

Sexual Violence Research Initiative (SVRI) Forum

2022

PRE-CONFERENCE WORKSHOP

Navigating Mandatory Reporting Laws in Violence Research

September 19, 2022 14.00-17.00

LAURA CHIANG, ELIZABETH LETOURNEAU, GRETA MASSETTI

Overview

Laura Chiang

OBJECTIVE

Provide guidance for prevention practitioners and researchers aiming to navigate mandatory reporting laws in violence prevention research a safe and ethical manner.

AUDIENCE

Individuals in research or program development and implementation roles.



Introductions

LAURA CHIANG, MS, CDC

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UNIVERSITY

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What are mandatory reporting laws?

Greta Massetti

Legislation requiring **designated persons to report suspected abuse and neglect**

- Some countries have chosen not to enact laws out of concern for 1) overreporting of innocent cases and 2) diverting scarce resources from known cases
- Laws vary substantially on how general or specific they are and the coverage, scope, and other aspects
- Laws are sometimes revised over time
- Beyond child abuse/neglect, some jurisdictions have mandatory reporting laws on:
 - Elder abuse
 - Exposing children to domestic violence
 - Other vulnerable populations (e.g. people with disabilities, prisoners)

History on Child Protection and Mandatory Reporting

Concept of childhood is relatively modern

- After industrial revolution
- Children as unique/different from adults and in need of protection
- Recognition that adversity leads to harm and societal dysfunction

Kemp “battered child syndrome” in 1962

- Heavily influenced US public policy
- By 1967 mandatory reporting laws in all 50 US states

UN Convention on the Rights of the Child in 1989

- Recommended all countries have systems to identify, report, refer and investigate all suspected cases of child abuse and neglect

Why mandate reporting?

Primary objectives of mandatory reporting laws involve:

1. Detecting cases of abuse and neglect at an early stage
2. Protect children
3. Facilitate provision of services to children and families
4. Identify, investigate, prosecute offenders

Core elements of mandatory reporting laws

1. Define **which persons** are required to make reports
2. Require and define a **reasonable suspicion or belief** of abuse or neglect (does not require *knowledge* or investigation)
3. Define the **types of abuse and neglect** that attract a duty to report
4. Indicate **extent of suspected harm** to the child that requires reporting
5. Indicate the **scope and timing** (i.e., statute of limitations) of abuse that requires reporting
6. Specify **penalties for failure to report** (though laws are largely intended to encourage reporting rather than police it)
7. Provide a **guarantee of confidentiality** concerning the reporter's identity and **immunity from legal liability** arising from a report made in good faith
8. Describe practical requirements for **when and how** report is to be made, **to whom**

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Mandatory reporting laws in practice

Primary intent of laws is to target providers, educators, and others in general community settings who interact with children in due course of conduct of their duties or activities

Benefits and applications in clinical and educational settings

Actions generally triggered by reporting:

- Child protection system is activated
- Investigation is initiated

Challenges in application to research

Information often missing context

Limited information to guide child protection action or investigation

Challenges in scope and applicability (e.g., longitudinal research; high-risk populations)

Requires inclusion in informed consent

May undermine quality and accuracy of data

May undermine confidentiality of participants

Criticisms of mandatory reporting laws

Long, repeated **investigations can be traumatic** for children and families

A **child may be wrongfully removed**; even if not removed, there may be ongoing fear, distrust and insecurity

An **accusation of wrongdoing may disrupt a family** even if allegations are dismissed

There may be **economic harm** due to the need to obtain legal representation and comply with the requirements demanded

Overburdening the child protection system and directs resources away from confirmed cases

Increases the number of **unfounded reports**

Disproportionately **affect disenfranchised and vulnerable groups**

Undermine agency of participants and survivors; can discourage survivors from seeking treatment for fear of being reported

General Considerations for Research on Violence Conducted with Child Participants

Elizabeth Letourneau

We cannot prevent child sexual abuse without prevention research

Prevention research is crucial to:

- Estimating the **scope or prevalence** of child abuse victimization and perpetration
- **Identifying risk factors** that increase the likelihood of victimization or perpetration and protective factors that decrease their likelihood
- Developing effective **victimization and perpetration prevention programs**
- Strategically **deploying and adapting effective programs** when and where they are most needed

General Considerations for Research on Violence Conducted with Child Participants

Prevention research is governed by ethical principles and legal policies

Ethical principles are designed to:

- Ensure that research participation is **voluntary** and participants are treated with **respect and fairness**
- Protect **research participants from harm** by keeping their participation anonymous and their data confidential
- **Special consideration is given to the protection of vulnerable populations** such as children and to the protection of data that could expose participants to legal or social jeopardy if disclosed

General Considerations for Research on Violence Conducted with Child Participants

Relevant legal policies include those that protect against the disclosure of sensitive data

- Many countries have special laws that guard against the disclosure of sensitive data used to inform government policy, including census data, health data, and data collected on the abuse of children

Relevant legal policies also include abuse reporting policies

Reporting policies are intended to increase the disclosure of abuse against children

General Considerations for Research on Violence Conducted with Child Participants

Ethical principles and legal policies all seek to protect children, as does abuse prevention research. Yet these principles and policies can appear to come into conflict.

For example, if an abuse reporting policy is interpreted as applying even to information collected confidentially as part of an approved prevention research study.

General Considerations for Research on Violence Conducted with Child Participants

This conflict is sometimes resolved by:

- Disallowing research questions that pertain to reportable experiences;
- Requiring reporting of all study participants who disclose victimization experiences and/or perpetration behaviors

Such decisions contribute to a dearth of data and inadvertently make children **less safe**.

