

Mandated Reporting

A Failed Policy in Reducing Sexual Offending

It is a fact that 93% of all sexual abuse occurs within the home, and are committed by family members, close family friends, or someone known to the victim. This fact comes from the United States Department of Justice. Why do we then, and how can we as a society, go along with this “choice” to ignore the 93% of all sexual abuse? Simply put, because we are told to.

Law enforcement, politicians, and our media will tell you that sexual crimes are very much underreported. They should know, for they are the ones who are allowing this to happen and exploiting it for their political and financial gain. Let’s examine why and how this is happening. This article examines mandating reporting, the biggest roadblock to reducing sexual offending and the goal of “No More Victims.”

We are told that mandated reporting laws are designed to catch child abuse in its earliest stages, so that a child does not suffer long-term damage, however these laws fall far short of this goal. Sexual abuse discovered and treated within families seeking help, could save so many more of our nation’s children and their families. Wouldn’t this greatly aid in achieving the goal of “No More Victims” or at least the goal of Far Fewer Victims?

Mandated reporters are individuals who are required by law to report suspected cases of child abuse and neglect. Although laws vary from state to state, generally, any person who has contact with children in a professional capacity is a mandated reporter. As of April, 2010 New Jersey and Wyoming were the only two States that did not specifically name professional groups as mandated reporters yet these two states require all persons to report abuse.

Mandated reporters who suspect that abuse is occurring must report it to the state, and failure to do so could result in fines, sanctions, civil litigation, and criminal prosecution with the prospect of imprisonment for the mandated reporter. This places moral, professional, and financial duress on a vital public safety net. Choice or professional judgment no longer applies since patient confidentiality has been disallowed. With this system, decisions involving children within the family that are under the age of consent are made for us by people that insist that they know what is best for the family. Mothers and Fathers are not included within this decision process.

Most states also have laws about false reporting though prosecution is rare. A mandated reporter who knowingly makes a false report may have their identity disclosed to law enforcement and possibly to the alleged perpetrator of the reported abuse. However immunity from civil or criminal liability is granted to those who report in good faith. There can however be a very fine line between a false report and good faith. We believe that this same immunity from civil or criminal liability as well as the right of patient confidentiality needs to be extended to all families wishing to seek assistance, before any legal intervention is initiated. Even when abuse within a family has been brought to the attention of law enforcement, DA’s should have the latitude within a time frame to suspend charges as long as the abuse is stopped and all members of the family become involved in therapy. This would indeed make far more families willing to seek assistance.

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Mandated reporters are usually required to give their name when they make a report, but are allowed to request anonymity to protect “their” privacy. Anonymity and privacy is a two way street that also needs to be afforded to the very same families that are caught up in this kind of crisis.

Mandated reporters typically are not obligated to inform parents, siblings or offspring that a report has been made. In cases of sexual abuse, we are told that it may be unwise to advise caregivers before a case is reported, since it would likely interfere with the forthcoming criminal investigation. Families are often unaware that their right of patient confidentiality does not exist and are then blindsided by a retribution driven system that includes public humiliation, financial devastation, public ostracism and lifelong punishment. This puts mandated reporters in the unenviable position where they must not only report their suspicions to the legal system, but often are not even allowed to counsel with family members or guardians and offer the support and guidance that was originally sought. Unfortunately the support and guidance for the family are now strictly regulated and controlled by the legal system.

Conflicts between a mandated reporter’s duties and privileged communication statutes are common. It has been argued that the category of "mandatory reporters" should be expanded to all members of the clergy; however in some denominations this creates conflict with the "confessional" making this unworkable and effectively splits members of the clergy. Generally Priests from Catholic or Greek Orthodox churches who hear of abuse within the act of confession are not obligated to report, yet members of Protestant congregations who confide with their Pastors or Ministers, have no right of confession available to them.

