulge any further information if you do not want to or if it could hurt your case. If you require money or other types of support during this difficult time, be honest about your needs. Now is not the time to turn down help.

### **LEARN YOUR RIGHTS AS AN EMPLOYEE**

You may or may not have to report your arrest and criminal charges to your place of employment. At some companies, there may be a contract or employee handbook that makes it mandatory to report it if you come under arrest for a sexual crime. Jobs in education

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and law enforcement, for example, typically make reporting mandatory. Look through your employee handbook for more information about your specific job position.

There is currently no statewide law in California that universally requires all employees to report arrests or criminal convictions. However, employers can create their own reporting requirements. The right attorney can help you keep your life together as much as possible after an arrest. Once you retain a defense lawyer, ask him or her how you should go about telling your employer, friends, and family members—if at all. Each case is unique.



# FAQS ABOUT INDECENT EXPOSURE AND LEWD CONDUCT CHARGES IN CALIFORNIA

*“Being defeated is only a temporary condition. Giving up is what makes it permanent.” ~ Marilyn vos Savant*

Indecent exposure and lewd conduct are serious crimes in California. Yet these cases are highly defensible, even with significant evidence against the alleged perpetrator. The number one thing to know about these charges is that police can, and will, try to use everything you say against you in court. If there is one piece of advice to live by upon arrest, it is to stay silent until you have

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an experienced, quality criminal defense attorney  
by your side.

## **FREQUENTLY ASKED QUESTIONS**

After an arrest or allegation against you for indecent exposure (intentionally showing one's sexual organs in public) or lewd conduct (sexual behavior or unlawful act that goes against society's approved standards), you probably have a ton of questions. Here are three of the most common questions we receive at the Law Offices of David P. Shapiro, and our answers:

1. ***Police are charging me with indecent exposure. How can I stay off the sexual offender's registry?*** Simply put: avoid a conviction. If you receive an indecent exposure conviction, [Section 314](#) of the California Penal Code, as it currently stands, makes lifetime registration as a sex offender mandatory. Remain silent and talk to an experienced defense attorney. Do not give police anything

to corroborate the allegations made against you.

2. ***What type of fees would a lawyer charge for this type of case?*** It

depends. Your prior criminal history, the location of the court, the stage of your case, the work required to handle the case the right way, and many other variables can affect the final cost of a criminal defense attorney's services. Even for a first offense, however, it is critical to retain a top-quality attorney. Some firms, such as the Law Offices of David P. Shapiro, may offer payment plans.

3. ***A detective has contacted me.***

***What do I do?*** Do not talk to the detective. Retain an experienced criminal defense attorney and let him or her be your voice during the investigation. If someone has accused you of exposing yourself or performing lewd conduct in

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San Diego, do not say a word until you  
have spoken to a lawyer. Anything you  
say to law enforcement, at any moment,  
could harm your case.

# **DATE RAPE DEFENSE IN CALIFORNIA: FREQUENTLY ASKED QUESTIONS AND ANSWERS**

“Date rape” refers to sex that someone does not consent to having, typically after consuming drugs or alcohol. If someone has accused you of date rape, or police have arrested you and charged you with this alleged crime, what you do next is extremely important. Use these frequently asked questions to help you immediately after accusations come to light.

## **WHAT SHOULD I EXPECT AFTER ARREST FOR DATE RAPE?**

Rape is one of the most serious types of sexual crimes. It comes with equally serious penalties for those convicted. After the accusation, police will try and build a strong enough case against you to get a warrant for your arrest. Irrespective of whether or not you are arrested, you have the right to remain silent when questioned. You do not have to answer any police or investigator questions. You will have the opportunity to request a defense attorney, which you should do as soon as possible.

## **AN ACQUAINTANCE IS ACCUSING ME OF DATE RAPE. WHAT SHOULD I DO?**

Do not speak to the person who is making the accusations against you. Neither deny nor accept the charges as true. Do not try to explain yourself, make excuses, or give an alibi. Stay silent until you speak to a quality criminal defense attorney. You need someone on your side to reach out to law enforcement in San Diego and let them know you have legal representation. Your lawyer will

give you advice on what to do next.

### **CAN I SUE THE PERSON WHO ACCUSED ME OF DATE RAPE?**

A date rape accusation, charge, and/or arrest unquestionably will adversely impact your life. With or without an actual conviction, the allegation can tarnish your reputation and impact relationships you have with friends, family, and employers. If the criminal court makes a factual finding of your innocence of the date rape charges, you may be able to seal your arrest record and even seek justice in civil court from the party who falsely accused you. The criminal court may seal your arrest records, while a lawsuit with the civil court could compensate you for damages you incurred because of the accusations. Damages may include loss of reputation, loss of employment, and attorney's fees.

