

A Dummies guide to making a statement v1 (M Rigg 31/03/2010)

INTRODUCTION

The state must investigate and settle criminal differences between people. Part of this function in our criminal justice system is assigned to the SAPS, and for them to execute this role effectively, police officials play an important role in obtaining relevant evidence and submit it to court. It is essential that the facts are reduced to writing and safely kept until required. This is done through the taking of statements.

DEFENITION

A statement is a written communication of facts as observed by the deponent in the form of a statement which can be supplied to a court of law. The facts can be expressed verbally or in writing.

PURPOSE OF WRITTEN STATEMENTS

We are certainly aware of how forgetful our memories are and how, in time, they become more unreliable. A written statement, therefore, ensures that a permanent and official record exists of the facts surrounding a particular event or occurrence.

Statements are therefore taken:

- To elicit information from the witness / victim as soon as possible.
- To obtain a written record which may be read and checked by the witness.
- To determine what police action to take.
- To assist in the examination of the witness in court.
- To justify police action.

THE IMPORTANCE OF MAKING A STATEMENT

The role of the police in the judicial process is to provide or collect all the relevant information pertaining to a case, and to present it to court. The manner in which the police provide / collect this information is by making / taking statements from witnesses.

THE PRINCIPLES OF AN EFFECTIVE STATEMENT

An effective statement must adhere to the following principles

- Accuracy
- Completeness
- Expansiveness
- Objectivity
- Intelligibly / comprehensibility
- Honest

- Simplicity and Directness
- Meaning of English words

ACCURACY

The information that is provided in a statement must be as accurate as possible, enabling the reader, or other person to establish the facts. Think, for example, of how the investigating official could be led on an incorrect course, should he/she act on inaccurate information provided in a statement.

Hearsay may also be noted as evidence, if it is stated as hearsay. Many deductions or opinions of the deponent may eventually be included in his/her statement.

To ensure accuracy, a distinction must be drawn between the following:

- (f) Facts (seen and heard) and hearsay (supplied by a second party)
- (g) Facts (based on actual occurrences) and opinions (personal or subjective suppositions)
- (h) Different meanings of words – terminology (especially when children or people use special words or a nickname for a specific body part)

The accuracy of the person's observation will depend on the senses which are used, as some senses are more reliable than others. In taking a statement, it must be borne in mind that factors such as fear, nervous tension, and political convictions can influence the observational ability of the person making the statement.

COMPLETENESS

A statement can only be complete if it contains every fact that is applicable to the event. Accuracy of a statement can be established by asking the following questions:

WHO : Who committed the offence? Who is the witness? Who is the victim (complainant)? Who reported the case? Who searched the scene of the crime? Who found, marked and dispatched evidence? Who might have had a motive to commit the offence? Who discovered the crime scene?

WHAT : What precisely took place? (Describe the events in accurate detail). What object was used to commit the crime? What was done to protect the scene of the crime? What was done to obtain information? What was stolen?

WHERE: Provide a complete description of the place, including the name of the building, the street name and number, and the name of the suburb. Where was the complainant? Where was the body of the deceased found? When were the clues found? Where did the witness stand / sit, etc when the crime took place?

WHEN:	Note the date and time of the incident. When was it reported? When did the police arrive at the scene? When was the crime discovered?
WHY	Describe in detail the events that led up the incident. Why is a certain person a suspect in the case? Why were certain items stolen, and others not? Why was the deceased murdered?
HOW	Describe in detail the actions that constitute the offence. How was the crime committed? How did the person who discovered the crime scene approach the crime scene?

EXPANSIVENESS

All the facts that the deponent knows must be included in the statement, in as few words as possible. This must be done without using a “telegram style” and omitting relevant information. If witnesses withhold relevant information, questions will be asked about their credibility.

OBJECTIVITY

State those facts that relate to the case in question. The deponent who makes the statement must not allow his/her emotions to affect the content of the statement. The deponent should place himself/herself on an imaginary platform and re-enact the actions on which he/she must testify. He/she must only make a statement concerning the things he/she is able to perceive from the platform.

COMPREHENSIBILITY

The contents of the statements should be of such a nature that whoever reads it, would not find it necessary to request that certain aspects be explained. The statement must be neat and presentable. The prosecutor, the attorney and the judicial officer may attempt during the presentation of evidence to form an opinion of the deponent if he/she is a reliable witness.

HONESTY

The deponent, as well as the member of the Service who takes the statement, must be absolutely honest at all times, even if someone else would be incriminated in the process.

SIMPLICITY AND DIRECTNESS

- Vague (meaningless) words in a statement should be avoided.
- Write simple language and short sentences; cut away the deadwood from sentences (also not beat about the bush)

GUIDELINES REGARDING THE MAKING OF STATEMENTS

A statement is divided into paragraphs. Each paragraph is numbered in the centre of the page. This simplifies the construction of a statement and the ability to refer to certain parts of the contents.

NB Lines may not be left open between paragraphs. This is to prevent an unauthorized person from making any additions to the statement, thereby altering the meaning.

Composition

A statement consists of three parts, namely the preamble, the contents, and the ending. The three parts are so interwoven that a definite line cannot be drawn to separate the one from the other.

Preamble

A statement begins with the preamble. The purpose of the preamble is to identify the deponent, ensuring that the deponent can be traced at a later stage.

The following information must appear in the preamble. (The preamble always begins at the top of the page and contains the full names and surname of the deponent, the language in which the statement is given and whether it is taken down under oath or merely affirmed).