Mandated reporting requirements generally apply to, but are not limited to the following: Adult Protective Service Employees, Caregivers, Child Advocates, Child Protective Service Employees, Chiropractors, Clergy, Commercial Film and Photographic Print Processors, Dentists and Hygienists, Emergency Medical Service Providers, Marital and Family Therapists, Mediators, Medical Examiners, Mental Health Professionals, Nurses, Optometrists, Parole Officers, Paralegals, Pharmacists, Physical Therapists, Physician Assistants, Physicians, Podiatrists, Police Officers, Probation Officers, Psychologists, Public Health Service Providers responsible for the licensing or monitoring of Child Day-care Centers, Long-term Care and Nursing Facilities, Group Day-care Homes, Family Day-care Homes, Youth Camp Professional Counselors, Resident Medical Interns, School Teachers, Coaches, Guidance Counselors, Paraprofessionals, and Principals, Sexual Assault and Battered Women’s Counselors, Social Workers, Substance Abuse Rehabilitation Counselors, Undergrad or Graduate Level Students in the Human Services, Counseling, or Social Work Fields.

Many of these professionals are the very same professionals that families should turn to in time of crisis, and unknowingly families do turn to them. These professionals have been educated and trained in these specific areas to restore people and families in crisis. They now find themselves forced under penalty of law to further destroy the very families; their children included that turn

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to them for help. Patient confidentiality has been voided and yet that same confidentiality is the one vital key to build a binding family trust. Without this trust the family will be publicly humiliated, branded, socially destroyed and financially devastated. In the meantime, we then allow the 93% of abuse to continue unchecked. Ironically the same people that coined the term “No More Victims” intentionally and knowingly tolerate this victimization and allow it to continue, while at the same time fully realizing that it creates even more victims through this collateral damage.

Do you believe that retribution driven strategies are a better deterrent than a proposal for rehabilitation? Do the financial and punitive needs of those few in control outweigh the moral and emotional needs of many of the 93% that need and would willingly seek professional help if confidentially were available?

Once a family has been reported the media will claim that as a society we have saved one golden child from abuse and arrested the abuser for punishment. However, you will not be told that we have also just created more victims through the Government Induced Victimization Effect. How is that you ask? If the abuser is in the immediate family, the children will often be removed thus traumatizing everyone. If the offender is the primary source of income, that financial support has often ceased along with the family health insurance, and the ability to pay for housing, their utility bills, to buy food, make car and insurance payments, buy gasoline and pay for all their other personal living expenses that we all have. Their family loved one is now sitting in jail facing charges, with no money for bail bond or an attorney. If or when they do gain their release by paying exorbitant amounts of money in bail, they may not even be allowed to return to their home or have contact with any of their children that are under the age of consent. If any of the charges become convictions, they often face years of incarceration, any professional licenses they may have earned are revoked and their family is left in financial ruin. If the offender is a cousin, aunt, uncle, or grandparent, the Government Induced Victimization Effect may well be quadrupled.

Socially there is character assassination for the entire family. This destruction of the family as a whole is necessary and inevitable. It is necessary because our society does not want anyone feeling anything but disgust for this family as a whole. This entire family will now and forever be under the public’s scrutiny. It also provides a separation allowing all other families in our society to feel that they and their families are much better than this family and that this does not happen to families like theirs when the reality is this could easily happen within their own family. It all starts with mandatory reporting that leads to retribution based justice and provides a platform for society to stand and deliver their shame, guilt and fact-less innuendo. Our societies’ thinking has been rewired from redemption and forgiveness to the concept that if a little punishment is good then a lot of punishment is better.

The personal effect mandated reporting has on children who have been sexual abused is far more devastating than helpful. The real reason so many in our society appear so outraged at sexual abuse is that, in the depths of their own conscience they earnestly must believe and sell to an unsuspecting public that abuse, no matter how minor, soils those children beyond any repair.

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They will sell to you the well-used rhetoric that once a child has had a sexual experience, they are forever less of a human being and that it is impossible for youngsters to ever recover once they have been abused. This is simply not true. Therapy or counseling for young children just as it is for adults is highly effective if acted on early and confidentially.

