

Mandatory Reporting Laws in the United States: Impact on Victims of Intimate Partner Violence

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Mandatory Reporting Laws in the United States

Carol E. Jordan, Executive Director
Office for Policy Studies on Violence Against Women
University of Kentucky
carolj@uky.edu

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Presentation Overview

- History and Types of Mandatory Reporting Laws
- Mandatory Reporting Laws Applied to Cases of Intimate Partner Violence
- Research on Mandatory Reporting: Views of Women
- Legislative Reform: The Kentucky Experience
- Legislative Advocacy: What States Can Do

History of Mandatory Reporting Laws

- Over the past 8 decades, states across the nation have passed legislation to mandate reports of:
 - Specific types of criminal conduct
 - Abuse of vulnerable persons
- The purpose was two-fold:
 - Public or community safety
 - Protection of individual children or adults



Types of Mandatory Reporting Laws

- Four types of mandatory reporting laws passed by states:
 - Injuries associated with the commission of a crime or from use of a weapon;
 - Abuse, neglect, or dependency of children;
 - Abuse, neglect, or exploitation of vulnerable adults; and
 - Domestic violence (*intimate partner violence*)



Crime-Injury Reporting Laws

- Early 1940s, states began enacting legislation to require reports of injuries associated with a crime or resulting from use of a weapon
- By 2016, 46 states had crime-injury reporting laws
- Reports made to statutorily identified law enforcement
- Duty placed on health care professionals or hospitals

Crime-Injury Reporting Laws

- States identify crime broadly or narrowly:
 - Broad application states: e.g., a patient has had physical injury or injuries inflicted by non-accidental means
 - Narrow application states: e.g., injuries resulting from the discharge of a firearm (most common), use of knife, or arson



Crime-Injury Reporting Laws

- How crime-injury reporting laws impact victims of domestic violence
 - Indirectly impacts all cases because domestic violence is a crime and does involve weapons
 - Direct impacts in two crime-injury states that specify that domestic violence must be reported (California, Colorado)
 - Three states have specific exceptions for DV and/or sexual assault in their crime-injury reporting laws (New Hampshire, Pennsylvania, Tennessee)

Child and Adult Abuse Reporting Laws

- Concept of mandating reports of abuse against children or vulnerable adults based on 2 principles:
 - Certain persons are unable to protect themselves
 - State government has role in intervention and protection
- History of abuse reporting:
 - Between 1963 -1967, all 50 states adopted some form of child protection laws (Meyers, 2008)
 - In 1970s states began passing laws to improve responses to vulnerable adults who by virtue of age or physical/mental disability were unable to care for themselves

Stand-Alone Domestic Violence Reporting Laws

- In late 1970s, the first stand-alone state law passed to apply mandatory reporting to domestic violence (Kentucky)
- Purpose of domestic violence mandatory reporting law:
 - Aid battered women in reaching out for support and protection without the burden of reporting themselves
 - Increase the involvement of law enforcement
 - Send signal to offenders that domestic violence violates a community standard and won't be tolerated
 - Data collection

Stand-Alone Domestic Violence Reporting Laws

- For many years, Kentucky was only stand-alone mandatory reporting state
 - Passed in 1978 with no exceptions
 - Significantly amended in 2017
- Oklahoma passed stand-alone mandatory reporting law for domestic violence in 2005
 - Exceptions if the victim is over 18 and competent
 - Reports are made if a victim requests it
 - Physicians must document domestic violence in medical records

Research Finding on the Views of Women

- *Caveat: problems with the literature*
- Support for MR laws higher among non-abused women
- Some studies find narrow majority (e.g., 55.7%) of abused women support the law, but not against wishes of a patient
- Support the law in application to others, not themselves
- Women who support the law believe it sends a message to the offender and that it would make it easier to get help
- Women who raise concerns about the law say it would make the offender angrier, increase their risk, and/or make offender abuse them more

Research Finding on the Views of Women

- Impact on help-seeking by women
 - Some studies find that 40-60% of women would not disclose violence to a health care provider if they knew that a mandatory reporting law existed (e.g., Gielen et al., 2000; Smith, 2000)
 - Other studies do not report such a dramatic impact
 - In one study of men and women, only 12% of patients said they would be less likely to seek medical care

Why and How Kentucky Changed its Mandatory Reporting Law

- Kentucky law (KRS 209A.030)
 - Why law was created and by whom
 - Reports required by “any person” and all known or suspected cases had to be reported
 - Reports made to adult protective services agency; they, in turn, reported to law enforcement
 - Cabinet required by law to investigate “immediately”
 - Victims were not required to accept services
 - Failure to report was a Class B Misdemeanor

Why and How Kentucky Changed its Mandatory Reporting Law

- Kentucky's evaluation of its mandatory reporting law
 - Stories from the Kentucky DV programs (shelters)
 - University of Louisville study
 - Of the 24 women interviewed, 21% said their partner intercepted the initial contact by the social worker and 21% more said their partner found out later
- Cabinet for Health and Family Services
 - The agency policy of sending letters
 - Reporting data from the Cabinet