## **ACCUSED OF A VIOLENT CRIME IN CALIFORNIA? WHAT IS YOUR BEST DEFENSE?**

The term “violent crime” usually describes four offenses: rape, murder/manslaughter, robbery, and aggravated assault (either with a deadly weapon or by means likely to produce great bodily injury). Violent crimes are offenses that involve the threat of force or actual force. The most common violent crime charge in the United States is aggravated assault. If prosecutors in San Diego have charged you with a violent crime, you could be facing serious penalties. Use the following information for help.



## **SILENCE IS GOLDEN**

There are countless cases where a defense attorney could have reduced or eliminated violent crime charges were it not for something the accused said early in the investigation before retaining counsel. The best thing you can do to protect yourself after hearing someone has accused you of a violent crime is to stay silent. Politely decline talking to investigators or police officers until you have an attorney. Even saying something you think will help you, like giving an alibi, can come back to hurt you. Exercise your right to remain silent during an investigation, arrest, and police questioning.

## **ABOUT SEXUAL ASSAULT CHARGES**

Charges such as rape, child molestation, and sexual assault need a strong defense. If your violent crime allegation involves sexual assault against a minor, you may face greater penalties. The age of the alleged victim is important and can make a sentence much harsher than it would be if the crime only involved adults. There are possible defenses to sexually violent crimes, but

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they are significantly weakened if the accused says certain things that the prosecution can use against him or her.

## ASSAULT AND BATTERY CHARGES? ANSWERS TO FAQs ABOUT YOUR DEFENSE OPTIONS

Here are four common questions people facing assault and battery charges have along with, what are hopefully, easy to understand answers:

- ***What is the difference between a misdemeanor assault and a felony assault?*** Prosecutors often file both types of cases under the same code—California Penal Code Section 245. Variables that can decide whether a District Attorney or City Attorney file the charge as a misdemeanor or

felony include prior criminal record, type of weapon involved (if any), the unique circumstances associated with the case, and extent of injury (if any). Misdemeanors are less serious charges than felonies and carry a maximum sentence of one year in jail.

- ***What factors could exacerbate my assault charges?*** If someone has sustained “great bodily injury” from the assault, the charge can turn from a non-strike felony assault into a violent/strike felony. This difference can increase the four-year maximum sentence to a seven-year maximum. Any state prison sentence imposed would then need to be served at 85%, as opposed to 50%. A strike felony will stay with you for the rest of your life and can double punishment for any future felony conviction you suffer.

- ***What evidence must you show to establish self-defense?*** Generally speaking, to claim self-defense against an assault and battery charge, you must show that you felt you or someone you love was in immediate risk of harm and that your actions were the most reasonable to prevent the harm from occurring.
- ***Can courts convict me of assault even if there was no physical contact between the alleged victim and myself?*** Yes. For example, throwing something at someone could result in an assault charge. You could also receive charges for aiding and abetting someone else or being an accomplice—even if you never touched the alleged victim. Charges and penalties will typically be worse if you were the person touching the complainant, but you can still face criminal charges if there was no physical contact.

## **CHARGED WITH DOMESTIC VIOLENCE IN CALIFORNIA? HOW SHOULD YOU DEFEND YOURSELF?**

Domestic violence refers to an individual committing a criminal act against another within a familial or intimate relationship, as defined by the California Penal Code. If the alleged victim is the alleged perpetrator's spouse, former spouse, cohabitant, former cohabitant, co-parent, or partner in a dating relationship, a criminal act may be domestic violence. As someone facing this type of charge in California, you need high-quality legal counsel ASAP. This FAQ page should be a good starting point for your research.

**THERE IS NO EVIDENCE OR WITNESSES.  
CAN THE JURY STILL CONVICT ME?**

Yes. Unfortunately, many people find themselves in a “he said, she said” situation in domestic violence accusations where the complainant alleges that someone assaulted them with no real evidence or witnesses other than their own words. These types of cases will ultimately come down to the decision of the 12 jurors involved in the trial. The jurors will need to unanimously conclude beyond a reasonable doubt that the only viable interpretation of the evidence is that the complainant’s story is true.

It is up to the prosecution to prove beyond a reasonable doubt that you are guilty of the domestic violence offense which has been alleged. As the criminally accused, the best thing you can do to protect yourself is to keep your mouth closed about your case. Do not talk to investigators, medical staff, or police officers. Anything you say could potentially add validity to the complainant’s claims. Staying silent puts the burden of proof on the prosecution. Minimizing what you say until you speak to a qualified

criminal defense attorney may only significantly help your case.

