

Unintended Consequences of Expanded Mandatory Reporting Laws

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The Penn State child sex abuse case highlighted failures to act among numerous adults in positions of responsibility, as chilling details of football coach Gerald Sandusky's sexual abuse of children over the course of decades came to light.¹ Although it is unclear whether adults who chose to ignore ongoing child sexual abuse and rape would have acted differently had there been a legal requirement in place, it would have at least enabled their prosecution after the fact. In the aftermath, Pennsylvania adopted extensive new legislation to prevent and detect child abuse. In particular, Pennsylvania expanded its definitions of mandatory reporters, requiring child abuse awareness training for any licensed health care professional in the state and significantly expanding mandatory lay reporters to include essentially any individual in contact with children, rather than specifically those in contact with children by virtue of their profession. In Philadelphia, these new reporting requirements have flooded the reporting hotline, contributing to excessive waiting times, unanswered calls, spurious calls, and unnecessary reports, leading to the inability to pursue many of these reports.² Although the Pennsylvania Department of Human Services has acted to address these flaws, few have questioned the wisdom of this expansion of mandatory reporting. There is no indication that the increase in reporting has improved the safety of Philadelphia's children, and there is reason to believe it may detract. How is it possible that the expansion of mandatory reporting, a step designed to protect vulnerable children from harm, may have had the opposite effect?

Mandatory reporting of suspected child abuse and neglect has a history of over 5 decades in the United States. Yet this policy, like many other approaches in the field of child abuse policy, is lacking in evidence.³ With the "discovery" of child abuse, after Henry Kempe's studies on the "battered child syndrome" in 1962, new attention was called to the role of physicians in unmasking child maltreatment. In 1963, the Children's Bureau of the US Department of Health, Education, and Welfare published model statutes for individual states to adopt as they developed legal requirements for reporting child maltreatment, with a focus on physician reporting.⁴ By 1967, 49 states had passed child abuse laws with a mandatory reporting requirement, which were additionally expanded with the 1973 passage of the Child Abuse Prevention and Treatment Act.

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This act set standards for mandatory reporting as a condition for federal funding. The extent of mandatory reporting varies considerably, both in terms of what is reportable and who is mandated to report. Over the past decades, most states have considerably expanded their mandatory reporting laws in both domains, although none have proven the effectiveness of this approach. Eighteen states in the United States have universal mandatory reporting, placing a legal responsibility on any individual, regardless of profession or role. In contrast, a number of countries, including the United Kingdom, do not have mandatory reporting laws and regulate reporting by professional societies, and other countries vary in the legal thresholds used to mandate reporting.

The majority of North American child welfare experts believe that mandatory reporting laws are an important measure in identifying child maltreatment, and dissent is rare.^{5,6} Indeed, the policy has broad ethical and moral appeal. Yet no clear endpoints have been recognized as useful indicators of the efficacy of this approach, and no data exist to demonstrate that incremental increases in reporting have contributed to child safety. States differ in their classification and reporting of abuse, serious injury, and death. These differences make the evaluation of the impact of mandatory reporting laws particularly challenging, because large-scale comparisons, such as between states with different policies, are hard to interpret. Rates of the substantiation of reports may indicate the successful identification of abused or at-risk children, yet increased mandatory reporting requirements have not been consistently proven to correlate with higher rates of substantiated cases.^{2,7} Despite a dearth of data, at any juncture at which child abuse policy is debated, the result is nearly

always additional expansion of the requirements for mandatory reporting. This expansion seems to make for good politics, because child abuse legislation garners broad bipartisan support, but is it good policy?

Physician reports of suspected maltreatment of children have been shown to be the most likely to be supported by subsequent child welfare investigation.⁸ Yet nonreporting among physicians continues to be a challenge. Nonreporting can stem from various reasons, often tied to the correct identification of at-risk children and trust in the Child Protective Services response and is also subject to individual bias.⁹ Lax legal statutes have not been proven to be a barrier to reporting, and there is no evidence to suggest that changes in mandatory reporting requirements will address the problem of physician nonreporting. In contrast, mandatory reporting by the lay public is more likely to result in spurious reports.^{7,10}

Actively increasing the number of reports from nonspecialized individuals may cause harm in a number of ways. Most saliently, mechanisms to increase reporting do not necessarily include increased funding or additional personnel dedicated to children's services. Accordingly, increased reporting depletes resources that are already spread thin and diverts attention away from children who need it the most. Reports of neglect disproportionately target low-income families, who may experience a Child Protective Services intervention as an additional hardship, both emotionally and sometimes financially. Children subjected to questioning, physical exams, and occasionally temporary removal from their homes experience this as a traumatic event. Well-intentioned individuals may be more inclined to report suspicions of maltreatment rather than attempt to assist families, a concern that is

particularly relevant in cases of low-income families suspected of neglect. Rather than stepping in to assist needy families with resources, the new mandatory reporting laws may lead individuals to report underfed or poorly dressed children. Fear of reporting may prevent families from seeking help, whereas assurance of confidentiality has been shown to increase help-seeking behaviors.⁶ Finally, low-income and minority families are more likely to be reported to child protective services, and increasing overall reporting additionally burdens minority families, who bear the brunt of a policy that has not shown to be beneficial.

Over the past decades, the definitions of child abuse throughout the nation have been expanded, and the number of individuals legally responsible for reporting has greatly increased. Yet as we increase the rate of reports in a system already underfunded and overburdened, we may be reducing the ability to detect and subsequently intervene on behalf of children in danger. How should physicians act in light of this paradox?

Physicians are routinely called on to share their expertise and guide child abuse policy. Both in research and in policy-making, it is time to question the ongoing expansion of mandatory reporting requirements and identify their many unintended consequences. We should call for a moratorium on additional broadening of mandatory reporting laws, pending their reevaluation. Health services researchers could rise to the challenge and design studies to evaluate whether stricter mandatory reporting laws are correlated with heightened identification of children in need of intervention, and at what social and financial cost. Pre-post studies examining the outcomes of children after the adoption of stricter reporting laws may provide valuable insight. Qualitative studies assessing the experiences of children and

their families in response to policy change would provide much-needed perspective on the emotional toll of investigations, informing evaluations of the risk–benefit ratio. Questioning the additional expansion of mandatory reporting requirements is key. In our desire to ensure the safety of children, we should also ensure that the policies we align ourselves with do not result in unanticipated harm.

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