

Virtual Mentor

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OP-ED

Mandatory Reporting of Injuries Inflicted by Intimate Partner Violence

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State law requires physicians and other health care workers to report certain subsets of patients to governmental or law enforcement authorities. Injured or neglected individuals comprise the largest group of these patients. Health care personnel currently accept these policies for the reporting of child abuse and elder abuse as an enhancement of patient care [1]. Much of the literature on child abuse and elder abuse assumes that reporting to the authorities increases the safety of these victimized populations, although that literature does not specifically test the assumption [2]. All 50 states currently mandate that health care workers report child abuse to state authorities [3], and 47 states require that elder abuse be reported to state authorities or local law enforcement [4]. Mandatory reporting (MR) of injuries in elders and children seems warranted in an effort to decrease the risk of further injury and death in these vulnerable populations.

Civil codes in most states also mandate that medical personnel notify law enforcement when any patient presents with injuries due to a firearm or other deadly weapon. In many states the mandate extends to other severe injuries, sexual assaults, and “injuries that result from a criminal act” [5]. Intimate partner violence (IPV) injuries are “criminal acts” in every state, and, as such, are included under many state assault reporting laws; several states require health personnel to report injuries sustained in the violent incidents [5].

State statutes in Colorado and California include reporting of IPV victims’ injuries in their mandate for reporting of all injuries that result from assault and violence. For example, the penal code of California, which mandates reporting of patients with injuries from “assaultive or abusive conduct,” is not specific to IPV but covers patients with all suspicious injuries. California enacted an amendment to the long-standing penal code in 1995 which clarified the need to report IPV patients with injuries, provided immunity for good-faith reporting, increased penalties for not reporting, and broadened the type of health care workers mandated to report. This amendment became known as the Domestic Violence Reporting Law, but this term reflected the broad misunderstanding of the true requirements of the amendment [6]. The amendment did not change the penal code, which always required doctors to report *all* patients with injuries from assaultive or abusive conduct. Nevertheless, the concept of reporting *any* patient who is a competent adult to police or other authorities without his or her consent remains a controversial topic [7].

Views on Reporting of Partner Violence Injuries

Possible negative consequences of mandatory reporting include the possibility that injured patients avoid seeking medical care out of fear of police involvement and that police intervention could anger a perpetrator to increased aggression. Reporting against the wish of an adult patient also violates confidentiality and may be interpreted as stripping power from an already weakened person. Several medical organizations, including the American College of Emergency Medicine and the American Medical Association, oppose mandated IPV reporting by health care personnel [8, 9].

A review of the literature to date fails to isolate any substantial data to support the premise that mandatory reporting laws improve the situation for those it intends to protect. Nor could I find data that support the contention that the laws endanger victims. Mandatory reporting has been shown to increase detection of other types of abuse; large increases in reports of child abuse and elder abuse were observed after the enactment of mandatory reporting legislation pertaining to those groups [1, 10]. In the absence of outcome data on the utility of mandatory reporting of IPV, several investigators have sought the opinion of those potentially affected.

Surveys of victim advocates and focus groups of battered women reveal ambivalence about medical professionals' reporting of patients with injuries from IPV [11, 12]. Coulter and Chez found that 49 percent of the victims surveyed were concerned that reporting would increase their partner's anger [11]. Similarly, Rodriguez and colleagues concluded from their focus group study of battered women that mandatory reporting could create barriers "to seeking help and communicating with health-care professionals" [12].

Rodriguez and his co-authors also surveyed a stratified random sample of California physicians concerning their attitudes toward laws that mandate reporting of domestic violence [13]. The majority of physicians felt that this legislation possibly introduced barriers to patient care, had the potential to escalate violence, and violated patient confidentiality. Seventy-one percent of the surveyed physicians said they would not comply with the law if a patient objected to their reporting the injury, although the majority said they supported mandatory reporting of patients who presented with injuries. As mentioned, it is only patients with injuries that must be reported under California law. Hence, this study actually demonstrated that the majority of sampled California physicians supported the current mandatory reporting law.

Other survey studies of both abused and nonabused patients in the medical setting have found that a clear majority in each group supports mandatory IPV reporting, and this majority would not be deterred from seeking medical care in the context of mandatory reporting [14, 15]. And a large population-based study of both abused and nonabused women demonstrated the same majority support for mandatory reporting, but with a substantial minority opposed [16].

Some positive consequences of mandated reporting have been documented. Reporting laws increase physician detection and documentation of injuries from abuse and thus may aid in referring victims to appropriate services. The fact is that intimate partner violence is a crime, and police reporting may increase victim safety by providing immediate access to restraining orders and swift perpetrator arrest. Over the last few decades law enforcement organizations have implemented special programs that link responding patrol officers and local advocates to provide immediate services for victims whom police encounter, and this extends to response in medical areas that may not have access to onsite services (physician offices or remote clinics). Most states have domestic abuse response team (DART) programs in which victim advocates may ride on patrol with law enforcement officers or respond to patrol calls.

As in many controversial situations where little outcome data is available to support a specific action, our society must decide the age-old question: Does the potential good justify the restriction of individual rights necessary to achieve it? Our medical community has accepted the concept of mandatory reporting for child abuse, elder abuse, and assault victims because most state legislatures (representative of their constituents, we hope) have decided that the ultimate safety of these populations is an end worth the means. If we accept mandatory reporting for these populations, would we do a disservice to injured IPV victims by excluding them? If we specifically excluded IPV victims with injuries from reporting then, in many states, a man with facial fractures from involvement in a weekend beer brawl would require police reporting, but not a wife strangled unconscious by her husband.

The real ethical dilemma about mandatory reporting involves all patients with injuries. Should physicians be required to serve as crime informants to police? Will this help the victimized patient with increased protection and access to help, or will it merely aid in crime detection? In view of the paucity of data available regarding the safety and efficacy of any mandatory reporting law and the large number of patients and professionals who are affected by them, there is a pressing need for victim outcome data to shape future health policy and legislation in this area.

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