- Full names and surname of the deponent

The name is written in capital letters and lower case letters, while the surname is written in capital letters only.

- Whether the statement is sworn to, or affirmed

Before the deponent's statement is written down, it must be indicated whether the statement will be taken down under oath, or whether it will be affirmed.

The remaining information in the preamble is then recorded in a paragraph numbered as 1 in the centre of the page.

Example:

Michael Stuart RIGG states under oath in English:

I am a male....

- Gender

Only the gender of the deponent is noted here.

2. Identity number of the deponent, as reflected in his/her identity document, must be noted here.

Age

Record the age of the deponent. It can be compared with the ID number.

- Full residential address
The full street name and number, as well as the suburb and town, or city, must be stated. Post Box details are insufficient.
- Home telephone number
Home telephone number must be noted. Also include the exchange code. If the deponent does not have and available telephone, this fact must be stated.
- Cellular phone details:
- Occupation
Record the nature of the deponent's work.

Business address

The name of the company or organization, together with its complete street address, must be recorded.

- Business telephone number
Indicate the business telephone number, including the extension of the deponent.

The information in the preamble is written in full sentences and must appear as follows:

Michael Stuart RIGG states under oath in English.

I am a male, ID No 68111609765080, 42 years old, residing at 68 Seagull Street, Hout Bay, home telephone (049) 891 0068, employed as a clerk at Tape Chicks and Associates, 60 Ox Building, 10 Cliff Street, hout bay, work telephone (049) 8910050.

If a statement is affirmed, the words "states under oath" must be replaced with "solemnly declares".

Although the preamble is now complete, the contents have, in fact, already begun.

Contents

The contents of the statement begin with the figure 2 in the centre of the page.

A complete and detailed report must be recorded and arranged in the sequence of the incidents and in logical order of all the events constituting of the incident.

Date and time, place, day of the week of the occurrence. Bearing in mind that has been said in the previous paragraph, this is the easiest paragraph with which to begin a statement. This is important information that is required for the investigation, and later when the case appears before the court.

The exact place must be stated, with reference to the building, street name and number and suburb where the occurrence took place. It is meaningless, for example, to that a motor collision occurred in Church Street, Pretoria, without referring to the precise location.

The day of the week must always be written, together with the date, to eliminate confusion.

The time the occurrence took place must be determined as accurately as possible and recorded in the statement. The information in this paragraph has very important evidential value and great care must therefore be taken to get it right.

REQUIREMENTS FOR THE CRIME OF OFFENCE

The information that is provided in this paragraph is very important. From this information the nature of the crime will be derived. The investigating official will direct his/her investigation on a specific course, based on this information. The public prosecutor will later use the information appearing in this paragraph to formulate a charge.

To do justice to this paragraph, the member who takes down the statement must know all the facts concerning the elements and definition of the crime.

EVIDENCE OF OCCURRENCES

This paragraph contains the “how” of the occurrence. The deponent will describe the actions of the parties involved. The circumstances prior to the crime, as well as the events that took place afterwards, must be recorded.

EVIDENCE OF OWN PERCEPTION

It is important that a witness states what he/she observed. Nothing is more important to connect a suspect to a crime, than the observations of a witness at the scene.

DESCRIPTION OF SUSPECT

A suspect must be described in detail. This is the only means whereby a suspect can be traced. Vague, general descriptions must be avoided. Describe a suspect by indicating the following:

- Name (if known), Alias (where known)
- Race, Gender
- Nationality, Identity Number (if known)
- Place of birth, Date of birth
- Marital status
- Occupation
- Age
- Length Build
- Forehead Face, Eyes, Eyebrows, Nose, Mouth, lips, Teeth, Chin, Ears, Hair, Moustache, Beard.
- Complexion
- Facial or bodily peculiarities, tattoos or other marks
- Habits
- Dress
- Usual associates (friends), last known address, where last seen, where known, etc.

DESCRIPTION OF STOLEN GOODS

Stolen property must be described very accurately. Bear it in mind that the investigating official will be searching for the goods that are described in the complainant's statement. The following must be described:

1. Make or manufacture
2. Model (not year of production)
3. Year of production (in case of vehicles)
4. Serial number
5. Registration number
6. Engine and chassis numbers
7. Size
8. Colour
9. Complete description
10. State the missing parts, parts added to the item
11. Changes that were made
12. Distinguishable marks
13. Value

IDENTIFICATION

It must be stated in the statement whether the deponent will be able to identify the suspect or the goods.

WEATHER CONDITIONS

In certain cases, weather conditions must be described, for instance, cases involving motor collisions where it could be of decisive importance.

RIGHT OR PERMISSION

It must definitely be mentioned whether a suspect had any right or permission, eg. to drive the vehicle (using the vehicle without the owner's consent), to be on the premises (housebreaking), or to be in possession of certain articles (theft, etc).

WHETHER INVESTIGATION IS REQUIRED

Sometimes someone reports a case for the sole purpose of informing the police so complying with the provisions set down by the insurer. The person does not require further investigation or prosecution by the police. This must be mentioned in the statement of the complainant.

Anyone who wishes to attain success in taking down statements should comply with the above guidelines on the content of statements. At this stage the deponent must be requested to read the statement or it must be read to him. Any omissions or additions demanded by the deponent must be adhered to.

CONCLUSION

It is very important that the police officials know the elements of different crimes. Statements that are being made or taken must contain all the elements of the different crimes.

Proper statement making will ensure good success at court. If it is poorly made the evidence will also be poor.

It is important that statements are properly made in ensuring that a good case is presented before the court.