



**Interested Party testimony submitted to the  
Ohio House Criminal Justice Committee  
House Bill 343  
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Chairman LaRe, Vice Chair Swearingen, Ranking Member Leland, and members of the House Criminal Justice Committee, thank you for the opportunity to provide interested party testimony regarding of House Bill 343. As Ohio's federally-designated statewide sexual violence coalition, the Ohio Alliance to End Sexual Violence (OAESV) advocates for comprehensive responses and rape crisis services for survivors and empowers communities to prevent sexual violence.

I am here today on behalf of OAESV to offer interested party testimony for House Bill 343. The victims' rights movement has made great strides to improve the adjudicatory process for crime victims in the United States, including here in Ohio. OAESV supports the expansion of crime victims' rights in Ohio and sees the positive impact of Marsy's Law on survivors' cases throughout Ohio. As this committee is aware, House Bill 343 makes numerous significant changes to victims' rights. OAESV's testimony specifically relates to the proposed changes related to the current bill language regarding polygraph testing and waiver of victims' rights.

The meaningfulness of victims' rights hinge on their ability to be both accessible and enforceable. OAESV welcomes the ameliorations that this bill would add to existing victims' rights law to enhance victim privacy, notification, and accommodations.

As members of this committee, you have likely heard at length of the re-traumatization that victims of crime, and sexual assault survivors in particular, experience navigating the criminal legal process. For these survivors, the victimization does not end with the physical criminal act. Instead, survivors report medical examinations, police interviews, the trial process, and other events incited by the sex crime as events that compound trauma.<sup>1</sup>

One such area of re-traumatization is the continued use of outdated and inaccurate tools, such as polygraph examinations. **Victims of sex offenses should never be asked or required to submit to a polygraph for any purpose, by any party.** Polygraph exams are discouraged for use with sexual assault survivors for a reason: the physical reactions that often occur with re-experiencing a traumatic event, like a sexual assault, can produce false indicators that the person being tested is not being truthful.<sup>2,3</sup> These physical reactions can include extreme emotional tension, nervousness,

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<sup>1</sup> Lonsway, K. & Archambault, J. (2012). *Victim Impact: How Victims are Affected by Sexual Assault and How Law Enforcement Can Respond*. End Violence Against Women International.

<http://www.evawintl.org/library/DocumentLibraryHandler.ashx?id=656>

<sup>2</sup> Houser, K. & Dworkin, E. (2009). *The Use of Truth-Telling Devices in Sexual Assault Investigations*. National Sexual Violence Resource Center. [https://www.nsvrc.org/sites/default/files/2012-03/publications\\_Truth-telling-Devices-in-Sexual-Assault-Investigations.pdf](https://www.nsvrc.org/sites/default/files/2012-03/publications_Truth-telling-Devices-in-Sexual-Assault-Investigations.pdf)

<sup>3</sup> Sloan L. M. (1995). Revictimization by polygraph: the practice of polygraphing survivors of sexual assault. *Medicine and law*, 14(3-4), 255–267.

anxiety, or anger – sexual assault survivors may be especially likely to feel such intense emotions, particularly if they have been made to feel forced into the situation, fearful, or threatened.<sup>4</sup>

The International Association of Chiefs of Police (IACP) clearly states “Do Not Polygraph Victims” in its report detailing guidelines for sexual assault investigations.<sup>5</sup> They make this recommendation to not polygraph survivors of sexual assault because it can alienate them, foster distrust with police and the criminal legal system, thus reducing the odds of a successful investigation.<sup>6</sup> The IACP makes simple what is confusing for many – polygraph testing is broadly oversimplified and misunderstood to be a clear “lie detector”; in pushing for polygraph testing, victims may feel disbelieved when they are asked to take a polygraph test, which could discourage their participation in the overall process and prevent them from reporting in the first place.

Additionally, House Bill 343 would provide a victims’ rights waiver form to the victim at different stages in the adjudicatory process, most notably at the outset of the case. The International Association of Chiefs of Police strongly discourages the use of any type of victim waiver forms that aim to reduce a victim’s legal rights, and as such, recommend that victims of crime should not be asked to sign non-investigate or non-prosecution statements or waivers, including victims’ rights waivers.<sup>7</sup> By asking victims to sign these forms, law enforcement may deter them from reporting future crimes or accessing victim services. When decided at the scene of the crime or shortly thereafter, victims may receive implicit or overt pressure to make a decision on their involvement in the case moving forward.<sup>8</sup> Sexual assault is often a traumatic experience. Trauma has a neurobiological impact that affects our brains and our nervous systems.<sup>9</sup> Stress and trauma can also impair the decision-making of the rational brain; **victims suffering from a recent trauma should not be asked to make long-term decisions about waiving their rights.** While they may be able to reinstate these rights at a later time, they may miss out on crucial, time-limited opportunities to exercise these rights and decisions that could impact their safety.

Thank you for this opportunity to provide testimony on House Bill 343. I sincerely thank Representative White for her leadership on this bill. We would welcome the opportunity to work with the bill sponsors and committee members on the language in the bill, in order to address potential unintended complications for survivors of sexual assault. I am available to answer any questions you have or provide any additional information via email at [egemar@oacsv.org](mailto:egemar@oacsv.org).

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<sup>4</sup> *Ibid.*

<sup>5</sup> International Association of Chiefs of Police. (2018). *Sexual Assault Incident Reports: Investigative Strategies*. <https://www.theiacp.org/sites/default/files/all/s/SexualAssaultGuidelines.pdf>

<sup>6</sup> *Ibid.*

<sup>7</sup> International Association of Chiefs of Police. (2017). *Sexual Assault Response Policy and Training Content Guidelines*. <https://www.theiacp.org/resources/sexual-assault-response-policy-and-training-content-guidelines>

<sup>8</sup> Rentz, C. (2019). Hundreds of Baltimore-Area Sex Assault Victims Signed Waivers Releasing Police from Duty of Investigating. *The Baltimore Sun*.

<sup>9</sup> Haskell, L., & Randall, M. (2019). *The Impact of Trauma on Adult Sexual Assault Victims*. Justice Canada.