

Mandatory Reporting of Intimate Partner Violence: Safety or Retaliatory Abuse for Women?

ANN T. MALECHA, Ph.D., DOROTHY LEMMEY, Ph.D., JUDITH McFARLANE, Dr.P.H.,
PAM WILLSON, Ph.D., NINA FREDLAND, M.S.N., JULIA GIST, M.S.,
and PAMELA SCHULTZ, M.S.

ABSTRACT

We wished to ascertain abused women's perspectives on mandatory reporting of intimate partner violence. A consecutive sample of 161 abused women accessing the criminal justice system were asked six questions. Most women (81%) thought there should be a law making the nurse or doctor report the abuse, with less than half of the women (45%) reporting they would have been at greater risk for abuse following a mandatory report. Although these 161 abused women support mandatory reporting of partner abuse, it remains unclear if such a law would deter further abuse. Outcome and evaluation studies of mandatory reporting laws are urgently needed.

INTRODUCTION

SIX STATES HAVE STATUTES mandating reporting of domestic violence or intimate partner violence (IPV) (Table 1). These laws are specific to the clinical setting and mandate that healthcare practitioners report cases of suspected IPV to law enforcement agencies as soon as possible. Although most states have statutes that mandate the reporting of injuries that result from deadly weapons or illegal acts, these laws do not include specific language regarding the treatment of adult victims of domestic violence or IPV.¹ Most advocates for abused women strongly discourage mandatory reporting of IPV.¹⁻⁶ Opponents state that a mandatory reporting law may result in retaliation from the abuser, may infringe on competent, informed women's autonomy and privacy, may generate misleading data on IPV, and may strain the confidential healthcare provider-patient relationship and discourage women from disclosing the abuse. A few studies have asked abused and nonabused women how they feel

about mandatory reporting of IPV and found varying responses.⁷⁻¹⁰ Whereas a majority of women (79%–80%) are in favor of a mandatory reporting law,^{7,8} some abused women believe the reporting would make the abuser angrier (49%), would make life more difficult (40%), would result in additional mistreatment (31%),⁸ and could be life threatening.¹⁰ Of these abused women, 4% stated a law would not help them, and 13% were not sure if a law would help.⁸ If there were a law, 39% of abused women would not disclose IPV to their healthcare provider.⁹ Based on these studies, abused women's perspectives on mandatory reporting remain unclear.

MATERIALS AND METHODS

To determine abused women's perspectives on mandatory reporting of domestic violence, this descriptive study was conducted in two separate urban criminal justice units, with both serving a

TABLE 1. MANDATORY REPORTING OF DOMESTIC VIOLENCE STATUTES

<i>State</i>	<i>Type of reporting</i>
California	Health practitioners must report to the police if they provide medical services to a patient and they have reasonable suspicion the injury may have been caused by IPV.
Colorado	Physicians are required to report to law enforcement if they attend an injury caused by a weapon or an injury as a result of a criminal act, including IPV.
Kentucky	Any person having reasonable cause to suspect that an adult is suffering from abuse, neglect, or exploitation must report to the Cabinet for Human Resources, which then notifies police, initiates an investigation, and drafts a written report of findings and recommendations.
New Hampshire	A person treating or assisting another for a gunshot wound or any other injury believed to be caused by a criminal act, including domestic violence, is required to report, except if a victim of sexual assault or abuse is >18 years old and objects to the release of this information to law enforcement.
Rhode Island	Healthcare providers will report wounds caused from deadly weapons and additionally report injuries from domestic violence for purposes of data collection only for 5 years following 1988.
New Mexico ^a	Healthcare providers will report incidents of domestic violence to police.

Adapted from ref. 4.

^aFrom ref. 2.

population of 2.8 million. The first location was a special family violence unit (FVU) located in a central police department. The second location was a district attorney's (DA) office that specializes in family violence. All persons coming to both locations are routinely provided individual counseling and community referral information. The FVU additionally provides police investigative and reporting procedures. The DA's office assists abused women in filing protective orders.

After approval by the agency and institutional review board for human subjects and completion of informed consent procedures, a combined consecutive sample of 161 women attempting to file charges or protective orders and meeting study criteria were interviewed. Seventy-one women were interviewed over a 30-day period at the FVU, and 90 women were interviewed over a 21-day period at the DA's office. Inclusion criteria were (1) intent to file charges of assault, stalking, or harassment or file a protective order against an intimate partner, (2) 18 years or older, and (3) English speaking. Six questions regarding mandatory reporting were asked. Women were interviewed by a registered nurse in a private office after meeting with the counselors, police officers, or social workers.

