



End Violence Against Women International (EVAWI)

Sworn Statements

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December 2012

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Dr. Kimberly A. Lonsway has served as the Director of Research for EVAWI since 2004. Her research focuses on sexual violence and the criminal justice and community response system. She has written over 60 published articles, book chapters, technical reports, government reports, and commissioned documents – in addition to numerous training modules, bulletins, and other resources. She has volunteered for over fifteen years as a victim advocate and in 2012, she was awarded the first – ever Volunteer of the Decade Award from the Sexual Assault Recovery and Prevention (SARP) Center in San Luis Obispo, CA. She earned her PhD in the Department of Psychology at the University of Illinois, Urbana – Champaign.



Sgt. Joanne Archambault (Retired, San Diego Police Department) is the Chief Executive Officer for EVAWI. In 2003 prior to founding EVAWI, Sgt. Archambault worked for the San Diego Police Department for almost 23 years, in a wide variety of assignments. During the last 10 years of her service, she supervised the Sex Crimes Unit, which had 13 detectives and was responsible for investigating approximately 1,000 felony sexual assaults each year. Sgt. Archambault has provided training for tens of thousands of practitioners, policymakers and others – both across the country and around the world. She has been instrumental in creating system – level change through individual contacts, as well as policy initiatives and recommendations for best practice.



One of many questions addressed in our new [Frequently Asked Questions](#) section of the website is the following:

Do I need to get a sworn statement from the victim at the conclusion of the interview?

This question is asked from the perspective of a law enforcement investigator. We would like to take the opportunity to address this question in today's Training Bulletin.

No Clear Advantage

The short answer is no, you do not need a sworn statement from a victim of sexual assault, or any other witness. Although some law enforcement agencies have a policy or practice of getting a sworn statement from all sexual assault victims – and many sincerely believe they need one – there is no legal requirement for it and no obvious advantage in terms of prosecutorial strategy. The reality is that a case will be successfully prosecuted based on the strength of the evidence – if the investigative findings establish a body of evidence to corroborate the victim's statement and this will be far more powerful and persuasive to jurors than a signature on a form. Conversely, the victim's sworn statement alone will not be sufficient to successfully prosecute a case of sexual assault, if there is no corroborative evidence based on a solid investigation.

Many Critical Disadvantages

In fact, not only is there no clear advantage for this practice, there are a number of very critical disadvantages. First, requiring victims to sign a sworn statement typically means that the investigator must complete the statement, type it up, and get the victim to sign it before she/he leaves. For a number of reasons, this seriously limits the investigator's ability to conduct a successful interview. If investigators are expected to take notes and write a report during the interview, they cannot take the time they need to focus on listening and asking good follow-up questions – let alone digesting, processing, analyzing, and compiling the information and producing a report that is well written and likely to support successful prosecution. Common sense suggests that a better strategy is to allow investigators the time they need to conduct the best possible interview and document the statements thoroughly and accurately.

Second, asking victims for a sworn statement negatively affects the rapport that is key to establishing a successful working relationship between the victim and investigator. The practice communicates a fundamental distrust in the victim's information, and it is frankly frightening to many victims. This is especially true when the statement includes a perjury clause, requiring the victim to sign a statement affirming that the written information is accurate under penalty of perjury. Given the well-documented effects of trauma on memory and recall, the reality is that any statement made by a victim in the aftermath of a sexual assault is almost certain to contain inaccuracies. These issues are explained in detail in an article entitled, [*Incomplete, Inconsistent, and Untrue Statements Made by Victims: Understanding the Causes and Overcoming the Challenges.*](#)



Then there is the additional concern that the investigator has recorded something incorrectly, and the victim did not catch it before signing the sworn statement. This is especially likely given the fact that the victim has been through the ordeal of first being sexually assaulted and then facing the fear of disclosure to report to law enforcement, participate in a preliminary investigation, and perhaps even endure a medical forensic exam. It is too much to expect anyone to go through this grueling process without introducing inaccuracies, either by mistake or to leave out or cover up details. Of course, the likelihood of such inaccuracies – both on the part of the victim as well as the investigator – is only increased by the fact that this practice makes the interview process longer and more difficult for both individuals. In other words, this practice creates a situation that virtually guarantees inaccuracies in the victim's statement, and then the person is asked to sign a statement under penalty of perjury that it is accurate. The use of a sworn statement also makes it extremely difficult to correct inaccuracies when they are identified. Without such a sworn statement, it is a rather straightforward matter to come back to the victim with follow-up questions to clarify any inconsistencies, omissions, or even untrue details. (We address this issue as well in the article on [Victim Statements](#).) However, once the victim has signed such a statement, she/he is faced with two terrible choices: continuing to "lie" or committing perjury.

The practice also makes it more difficult to add information later, when the victim recalls additional details, and/or the investigator conducts a follow-up interview as part of a thorough and evolving investigation. At any point in time, a victim is generally relaying the information that is important to them and what they are able to recall at that time. Victims will often recall additional information at a later time, and even at unexpected times. Memories are often triggered, by sounds, sights, and smells, and the investigator should record this additional information to strengthen the case. With a sworn statement, it can look as if this natural process of recalling additional information somehow raises questions about the accuracy of the initial statement and victims are rightly worried that they could potentially be charged with perjury if they contradict something they previously said to the investigator.

Conclusion

How does any of this help us to meet the goal of successfully prosecuting sexual assault? It does not. In fact, it makes this goal more difficult to achieve, by creating barriers and solidifying the fears that keep many victims from engaging the criminal justice system. This is especially true when victims are required to sign a sworn statement at the conclusion of their interview but would be true to a lesser degree even if they were asked to sign the sworn statement at a later point in time.

For More Information

For more information, please see the [Frequently Asked Questions](#) section of our website which is dedicated to addressing best practices in the criminal justice and community response to gender-based violence. This is one of many questions that have

been posted, with more to come in the future. We encourage you to visit regularly to see when new information is available.