Why and How Kentucky Changed its Mandatory Reporting Law

- Data from the Cabinet for Health and Family Services (2012)
 - Cabinet received 40,000 reports of DV annually
 - Approximately 50% of DV reports not investigated because Cabinet cannot find/contact the victim
 - Of investigated cases, over half of victims did not want the services of the Cabinet
 - Only small percentage of cases resulted in protective services case being opened
 - E.g., 40 open DV cases and 13,000 open child protection cases

Jordan & Pritchard, 2018

- Need for women's voices in our analysis led to research study
- Primary study aims:
 - Seek views of women related to mandatory reporting
 - Identify factors that influence women's opinions
 - Advance research and encourage application of study findings to improve state laws
- Methods
 - Collaboration with KY Coalition Against Domestic Violence
 - 388 women served by 15 domestic violence programs
 - Survey administered by program staff using instructions from research team

Jordan & Pritchard, 2018

- Women in Kentucky's study
 - 82.7% White; 9% African American (study weakness)
 - Mean age 35 years old (why older than the general population of battered women?)
 - Half (49%) had at least one child living in home
 - Almost 2/3 (59.6%) unemployed; 12.4% on disability
 - Over half (56.2%) had high school diploma; 23.5% had college degree
 - 42.8% were single; 23.2% married but separated

Jordan & Pritchard, 2018

- Survey instrument
 - Demographic information
 - What injuries had they sustained
 - Prior services they had used
 - Prior experiences with reporting law
 - What happened following the report
 - Opinions about mandatory reporting
 - Influence of mandatory reporting on help-seeking

Jordan & Pritchard, 2018

- Results

- If you knew in advance that the law required a report, would that impact the likelihood you would reach out?
 - 63.6% of women said they would be less likely to disclose abuse to a doctor or nurse
 - 59.7% of women said they would be less likely to disclose abuse to a therapist or counselor
 - 36% (2 in 5) women said they would be less likely to call or go to a domestic violence shelter
- Overall opinion of mandatory reporting
 - 35.7% of women expressed support for the law
 - 52% preferred changes to the law, including giving a woman the right to refuse to have a report made

Summary of Our Lessons

- Women expressing concerns about the law, including worry about losing children (opening of child protection cases)
- Advocates raising concerns about disempowerment
- Health and mental health professionals concerned about confidentiality
- Law did not result in increased protection services for women
- Law associated with increased risk (e.g., offenders finding out)
- Women less likely to reach out to shelters or to disclose their abuse to doctors/nurses/therapists if they knew about the law

Challenges and Partnerships

- Challenges
 - Splits in advocacy community
 - Appearance of removing protections could generate opposition in legislators
- Partnerships
 - Building a coalition
 - Addressing opponents early
 - Selection of a legislative sponsor
 - Testimony – pairing of advocates and researchers

New Kentucky Law

- Purpose: identify victims; refer them to services; provide protective or therapeutic services to those who wish them
- Includes domestic violence (KRS 403.720(2)(5)) and dating violence (KRS 456.010(2))
- No longer “any person.” Defines “professionals” to mean:
 - *a physician, osteopathic physician, coroner, medical examiner, medical resident, medical intern, chiropractor, nurse, dentist, optometrist, emergency medical technician, paramedic, licensed mental health professional, therapist, cabinet employee, child-care personnel, teacher, school personnel, ordained minister or the denominational equivalent, victim advocate, or any organization or agency employing any of these professionals*

New Kentucky Law

- Removed mandatory reporting and replaced it with mandatory education and referral
 - Referral to DV Programs and Rape Crisis Centers
 - Information on how to access orders of protection
- Reports to law enforcement allowed with permission of victim
- Reports to law enforcement mandatory if death of victim
- Immunity provisions for professionals
- Violation is a Class B misdemeanor
- Stipulates that nothing would interfere with reporting child abuse or abuse of vulnerable adults

What Can States Do?

- Know your state's statute and how it impacts victims of IPV
- Identify data sources to help make your case
 - National sources (e.g., research literature, CDC, DOJ)
 - State resources for data (e.g., DVPs, hospital data)
 - Develop partnership with a qualified researcher
- Select a statutory model for your state's legislative reform
 - If you have a crime-injury law, add exceptions for domestic violence (e.g., Pennsylvania)
 - With any type of mandatory reporting law, provide exception if victim requests that no report be made
 - Adding education/referral (e.g., Kentucky, North Dakota)
- Build a coalition of supporters
- Evaluate reforms

Mandatory Reporting of Domestic Violence

- For additional information:

Carol E. Jordan, Executive Director

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University of Kentucky

carolj@uky.edu

- Jordan, C.E., & Pritchard, A.J. (2018). Mandatory reportage of domestic violence: What do abuse survivors think and what variables influence those opinions? *Journal of Interpersonal Violence*.