RESULTS

Among the 161 abused women interviewed, 51% were African American, 26% were Latino/

Hispanic, 20% were white, 1% were Asian/Pacific Islander, and 2% (3 women) classified themselves as other. The women ranged in age from 18 to 52, with a mean age of 31 years (SD 8.06). Over half (55%) of the abused women were in current relationships with the abuser (i.e., spouse/boyfriend), and 78% of the women had children living with them. The majority of the children were ages 2–12 years. Some 66% of the women were employed, 82% of the women reported an annual income below \$30,000, and 70% had obtained at least a high school education. Chi-square analysis of the demographic data from the FVU and the DA's office indicated there were no differences between the two groups of women. Furthermore, as part of a larger study, severity of violence and danger assessment scores were measured and analyzed and indicated high levels of violence and danger for these abused women at the time of contacting the criminal justice system.^{11–14} However, the purpose of this report is focused on the abused women's perspectives on mandatory reporting of IPV. Table 2 presents the results of the interviews.

DISCUSSION

The results indicate that the majority of abused women participating in this study want a law that requires a nurse or physician to report domestic violence to the police (81%) and that such a law would make it easier for them to get help (92%).

TABLE 2. ABUSED WOMEN'S PERSPECTIVES ON MANDATORY REPORTING OF DOMESTIC VIOLENCE ($n = 161$)

	<i>Agree</i> (%)	<i>Disagree</i> (%)	<i>Do not know</i> (%)
1. Who should decide to report an adult's abuse to the police?			
A nurse or doctor decides	81		
Woman decides	18		
Do not know			1
If it was a law			
2. It would have been easier for me to get help.	92	7	1
3. I would have been at greater risk for abuse.	45	53	2
4. I would have liked someone else to call the police for me.	78	22	
5. I would be less likely to tell the nurse or doctor about the abuse.	65	34	1
6. I would resent someone having the power or control over when to call the police about me.	18	81	1

Furthermore, 78% of the abused women would like someone else to call the police for them, and 81% would not resent someone having the power or control over when to call the police about the abuse. These findings are consistent with previously published research that indicates some abused women support mandatory reporting laws.⁷⁻⁹

What remains unclear is the possibility of greater risk for abuse or retaliation from the abuser as a result of a mandatory reporting law. Close to half (45%) of the abused women feel they would be at greater risk for abuse if there was a law, and an additional 2% do not know what would happen. This issue is of great concern because abusers often threaten retaliation or actually inflict harm if their partners contact the police or others in an attempt to end the violence.^{5,10,15} Studies on abuse experienced after women access the criminal justice system are rare. One recent outcome study indicated that retaliatory violence did not significantly increase after abused women attempted to file assault charges against an intimate.¹² Additional outcome studies on the effects of mandatory reporting on retaliatory abuse are crucial before determining public policy and legislation.

Of the abused women in this study, 1 out of 3 (34%) would be less likely to tell the nurse or doctor about the abuse if a mandatory reporting law existed. These results appear to contradict the women's perspectives that they want a mandatory reporting law and such a law would help them. Are the women fearful of retaliatory abuse if the healthcare provider contacts a law enforce-

ment agency? It is not known if a mandate would increase or decrease reporting by abused women or by healthcare providers, even if abused women state they support a mandate. In a previous qualitative study, 71% of abused women admitted lying or withholding information about the nature of their injuries when they sought medical care.¹⁰ Sachs et al.¹⁶ evaluated California's 1994 mandatory reporting law and did not find an increase in medical personnel reporting domestic violence to the law enforcement agency. Additionally, more than half (59%) of California primary care and emergency physicians who participated in a survey reported they might not comply with the IPV mandatory reporting law if a patient objected.¹⁷ How effective are mandatory reporting laws if neither abused women nor healthcare practitioners use them?