### **CAN MY SPOUSE DROP DOMESTIC VIOLENCE CHARGES?**

Unfortunately, no. It is not your spouse who brings the charges against you, but the prosecution on behalf of the state of California. Once a reporting party makes the 911 call to report domestic violence, the case is out of your partner's hands. It is then up to law enforcement to investigate the claim and decide who is going to get arrested.

Even if your spouse changes his or her mind and tries to take the statement back, the case against you could still move forward. After that, your spouse has the right to say what their desired outcome is, but your spouse cannot drop the charges. There are, however, other potential ways to get charges dropped if you work with an experienced attorney.



# **ACCUSED OF RAPE IN SAN DIEGO? WHAT YOU NEED TO KNOW AND DO NOW**

If someone has recently charged you with rape in California, you need to act fast to protect your rights. First, utilize your Fifth Amendment right to remain silent. Remain silent during arrest, booking, and detainment. The police can use anything you say against you to assist in successful prosecution. Do not answer any questions. Simply state that you refuse to answer questions until you have a lawyer present. Then, retain a top-quality criminal defense attorney.

## **CATEGORIES OF RAPE**

California Penal Code Section 261 defines rape as an “act of sexual intercourse accomplished with a person not the spouse of the perpetrator”. Circumstances that may constitute rape include sexual intercourse with someone incapable of giving legal consent, sexual intercourse accomplished by means of force or intimidation or by means of intoxicating the victim, or sexual intercourse with someone who was unconscious, asleep, or unaware that the act occurred. There are a few different categories of rape:

- **Rape of a stranger.** These are the rape cases you may hear about in the news—the attack and subsequent rape of a stranger in the streets. The prosecution will have to prove the defendant’s guilt beyond a reasonable doubt.
- **Statutory rape.** Statutory rape is a rape in which one of the individuals is below the age of consent. In these cases, the question of consent is irrelevant due to the age of the alleged victim. All the

prosecutor will need to prove is the age of the participants and that a sexual act occurred between the two.

- **Rape of an intoxicated or unconscious person, also called “date rape.”** If the victim was incapable of consenting, the prosecution could charge the person of sound mind with rape.

In cases involving rape and other sexual crime accusations, less is more. The less you say to the accuser, the police, and others, the better. Do not admit to having sex with the person accusing you, even if it was consensual. Give the prosecution the task of proving this and verifying the alleged victim’s story. When in doubt, remain silent until you talk to a quality, experienced criminal defense attorney in San Diego.

## **ANSWERS TO 3 CRITICAL QUESTIONS ABOUT CALIFORNIA SEX CRIME DEFENSE**

Here are three frequently asked questions about general [sex crime defense in California](#):

### **1. Can I have a sexual assault conviction expunged from my record?**

This will depend on a few factors. You must meet certain requirements under law for a judge to agree to “expunge” (set aside and dismiss) your conviction. Requirements will vary based on the severity of the conviction. For misdemeanor post-conviction relief, for example, you need to complete probation and satisfy all court ordered conditions before the court will order a dismissal.

Certain convictions are not eligible for relief under Penal Code section 1203.4. These include violations of Penal Code sections 286(c), 288, 288.5, 288(c), 289(j), 311.1, 311.2, 311.3, 311.11, and a felony under section 261.5. An experienced criminal defense lawyer can help you with your specific expungement request.

## **2. Can I get my name off the sexual offender's list?**

Possibly. To successfully remove your name from the national sex offender's list after a sex crime conviction, you will need to abide by strict requirements. First, you must have not committed any crime punishable with more than one year's imprisonment within the last 10 years from the date of your sentence. Second, you must have committed no additional sex crimes. Third, you must complete a certified sexual rehabilitation course. Fourth, you must have successfully completed probation, parole, or supervised release.

### **3. How much does it cost to defend a sex crime case?**

Here is that answer again... it depends. The cost of a private attorney during sex crime defense will vary depending on the facts of the case, how much work it will require, the attorney's experience, and numerous other factors. If you cannot afford a private attorney, you can will likely be eligible to be appointed a public defender. However, know that you will not be able to hand pick your public defender the way you can a private attorney. Attorney David P. Shapiro's law firm will consider payment plans to help potential clients afford his firm's services.

## **ARRESTED FOR THE CRIME OF STALKING? WHAT YOU NEED TO KNOW AND DO NOW**

California Penal Code Section 646.9 states that “any person who willfully, maliciously, and repeatedly follows or harasses another person and who makes a credible threat with the intent to make the person fear for his or her safety or the safety of a family member is guilty of stalking.” If someone has accused you of stalking, the prosecution will bear the burden to prove your guilt beyond a reasonable doubt. Here is what you need to know about establishing a strong defense to stalking charges.

