

Confidentiality Vs. Mandated Reporting of Child Abuse: A Social Work Research Dilemma

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The tension between protecting the privacy rights of a respondent and the legally mandated obligation to report suspicion of child abuse confronts the researcher with a dilemma: to breach confidentiality is unethical; to not report is illegal. Example cases are presented in which the reporting of suspected child abuse breaches respondent confidentiality. The argument is advanced that the decision to breach confidentiality may well lead to: self-censorship by researchers, lack of candor by respondents, suppressed survey response rates, interviewer deception, oppression of disempowered groups, and impairment of the self-correcting aspects of disciplined inquiry.

Each state in the United States has statutes that list and mandate certain human service professions to report actual, suspected, or potential child abuse to a local reporting agency (Kalichman, 1993). Typically, these professions engage in direct contact with citizens that often involves some type of therapeutic relation. While state statutes differ in subtle but significant definitions and reporting requirements, they all basically reflect the federal standards for mandated reporting set in The Child Abuse Prevention and Treatment Act of 1974 and encourage child abuse reporting by conveying to persons reporting in good faith legal immunity from civil and criminal liability. The spirit and letter of the law is to encourage practitioners to err on the side

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Applied Behavioral Science Review, Volume 5, Number 1, pages 101-111.

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of over reporting child abuse even if this means inaccurately identifying cases (Thompson-Cooper et al., 1993).

A growing scholarly literature that speaks primarily to the concerns of direct practitioners focuses on the dilemma between the legal mandate to report versus codes of professional ethics that seek to protect the privacy rights of clients through promises of confidentiality. In essence the dilemma is this: to break confidentiality is unethical; not to report is illegal. (Kinard, 1985; Miller & Weinstock, 1987; Koocher & Keith-Spiegel, 1990; Stein, 1991). While there is some literature that specifically addresses the concerns of researchers who work within the mental health delivery system and may happen upon evidence that evokes suspicion of child abuse, a recent review (Kalichman, 1993) suggests that there is a need for literature addressed to researchers working outside of the mental health service delivery system who develop cause for reasonable suspicion.¹

Our aim here is to examine the tension between confidentiality and mandated reporting by: (a) presenting two cases in child welfare research that involve a research team's search for an understanding of its responsibility relative to legally mandated reporting; (b) reflect upon the complications that arise when legal statutes, codes of professional ethics, and individual moral convictions collide; and (c) consider the adverse implications of these issues for disempowered groups and scientific inquiry.

EXAMPLE CASES

We give here two summaries of cases arising from research into child welfare issues. We present only summaries to preserve the privacy of the researchers and clients who were involved in these incidents.

Case A

A research program certified by University A's Committee on Human Subjects Review studied an agency working with parents who had been determined to be abusive to their children. Each client had been abusive and was involved in a supervised program to help the parent cope with the difficulties of raising children without being abusive. The regular staff of the agency was supplemented with research staff from University A. Worker A from the research staff who was working with clients felt that one of the clients was out of control and about to become seriously abusive to the client's children. He felt that the mandated reporting requirement held and discussed the matter with Professor A, who was directing him and who was responsible for the research. Professor A and the executive staff of the agency reviewed the matter and felt that Worker A had a more pessimistic view than was warranted. Although Professor A and the staff who worked with the client on a regular basis felt that there was not an imminent danger to the child, Worker A nonetheless reported the client to the state child abuse system.

Case B

A research program certified by University B's Committee on Human Subjects Review studied the experiences of foster parents in caring for foster children as

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