Far too often that misguided and warped set of motivations is the basis for our reaction to the idea of an end-all to what makes children valuable. It's easy to see why in other parts of the world where the victims of rape bring so much shame on their families that they are killed in order to prove the purity of the remaining family members. We however, as "Christian conservatives" in the U.S. having been fed unfounded misinformation, are only slightly less murderous. We now seem to prefer public ostracism and lifelong punishment to education, redemption and forgiveness.

Another problem we have is with the definition of "a child." The government defines a child as anyone under the age of consent, which varies from state to state. Most people automatically assume that the word child means pre-pubescent or young child. This is the basis for the incorrect and over use of the word "pedophile" which is often used interchangeably for "sex offender". Pedophiles make up less than 1% of all sexual offenders. Every year thousands of our youth are added to the registry for under aged consensual sex being charged with "statutory rape" or "sex with a minor". The term most often used for this type of offense is a Romeo/Juliet case. Information on the registry would lead a person to believe that these offenders are pedophiles, but are they? NO! Mandated reporting is largely responsible; however this is largely a health and education issue, and should not be treated as a criminal case.

Why do we as a society make the "choice" to continue to add punishment to those in the system who are already being effectively treated and monitored? As indicated in this article, our society seems to care a lot more about punishing offenders no matter how young they may be or how minor their offense, than we care about the victims who have been abused receiving productive effective therapy. Confidential treatment for the offender and the victim is sorely lacking to nonexistent in the U.S. There are some very effective treatments by which the affects of being abused can be erased from the psyches of the victims of abuse. There are also highly effective and proven treatments for offenders. One of the largest problems caused in a punishment first attitude is that while both victim and offender may receive some treatment under the current system, since most offending occurs within the family, the separation of offender from victim itself becomes the largest roadblock to family reunification. Unfortunately, we as a society are being told that these decisions within a family are not our choice to make.

How do we as a society reduce the cases of abuse and repair the damage when it does occur? We start by using factually correct education and counseling at an early age instead of emphasizing headline grabbing sound bites about families in crisis. Unfortunately the attempts at counseling victims in the US get shrouded behind the anger at the offenders, by those who are selling their own agenda of misinformation. Often those setting the policies are so busy injecting their own anger at abusers that they fail to pay any attention to the fact that they are often doing further damage to the victims, and in most cases the families they are purportedly trying to help.

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Sexual abuse should not and would not be such a devastating issue if confidential treatment for victims and offenders were simply available. People would be shocked to find out how many people believe they were sexually assaulted and how many actual or even potential offenders simply had a need for basic sex education, or counseling. However, both types of people are afraid of the social stigma that comes with this issue and the potential that if it were known, it would destroy their families. This works both ways whether one is being labeled as the victim or the abuser.

What does “no more victims” really mean? To this writer, it is a hollow saying that comes with a high price for the families that are required to pay for this failed policy, for the rest of their lives. Under our current system, it should be said with added emphasis to the word MORE, and state “no, MORE victims!”

Does the age of the abuser and victim matter? Consider this; one-third to one-half of all sexual abuse is done by children themselves with the average age of most of the offenders being a whopping 14.6 years old. Both groups, victims and offenders, are children themselves and both deserve to be saved, treated and released to live normal lives without causing permanent victimhood or the devastating damage of being placed on a lifelong registry. All of these children’s lives must count the same.

Here are some very important questions that you must ask yourself;

Would you intentionally do this for your family, or more profoundly, would you intentionally do this to your family?

Does mandated reporting save one child without creating more victims?

Is it possible that this national policy prevents reporting and thus healing, and specifically does any aspect of this policy outweigh the collateral damage caused to a family needing intervention?

How specifically does mandated reporting reduce sexual offending knowing that 93% percent of sexual abuse actually occurs within the home and is committed by family members or close family friends known to the victim?

Draw your conclusions from the facts and current research that is easily available to everyone who searches for the truth, or just sit back and accept the hype, hysteria, fear and misinformation put forward by the politicians, judicial system, law enforcement and the media who are all benefiting from the current system. This choice is truly yours to make.

We hope you will choose to support the needs of children and families and their parental right to seek confidential counseling and therapy for their family rather than being forced to either hide their “family shame” or devastate their family forever through the impact of our current legal system.