## **STALKING CAN MEAN MANY THINGS**

Stalking does not have to be the traditional setup of someone following around a crush or celebrity. It can describe interactions between friends or two people in a sexual relationship. Stalking can involve the watching or following of a person, or correspondence via phone, mail, or the Internet. Any unwanted or obsessive attention from one person to another may qualify as stalking. Clarifying precisely how the law views your actions (as stalking or not) is key for developing a viable defense.

The Federal government's [Justice.org](http://Justice.org) site gives examples of what could constitute criminal stalking. In general, California law also considers these types of actions illegal:

- “Repeated, unwanted, intrusive, and frightening communications from the perpetrator by phone, mail, and/or email.
- Repeatedly leaving or sending victim unwanted items, presents, or flowers.



- Following or laying in wait for the victim at places such as home, school, work, or recreation place.
- Making direct or indirect threats to harm the victim, the victim's children, relatives, friends, or pets.
- Damaging or threatening to damage the victim's property.
- Harassing victim through the internet.”

### **THE PROSECUTION'S BURDEN**

To convict a person of the crime of stalking, the prosecution must prove certain elements. Just because a behavior is annoying, obnoxious, socially unacceptable or inappropriate does not necessarily make it a crime in California.

### **POTENTIAL PENALTIES FOR STALKING**

In California, the penalties that come with a stalking conviction are imprisonment in county jail for up to one year or state prison for

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a maximum of three years and/or fines of up to \$1,000. Stalking victims often seek, and obtain, protective/restraining orders to keep their alleged stalkers away. If you face charges related to protective order violations, you may be at risk of additional statutory penalties-not to mention the wrath of the court.

# **CHARGED WITH CHILD ASSAULT OR ABUSE IN CALIFORNIA? HERE'S WHAT TO DO**

The California court system takes child abuse allegations very seriously. To minimize the likelihood of a lengthy prison sentence or unfair punishment, loss of custody of your children, and other unwanted outcomes, you need to be smart in your defense. This includes but should not be limited to hiring the right criminal defense law firm to represent you. [Take these steps](#) if you stand accused of a crime.

## **1. Do Not Talk to Anyone**

Do not talk to the person accusing you of the crime, investigators, police officers, medical

professionals, or anyone else about the alleged charges against you until you have spoken to a skilled and experienced San Diego sex crime defense attorney. Too many defenses get off to bad starts because the accused compounds their problems during arrest or detainment because of what they say. Protect yourself by exercising your right to remain silent.

## **2. Retain an Experienced Attorney to Advise You**

Just because a legal team has experience doing criminal defense in general does not mean the firm is ready to handle the subtleties and emotional complexities of this type of case. Depending on circumstances and nature of the accusations, these matters could attract a lot of media attention. Your team needs to be ready. Along those lines, even if you have not been arrested or charged yet, if someone (e.g. your ex-spouse) plans on filing unfounded child abuse charges against you, retain an attorney immediately.

### **3. Develop a Defense Strategy with Your Attorney—and Stick to the Plan**

You and your attorney should develop a plan of action based on the facts on the ground. Depending on what you actually did—and what evidence supports the allegations—you might plead not guilty to all charges, argue that certain charges are too harsh or unfair, or just aim to minimize the penalties. Potential defenses could include:

- Denying the accusations entirely;
- Arguing that any injuries that occurred to the child/children resulted from an accident and not from abuse;
- Admitting to some wrongdoing, but arguing that you should only be convicted of a lesser offense.

## **4 WAYS TO ADOPT BETTER HABITS IN THE WAKE OF BEING ARRESTED ON SEX CRIME CHARGES**

Conrad Hilton once observed: *“Success seems to be connected with action. Successful people keep moving. They make mistakes but don’t quit.”* Reflecting on that idea, let’s explore how you can reboot your life in the wake of an arrest for a sex crime in California. What habits should you adopt to feel healthier, more positive, and productive?

### **1. Follow the Rules**

One of the easiest ways to find yourself back

in front of a judge is if you color outside the lines. If you wind up on probation, for example, follow the terms of your probation agreement to a tee. Obey even minor rules, be prompt for probation meetings, and take your lawyer's advice on how to succeed on probation to heart.

## **2. Focus on Emotional Recovery**

Being arrested for any crime, let alone a sexual crime, can be emotionally draining. Your job, relationships, and reputation may all suffer. You do, however, have at least some control of how you live your life after an arrest. Use the power of positive thinking to aid your emotional recovery before you take on the rest of the world. Use techniques such as yoga or meditation to connect with your inner self. Consider therapy, healthy activities, or a support group to help you heal emotionally. (We'll explore these ideas in more detail in future articles.) It is worth noting that emotional therapy should be as a complement, not a supplement, to hiring the best, locally experienced, criminal defense attorney you can afford.