Real-Life Examples

CASE STUDIES FROM RESEARCH

Example 1

Elizabeth Letourneau

One study investigated the health impacts of sexual abuse and other adverse childhood events on a longitudinal cohort of adults with a history of injection drug use who had been recruited approximately three decades earlier.

- The institutional review board (IRB) required that researchers report to the authorities all participants who indicated they had experienced child sexual, physical, and emotional abuse victimization.
- Thirteen (2%) participants refused to answer the abuse questions. It is unknown how many responders failed to honestly disclose abuse to avoid reports.
- Investigators from the child protection agency were irritated by the reports and demanded study staff stop filing reports. The university nevertheless required investigators to continue making the reports. The lead investigator has said he would not retain abuse questions in future research under this protocol.

Example 2

Elizabeth Letourneau

Another lead investigator intended to use the same questions to evaluate the long-term impact of trauma on cognitive and functional decline in the context of a 35-year longitudinal cohort.

- Study participants averaged 68 years of age and would have been recalling abuse experienced five decades earlier.
- Nevertheless, the IRB required reports to be made.
- Instead, the investigator dropped these questions, rather than risk non-random loss of data, dishonest participant responding, and the wrath of investigators.

Example 3

Elizabeth Letourneau

A third example involved the evaluation of a school-based child sexual abuse perpetration prevention program implemented in four public schools.

- The school district IRB approved the study protocol, which included questions about child participants' experiences with victimization and perpetration.
- However, the university IRB required investigators to drop these questions. That is, the investigators were not permitted to ask about perpetration in a study designed to evaluate perpetration prevention.

IRBs and other decision-making stakeholders disallow abuse questions or reflexively require reporting because they:

- Want to protect children
- Want to protect their institutions from legal challenges and/or reputational damage
- Find research on victimization – especially child sexual abuse – scary
- Find research on perpetration – especially child sexual abuse – icky or distasteful

Example 4: Violence Against Children and Youth Surveys (VACS)

Laura Chiang

Statistics laws allow for data collection, particularly when the statistics agency implements the study

“Prescribed Persons”- avoiding hiring data collectors who might have additional requirements (e.g. teachers, medical professionals, social workers)

Research Exemptions: occasionally a process for seeking an exemption

ACASI as a tool for protecting confidential data collection

Limited reporting and appropriate consent language

Practical Tips

Greta Massetti

Ensuring Assent/Consent and Awareness

- Consenting
- Repeated reminders

Assuring Anonymity & Confidentiality

- Avoiding PII
- ACASI
- Being mindful of who to hire as interviewers
- Self-generated IDs



Question and Answer

(followed by 15-minute break)

Group Work Scenarios

GROUP ONE

You are planning to do a survey with female sex workers in Country X and you want to include participants 15-45 in your study. You will be using mixed methods, including a survey and structured key informant interviews. You plan to ask a variety of questions in both the quantitative and qualitative phases of the research, including questions on sexual and physical violence. Country X has a mandatory reporting law that requires any prescribed person who suspects a child has or is experiencing abuse to report to the police or child protection agency.

- 1) What are some questions you should determine about the law, to help inform how it affects your research?
- 2) Is there any way to confidentially collect these data? If so, from which participants? How?
- 3) What language should you include in your assent/consent forms?

GROUP TWO

You are a violence researcher in Country Y. You have been approached by the local university to develop a module of 10-15 questions about violence experiences (victimization and perpetration) for inclusion on a school-based survey they are planning with adolescents aged 12-16 years on a variety of health topics including physical activity, academics, social support and connectedness, sexual behavior, alcohol and drug use, and firearm carrying. Country Y has a mandatory reporting law that requires any person who suspects a child is experiencing abuse or engaged in abuse to report to the police or child protection agency.

- 1) What are some questions you should determine about the law, to help inform how it affects your research?
- 2) Is there any way to confidentially collect these data? If so, from which participants? How?
- 3) What language should you include in your assent/consent forms?

GROUP THREE

You are planning an intervention study that will evaluate health services and psychosocial supports for families in a humanitarian setting who are refugees from a conflict-affected country. The research study will conduct a baseline health assessment and questionnaire with families, after which they will be assigned to receive one of two different interventions. Families will complete a repeat health assessment and questionnaire after 6 months. The country has a mandatory reporting law that requires any prescribed person who suspects a child has experienced abuse or neglect to report to the police or child protection agency.

- 1) What are some questions you should determine about the law, to help inform how it affects your research?
- 2) Is there any way to confidentially collect these data? If so, from which participants? How?
- 3) What language should you include in your assent/consent forms?

Answers to questions they might ask- HIDE THIS SLIDE, JUST FOR FACILITATORS

Q: What is a prescribed person?

A: Teacher, Medical Professional, Social Worker or Counselor

Q: Is there an exemption for research?

A: No legal exemptions in this law.

Q: Is there a statistics law that protects data gathered by the Statistics Agency?

A: Yes, when the Statistics Agency collects data (e.g. Census), they are not required to report

Q: What does reporting involve?

A: Can be an anonymous report to the police or child social welfare office, but this is not very clear. The law is ambiguous/broad

Q: Is there a penalty for not reporting?

A: Yes- licenses can be revoked for prescribed persons. Fine for other adults

SUMMARY

RECORD KEY TAKE-AWAYS FROM EACH GROUP

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