A line of thought when evaluating the effectiveness and utilization of mandatory reporting laws is to consider whether or not an abused woman is ready to make decisions regarding the violence in her life and her relationship status with the abuser. The women who participated in this study clearly decided to reach out for help with the criminal justice system in order to end the IPV. According to Curnow's research,¹⁸ these abused women have entered the "open window phase," where they actively seek help because the reality of their violent situation is now so apparent to them. The women in this phase have an intellectual awareness of their victimization and are ready for intervention. However, an abused woman seeking healthcare, whether in the emergency room or the prenatal clinic, is not neces-

sarily in this open window phase. She may not be ready, receptive, or capable of tackling the complexities of resolving IPV or the consequences of mandatory reporting. Clearly, outcome and evaluation studies are critical before further mandates are enacted.

This study has limitations because of its being an urban agency sample of English-speaking women who intentionally sought help through the criminal justice system. Further research is needed with larger, more representative samples of abused women that include non-English-speaking women and persons, both male and female, who have been victimized but chose not to file assault charges against an intimate partner.

In conclusion, it appears that abused women support mandatory reporting laws to help them deal with the violence in their lives. It remains unknown if such laws increase or decrease violence, including the risk of retaliatory abuse. Research is required to examine the outcomes of reporting mandates before additional legislation is set.

REFERENCES

1. Mooney DR, Rodriguez M. California healthcare workers and mandatory reporting of intimate violence. *Hastings Women's Law J* 1996;7:85.
2. American College of Emergency Physicians. Mandatory reporting of domestic violence to law enforcement and criminal justice agencies. *Ann Emerg Med* 1997;30:561.
3. Gremillion DH. Should physicians be required to report domestic violence? *NC Med J* 1997;58:320.
4. Hyman A, Chez RA. Mandatory reporting of domestic violence by health care providers: A misguided approach. *Women's Health Issues* 1995;5:208.
5. Hyman A, Schillinger D, Bernard L. Laws mandating reporting of domestic violence: Do they promote patient well-being? *JAMA* 1995;273:1781.
6. Carbonell JL, Chez RA, Hassler RS. Florida physician and nurse education and practice related to domestic violence. *Women's Health Issues* 1995;5:203.
7. Caralis PV, Musialowski R. Women's experiences with domestic violence and their attitudes and expectations regarding medical care of abuse victims. *South Med J* 1997;90:1075.
8. Coulter ML, Chez RA. Domestic violence victims support mandatory reporting: For others. *J Fam Violence* 1997;12:349.
9. Hayden SR, Barton ED, Hayden M. Domestic violence in the emergency department: How do women prefer to disclose and discuss the issue? *J Emerg Med* 1997;15:447.
10. Rodriguez SS, Quiroga H, Bauer M. Breaking the silence: Battered women's perspectives on medical care. *Arch Fam Med* 1996;5:153.
11. Gist J, McFarlane J, Malecha A, Fredland N, Schultz P, Wilson P. Women in danger: Intimate partner violence experienced by women that qualify and do not qualify for a protective order. *Behav Sci Law*. Submitted.
12. McFarlane J, Willson P, Lemmey D, Malecha A. Women filing assault charges on an intimate partner: Criminal justice outcome and future violence experienced. *Violence Against Women*. In press.
13. McFarlane J, Willson P, Malecha A, Lemmey D. Intimate partner violence: A gender comparison. *J Interpers Violence*. In press.
14. McFarlane J, Malecha A, Gist J, Willson P, Schultz P, Fredland N. Do civil protection orders protect? Reports of intimate partner violence by women with and without an order. *Violence Against Women*. In press.
15. Hart BJ. Battered women and the criminal justice system. *Am Behav Sci* 1993;36:624.
16. Sachs CJ, Peek C, Baraff LJ, Hasselblad V. Failure of the mandatory domestic violence reporting law to increase medical facility referral to police. *Ann Emerg Med* 1998;31:488.
17. Rodriguez MA, McLoughlin E, Bauer HM, Paredes V, Grumbach K. Mandatory reporting of intimate partner violence to police: Views of physicians in California. *Am J Public Health* 1999;89:575.
18. Curnow SA. The open window phase: Help seeking and reality behaviors by battered women. *Appl Nurs Res* 1997;10:128.

Address reprint requests to:

Ann T. Malecha, Ph.D., R.N.

College of Nursing

Houston Center

1130 M.D. Anderson Boulevard

Houston, TX 77030-2897

Copyright of Journal of Women's Health & Gender-Based Medicine is the property of Mary Ann Liebert, Inc. and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.