### **3. Fill Your Time Productively**

Being stagnant does not bode well for most individuals after an arrest. Not knowing what to do with your time could result in you falling (back) into bad habits. Instead, fill your time intelligently. For instance:

- Join a neighborhood sports team;
- Volunteer in the community;
- Go back to school;
- Plant a garden;
- Learn a new skill.

### **4. Surround Yourself with Supportive People**

Business author Jim Collins gives the following advice to would-be entrepreneurs—and it's equally relevant for anyone who wants to improve in life: *“you are a bus driver. The bus... is at a standstill, and it's your job to get it going. You have to decide where you're going, how you're going to get there, and who's going with you. Most people assume that great bus drivers (read: business leaders) immediately start the*



*journey by announcing to the people on the bus where they're going—by setting a new direction or by articulating a fresh corporate vision. In fact, leaders of companies that go from good to great start not with “where” but with “who.” They start by getting the right people on the bus, the wrong people off the bus, and the right people in the right seats.”*

Who are the “wrong people” on your bus? People who may have abetted your bad habits or encouraged shady behavior or ways of thinking? Who are the “right people in the wrong seats”? People who support your good habits but who perhaps are not positioned to keep you at your best? Resolve to surround yourself with an appropriate support system.

## **3 REASONS TO ATTEND THERAPY AFTER BEING ARRESTED ON A SERIOUS SEX CRIME CHARGE**

As someone who stands accused of a serious sexual crime, scientific research suggests that you could benefit profoundly from the right therapy. Specifically tailored mental health interventions can reduce recidivism (repeating criminal behavior) in both juvenile and adult offenders. Therapy can help you work through trauma or experiences in your life that may have contributed to you committing the crime. It is a safe space for you to talk, be heard, and take positive steps toward healing. Here are three

benefits:

## **1. Address Problems Associated With Criminal Behavior**

Understanding the root cause of criminal behavior is the first step toward solving it and preventing future arrests. Perhaps something in your past—a history of abuse as a child, abandonment issues, mental health issues, or struggles with self-control—triggered unhealthy behaviors. Going to therapy can help you identify and resolve things that may trigger criminal acts.

## **2. Build Healthy Coping Mechanisms**

According to the Semel Institute for Neuroscience and Human Behavior at UCLA, *“Coping occurs in response to psychological stress—usually triggered by changes—in an effort to maintain mental health and emotional well-being... Coping strategies are the behaviors, thoughts, and emotions that you use to adjust to the changes that occur in your life.”*

Being unable to cope resourcefully can lead people to lash out at others. It is common to have

trouble coping with stress, trauma, anger, or grief. However, there are healthy ways to manage the struggle. A licensed therapist can give you tools to use when you feel angry or frustrated.

### **3. Break the Cycle of Violence and Abuse**

Some people commit sexual crimes because they were sexually abused themselves. This is vicious cycle that can feel like a trap. Sadly, the criminal justice system often falls short in addressing the mental, emotional, and psychological problems that many sexual offenders have. Instead, they simply punish them for their mistakes. Going to therapy can provide a needed opportunity to move past traumatic events and break the cycle of sexual abuse.

# **FORGIVENESS IS THE MIGHTIEST SWORD: HOW TO REPAIR HARM YOU CAUSED**

If police arrested you for a sex crime, like date rape, assault or stalking, you may have felt a profound urge to apologize for harm you caused. This is a natural inclination and, given an appropriate context at the appropriate time, can lead to a number of benefits. For instance, according to researchers from Stanford University, “While the scientific study of forgiveness is just beginning--the relevant intervention research having been conducted only during the past 10 years--when taken together, the work so far demonstrates the power of forgiveness to heal emotional wounds and hints that forgiveness

may play a role in physical healing as well.”

### **APOLOGIZING: CONTEXT MATTERS**

Especially if you just got arrested or accused of a serious crime, you need to be very careful to avoid doing things that could make your case more complex. A seemingly innocent admission can be taken out of context. An attempt to apologize to a person you physically assaulted can be seen (rightly or wrongly) as manipulative or misunderstood as an attempt at another assault. Before expressing any sentiments of regret—written or in person—consult an experienced San Diego sex crime defense attorney. Your lawyer can help you strategize about when and how to best express contrition. In certain cases, saying *anything* can be taken as an admission of guilt with irreparable damage to your defense.

