

## Collecting Testimony Of Post-Abortive Women: How A Center Can Help Clients Tell Courts About Their Abortions

*More than any other organization in the United States, Centers are the most exposed to the evils of abortion through their interaction with and support of their clients. Centers know first hand of the emotional, physical, and spiritual traumas that women face after having abortions. Many Center directors, employees, and volunteers have themselves had abortions. Yet, many Centers believe that they have no role in ending this evil. Indeed, Care Net Centers are not political organizations, nor are Centers judicial activists. They are not staffed with lobbyists or attorneys, but rather with directors, employees, and dedicated volunteers whose purpose is to personally and lovingly serve women at all stages of a crisis pregnancy, and to share the Good News of our Savior Jesus Christ.*

*Recent developments in the pro-life movement, however, have presented a unique and effective way for Centers to participate in what may be the most critical development in the fight to end abortion: the collection of testimony of post-abortive women through affidavits. The following article answers the common questions about this development and tells Centers how they can become involved.*

### Who Is Collecting Testimony Of Post-Abortive Women?

Operation Outcry, a project of the Justice Foundation, is currently collecting sworn testimony of post-abortive women to provide to Courts that are making abortion decisions. Operation Outcry was created "to assist, encourage, and train women and others to speak out in the public arena and to collect affidavits (sworn testimony) for the historic legal effort to end legal abortion."

See <http://www.operationoutcry.org>.

Operation Outcry originated with federal case in New Jersey that challenged Roe v. Wade. In that case, the Justice Foundation filed legal briefs on behalf of Norma McCorvey, the "Jane Roe" of Roe v. Wade, and Sandra Cano, the "Mary Doe" of Doe v. Bolton, asking the Court to overturn their cases. During the Justice Foundation's investigation, post-abortive women provided them with testimony of the harmful and tragic effects of their abortions.

### What Is An Affidavit?

An affidavit is a signed, written statement submitted to the court as sworn testimony. Affidavits are useful tools to aide a court in making decisions without having to use live witness testimony. Affidavits are commonly used in papers submitted to a Court both before and after

a trial, where it is not always practical to have live witnesses testify. A Court will consider an affidavit as evidence.

A sample affidavit can be downloaded from Operation Outcry's website at [www.operationoutcry.org](http://www.operationoutcry.org). A post-abortive woman can use the affidavit to tell the Courts about her experience with her abortion. Some of the questions include: "Were you adequately informed of the consequences of abortion?" and "How has abortion affected you?" The affidavits may then be submitted as evidence of the effects of abortion.

### Can A Client Submitting An Affidavit Remain Anonymous?

A client can submit an affidavit and remain anonymous. She will be asked to sign her full name at the bottom of the affidavit. She must do this for the affidavit to be considered legitimate. However, the client may remain anonymous by asking Operation Outcry to only refer to her by her initials. Of course, Operation Outcry will be aware of her identity, but her anonymity can be preserved from any public documents.

### How Is The Testimony Of Post-Abortive Women Used In The Courts?

The affidavits collected are used in papers submitted to Courts deciding various issues concerning abortion. Typically, excerpts of affidavits are used

in Amicus Curiae (meaning “friend of the Court”) legal briefs. An Amicus Curiae brief is a written argument or informative document that is submitted by organizations or people concerned about the particular legal issue before the Court, but who are not themselves parties in the legal dispute.

### **Can A Center Provide An Affidavit Form To A Post-Abortive Client?**

The collection of testimony provides clients an opportunity to speak out about their abortion experience in a powerful way that is effective in influencing Courts making decisions on abortion law. It is perfectly legal and acceptable for Centers to aide their clients by providing them with affidavit forms, as long as the client is not pressured or coerced into completing an affidavit.

- Is this considered lobbying or a political activity?

A Center will NOT be engaging in a political activity or lobbying by simply providing affidavit forms and information on Operation Outcry to clients. Centers would not be asking politicians or constituents to support or oppose legislation.

- Would presenting an affidavit to a client violate a Center’s confidentiality policy?

A Center may present an affidavit form to a client without violating its confidentiality policy because a client would voluntary choose to complete and submit the affidavit herself. Additionally, the client may choose to remain anonymous, as discussed above. The Center should, however, never complete an affidavit for a post-abortive client. The affidavits must be completed by the client herself. A Center must also be careful not to present the affidavit as an expectation or otherwise pressure the client to complete the affidavit.

- What guidelines should Centers follow in presenting affidavit forms to clients?

*(1) The Client should not feel pressured or coerced into completing the affidavit.* The client should be informed of the affidavit in a completely neutral fashion. The Center should present the affidavit as simply one tool offered for her to speak of her abortion experience. The Center should clearly communicate that the client is not

expected to complete an affidavit--it is completely her decision. She should be encouraged to contact Operation Outcry if she has any questions. A Center should also consider asking clients to send their affidavits directly to Operation Outcry rather than collecting them for the clients.

*(2) Affidavits should only be presented when the client has completed post-abortion counseling.* It is important that the client does not feel that she must complete the affidavit in order to obtain the benefit of post-abortion counseling or any other service offered by the Center. Accordingly, a client should not be presented with the affidavit until after counseling is completed. At that time, the client should be informed that her choice of whether or not to complete an affidavit will have no affect on her ability to receive additional services from the Center.

### **Are These Affidavits Effective?**

The recent Supreme Court partial-birth abortion opinion in Gonzales v. Carhart proved that these affidavits are effective in conveying to judges the realities of the trauma of abortion on women. In that opinion, the Supreme Court recognized that abortion hurts women and quoted from the legal brief submitted by the Justice Foundation, which contained excerpts from the affidavits. Based on the information the Court obtained from this legal brief, the Court stated, “it seems unexceptional to conclude some women come to regret their choice to abort the infant life they once created and sustained. Severe depression and loss of esteem can follow.” Gonzales v. Carhart, 550 U.S. \_\_\_\_ (2007).

### **Resources**

- Operation Outcry’s Website:  
[www.operationoutcry.org](http://www.operationoutcry.org)
- Affidavit forms can be downloaded at:  
<http://www.operationoutcry.org/images/64304/AffidavitForm-11-06.pdf>
- Instructions for completing the affidavits can be found at  
<http://www.operationoutcry.org/pages.asp?pageid=23540>
- A copy of the Sandra Cano Brief can be found at  
<http://www.thejusticefoundation.org/images/64456/Gonzalesv.Carhart-AmicusBrief.pdf>