### **APOLOGIZING NOT TO ABSOLVE YOUR WRONGS—BUT TO HELP OTHERS**

Assuming the context is acceptable—and apologizing for an action won't create problems for your defense strategy or be misinterpreted—

take time to clarify your goals. Avoid apologizing just to clear your conscience. Instead, focus on the person who has experienced harm. Apologize without expecting anything in return. Clearly state the actions that caused the harm. Demonstrate genuine empathy. Avoid making excuses for your behavior.

### **FORGIVE YOURSELF**

It will not always be possible to repair the harm you caused when you sexually assaulted someone. However, this should not be a barrier to your own self-improvement, healing, and success. Realize that your efforts to make amends may fall flat, and you might meet with people who will refuse to speak with you, deny forgiveness, or say nasty things to you. This is okay. Continue doing your best from this moment forward. As Desmond Tutu poignantly observed: “Without forgiveness, there’s no future.”

## **JOURNALING THERAPY AFTER A SEXUAL ASSAULT CHARGE: HOW IT CAN HELP YOU**

After a sexual assault charge, journaling can provide critical insight into your needs and feelings. Many therapists recommend journaling—or writing down your thoughts and feelings in a notebook—for cultivating awareness, improving mental health conditions, and resolving inner and outer conflicts. It is a powerful tool that could change your life. Just make sure your attorney is comfortable with you writing down certain things in that journal.

As Franz Kafka—whom no one would accuse of being an optimist or pop psychologist—once reflected: “In the diary, you find proof that in



situations which today would seem unbearable, you lived, looked around and wrote down observations, that this right hand moved then as it does today.”

## HOW TO JOURNAL

Be honest, reflective and open to new insights. Exercises could include:

- **Express gratitude.** Every night, write down three things that happened that day to make you feel happy. Research suggests this activity can change your outlook over long periods.
- **Free write.** Don't censor yourself. Just write about whatever you want, for however long you want to write. This process will help you express thoughts or intuitions that you may not have consciously surfaced. After the free writing exercise, review your notes (possibly with the help of a therapist) to extract lessons.

- **Ask and answer important questions.** For instance, every day, you might prompt yourself to fill in the blanks to questions like “What critical life lesson did I learn today?” or “What can I do to make the world a better place tomorrow?” Over time, you’ll accumulate lots of good answers to these questions, and you will stay focused on solving your biggest problems.

## **BENEFITS OF JOURNAL THERAPY**

Not everyone is comfortable speaking with a therapist face-to-face or talking about his or her feelings. Journaling provides a way to get thoughts out without having to talk directly to someone. Therapeutic writing can relieve tension and provide mental clarity. Your therapist might also have you journal as a complement to in-person sessions.

## **HOW ROOT CAUSE ANALYSIS CAN HELP EXPLAIN WHY YOU GOT ARRESTED FOR A SEX CRIME**

You stand accused of a serious criminal offense that could result in jail time, permanently damaged relationships, and major financial consequences. How did you get into this situation? You might be tempted to blame your problems on circumstances. Perhaps a vengeful ex falsely accused you of hurting your child. Maybe an awkward date led to a potentially devastating misunderstanding. Perhaps stresses at work caused you to lash out, inadvertently, at someone you love—or at a stranger. In any case,

it is very useful to explore why you ended up in this situation. What did you do (or fail to do) that got you here? By getting clarity on this question, you can avoid future suffering and potentially address some needs that have not been met. One strategy to get this clarity is to conduct a “root cause analysis.”

### **GETTING TO THE HEART OF THE MATTER THROUGH THE 5 WHYS**

Try this exercise. First, write down a specific problem in your life. For instance: “Police arrested me for stalking my ex-girlfriend.” Then, ask why the problem occurred, and write this below the problem statement. If the answer you provided doesn’t identify the root cause, ask why again. Repeat until you get to the root cause.

Let’s run through an example. Problem statement: *My ex called the police on me after I yelled at her in the supermarket.*

1. *Why did you yell at her?* Because I saw her holding hands with my supposedly good friend from work.

2. *Why did seeing them together bother you so much?* Because it confirmed my suspicions that she had been cheating with him.
  
3. *Why did the relationship devolve to the point of cheating?* Because I got involved with someone I didn't really trust—and who didn't really trust me either.
  
4. *Why did the relationship lack a foundation of trust?* Because if I'm being honest, I don't know how to have a trusting relationship. I don't even know what one looks like.
  
5. *And why not?* Because I grew up in a household without solid boundaries—my mother divorced young and moved in with a series of men, each one worse than the last.

Once you identify the root cause, you can find ways to address it. In the example we just discussed, the man could go to therapy to learn

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how to cope with his troubled view of how relationships function. He might then avoid toxic partnerships in the future.

### **HOW TO SOLVE YOUR ROOT PROBLEM**

Once you identify the root cause of why you sexually assaulted someone—or why someone falsely accused you of doing so—you can move on to problem resolution. Consider getting help from a professional therapist as well as from a top-notch criminal defense attorney. Make sure you feel comforted, supported, and heard. The criminal justice system often does not address the root cause of why sex offenders commit crimes. Doing so yourself can be an excellent step in avoiding crime in the future and living your life with a positive eye on the future, as opposed to dreading what lies ahead.

# **4 WAYS TO IMPROVE YOUR SELF-CONTROL [FOR PEOPLE ARRESTED FOR SEX CRIMES]**

As someone who stands accused of a sex crime, you may need healthier coping mechanisms to manage impulsivity. Learning the art of self-control can be a key tool for empowerment. Let's explore how.

## **RECOGNIZING WHAT DRIVES IMPULSIVITY**

The first step in gaining self-control is recognizing triggering thoughts, behaviors and circumstances. Make a list. It might include:

- **Negative thoughts about work or your finances** (e.g. “I can’t believe Trevor got a raise, and I didn’t. I work twice as hard!”)
- **Certain people who bring out your worst** (e.g. a drug addict in your circle of friends who constantly eggs you on to go out)
- **Uncomfortable situations.** Maybe you’re an introvert who really hates going to parties because they aggravate your ADHD.

### **USE “IF/THEN” STATEMENTS TO OUTTHINK YOUR WORST BEHAVIORS**

Once you understand your triggers, you can take steps when you are calm to avoid bad behavior. One way to do that is to construct what are known as “if/then” instructions. For instance, let’s say that you have a dangerous habit of saying mean things to women when you have had too much to drink. You hate that you do this, but you



recognize that you do it. You could make an “if/then” rule as follows:

- IF I have had a lot to drink AND I am around women AND I notice myself teasing them or doing something inappropriate, THEN I will call my Uncle Jerry to talk sense into me.

### **TRY DEEP BREATHING AND MEDITATION**

Another way to deal with feeling out of control? Breathe. Research suggests that regular meditation practice can have profound benefits ranging from increased self-control to greater feelings of happiness. According to the National Institutes of Health: “In a 2012 study, researchers compared brain images from 50 adults who meditate and 50 adults who don’t meditate. Results suggested that people who practiced meditation for many years have more folds in the outer layer of the brain. This process (called gyrification) may increase the brain’s ability to process information. Results from a 2012 NCCIH-funded study suggest that meditation can affect activity in the amygdala (a part of the

brain involved in processing emotions), and that different types of meditation can affect the amygdala differently even when the person is not meditating.”

### **FILL YOUR TIME WITH HEALTHY ACTIVITIES**

It can drive you crazy to sit around and do nothing while also trying not to think about or do something. You will start to harp on the thing you are not supposed to do, and then potentially give in to the impulse. Fill your time with fun, productive, and healthy alternatives to the impulse you are trying to control. Go for a run, read a book, watch a favorite television show, or call a friend to chat to distract you from your impulses.

## **STRATEGIES TO HELP YOU REBUILD YOUR LIFE AFTER A SEX CRIME CONVICTION**

There are countless examples of convicted felons who are now athletes, actors, public speakers, philanthropists, or even lawyers. You can recover from your sex crime charges and live a great life—full of love, productivity and service. The only thing stopping you is you. Use these tips to get on a productive path and to rebuild your life.

### **FIND SOURCES OF SUPPORT**

Do not be afraid to ask for help or to use resources available to you in your community—no matter how limited. If convicted of a sex crime,

you may run into significant barriers in terms of housing, finding a job, and merely getting by. However, there are organizations willing to help people in your situation. For example, [San Diego Ex-Offender Reentry Programs](#) offer treatment, counseling, vocational training, and other support services. Surround yourself with friends, family, and professionals who believe in you.

### **MAKE A LIST OF GOALS**

Having something to work toward can give you motivation and optimism for the future. Your goal may be to return to school or to have a career. Perhaps you want to reconnect with your family or start a family of your own. Whatever your life goals are, write them down. Then, write steps you can take to help you achieve these goals. Break down big goals into doable chunks to avoid feeling discouraged or burned out.

### **GET A JOB**

The state of California has a new statewide [“ban the box” law](#) that protects job applicants who have criminal records. This law took effect

on January 1, 2018 and banished the boxes on job applications that ask, “Have you ever been convicted of felony?” This law can help convicted felons stay competitive in the job market.

If you still have trouble finding a job, go to organizations such as [Help for Felons](#) for tools and assistance with vocational training. Earning your own income can help you feel independent and will certainly boost your confidence.

## **CONCLUSION: DEFENDING YOURSELF AGAINST CALIFORNIA SEX CRIME CHARGES**

Facing sex crime charges can be terrifying. Whether you caused someone harm, or you are innocent, you probably feel very alone. Society judges sex crime defendants harshly—for understandable reasons—and our legal system focuses mostly on punishing offenders instead of rehabilitating them. But whatever happened to get you into this mess, happened. The question is: what do you do next to maximize your case's chances at success and to regain control of your future?

In this eBook, we have tried to address critical issues facing those charged with sex crimes. We

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reviewed California laws concerning crimes like stalking, assault, child abuse, date rape, battery, indecent exposure and more. We also explored what you can do to gain control over your life (and your case) by using self-empowerment tools like journaling, therapy, root cause analysis, meditation and lifestyle improvements.

### **YOUR NEXT STEPS**

Obviously, this eBook is too short to explore all the nuances of California sex crime defense law. However, our experienced team is standing by to help give you peace of mind about your future. Contact our team today online, or call us at (619) 295-3555 to schedule a free, private case evaluation.

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*“My scars remind me that I did indeed survive my deepest wounds. That in itself is an accomplishment. And they bring to mind something else, too. They remind me that the damage life has inflicted on me has, in many places, left me stronger and more resilient. What hurt me in the past has actually made me better equipped to face the present.”-Steve Goodier*

*“Someone I once loved gave me a box full of darkness. It took me years to understand that this, too, was a gift.”—Mary Oliver*



## **GET HELP: NATIONAL RESOURCES FOR SEXUAL ASSAULT DEFENDANTS**

At the Law Office of David P. Shapiro, our goal is to help you understand your rights, feel more confident in the courtroom, and get on a path toward a more positive future. Below you will find a list of national resources that may help you deal with challenges during this time.

- [The National Domestic Violence Hotline.](#) Highly trained advocates are available to chat 24/7/365 and offer resources or assistance to people in domestic violence situations around the country. The phone number is (800) 799-7233.

- Sex Offender Resource. A website with up-to-date resources for people who are lifelong registered sex offenders after a sexual assault conviction. Loved ones of convicted felons can also find resources here.
- Center for Sex Offender Management (CSOM). CSOM is a national assistance center that provides resources for people responsible for managing sex offenders. It includes training programs, management strategies, and handbooks on public safety.
- Sex Addicts Anonymous (SAA) and Sexaholics Anonymous. Two fellowships that can help people with similar struggles come together, solve problems, and help others recover. The only requirement for membership is a desire to stop lusting and to become “sexually sober.”

- [Podcast: Wrongful Conviction with Jason Flom](#). This podcast sheds light on some of the worst injustices in criminal history. The podcast dives into unequal justice, innocence, and the law, with interviews with wrongfully convicted people.
- [Sex Offender Help](#). Sex Offender Help is a site that offers help to registered sex offenders and their friends and families. The goal is to help offenders recover from destructive behaviors and become vital parts of the community.
- [Help for Felons](#). An organization that provides support, guidance, and resources to felons and ex-offenders in all aspects of life. Find help regarding jobs, housing, re-entry, the law, finances, and more.

For more information, contact our experienced San Diego sex crime defense law firm at (619) 295-3555.

## **LOCAL RESOURCES FOR THOSE ACCUSED OF SEX CRIMES IN SAN DIEGO**

A sexual assault charge in San Diego can turn your life upside down. Suddenly you must deal with law enforcement, an arrest, court dates, and, potentially, life as a registered sex offender. You are not the first person in this scary situation, and you will not be the last. Luckily, there are resources available to help people just like you. Here is a list of resources local to San Diego and California:

- [San Diego Sexual Assault Resource.](#)  
The city of San Diego has a collection of sexual assault resources for people

who want to learn more. It includes a few state-specific laws like Megan's Law, which requires sex offender information to be made public.

- [RAINN California Sexual Assault Laws.](#) The Rape Abuse and Incest National Network (RAINN) provides a list of resources regarding sexual assault in California. It defines consent, rape laws, mandatory reporting, statutes of limitations, and more.
- [Sex Therapy of San Diego.](#) Receive professional, completely confidential treatment for sexual addictions and physical and psychological problems relating to desire, libido, sexual identify, sex addiction, and medical illnesses.
- [California Sex Offender One Stop Resource.](#) As the name implies, this site aims to be a one-stop resource on all things a convicted sex offender may need upon release. This includes a legal

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department, community resources,  
county-specific rentals, employment, and  
more.

- Exoffenders. This site keeps a continuously updated list of jobs around the nation that are “felon friendly.” The list includes jobs in a wide variety of industries and entry levels. Many of the employers on the list offer job opportunities in San Diego.

For more local and national resources regarding sexual assault defense, contact our experienced legal team now at (619) 295-3555.









