Mandated Reporting of Child Maltreatment: Developments in the Wake of Recent Scandals

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Introduction

Recent high-profile child sexual abuse scandals have involved Penn State University's football program and university administration (Loviglio, 2012; Freeh, Sporkin, & Sullivan, 2012), one of Syracuse University's basketball coaches (A Special Committee, 2012), and Manhattan's exclusive Horace Mann School (Kamil, 2012), as well as those in similar, lesser-known scandals (such as one not properly handled involving the University of Michigan Medical School in which a medical resident was discovered to possess child pornography on his computer; Staller, 2012). These events have provided a new backdrop for discussion of the continued need for and effectiveness of mandated reporting in response to child maltreatment.

Such scandals have also prompted legislators to revisit and revise their mandated reporting laws. Shortly after the Penn State scandal became public, legislation was introduced to amend the Child Abuse Prevention and Treatment Act to expand mandated reporting. To date, at least ten states have amended their mandated reporting statutes, and proposed legislation is pending in numerous others. These recent actions take place in the broader context of a long-standing debate about the wisdom and efficacy of mandated reporting as a policy prescription.

This article begins with a discussion of the history of mandated reporting statutes and then considers the variation in state reporting laws. Next, it outlines the purpose and results of these laws, and summarizes the controversy surrounding them. The article then examines the changes in state laws prompted mainly by the Penn State scandal and considers the value of these changes.

History of Mandated Reporting Laws

Mandated reporting statutes have their origin in the results of research done between 1946 and 1962 by various members of the medical profession. In 1946, Dr. John Caffey published an article titled "Multiple Fractures in the Long Bones of Infants Suffering Chronic Subdural Hematoma." Over the next decade, medical professionals published articles reporting various findings regarding inflicted injuries (McCoid, 1965). By the late 1950s, some major children's hospitals around the country had instituted child protection teams and voluntary reporting policies pursuant to which they reported suspected cases of child abuse to law enforcement and child welfare authorities (McCoid, 1965). For example, in 1959 the Children's Hospital of Los Angeles adopted a policy of reporting cases of suspected abuse to the authorities (McCoid, 1965). As a result of this procedure, in 1960 the juvenile court received 14 petitions seeking its protection of children whom the medical team believed were the victims of abuse. About this same time, children's hospitals in both Cook County, Illinois, and Pittsburgh, Pennsylvania, began a practice of voluntarily reporting cases of suspected child abuse to legal authorities (McCoid, 1965).

In early 1962, the Children's Bureau of the U.S. Department of Health and Human Services convened a meeting of leading researchers and policy makers in the emerging field of child maltreatment (Myers, 2006; McCoid, 1965; Paulsen, Parker, & Adelman, 1965–1966). As a result of that meeting, the Children's Bureau began to develop guidelines for states to adopt mandated reporting statutes (Paulsen, 1967; McCoid, 1965; Paulsen et al., 1965–1966). That meeting was attended by, among others, Dr. C. Henry Kempe, who reported on his and his colleagues' research regarding inflicted injuries to children at hospitals across the country. This research was published in July of that year as "The Battered-Child Syndrome" (Kempe, Silverman, Steele, Droegemueller, & Silver, 1962).

The publication of "The Battered Child Syndrome" would prove to be a seminal event in the history of child protection in America for many reasons. As to our immediate concern, Kempe and his colleagues argued that physicians "should report possible willful trauma to the police department or any special children's protective service that operates in his [or her] community" (Kempe et al., 1962, p. 153). Their paper and recommendation propelled the movement for mandated reporting laws (Paulsen, 1967). Later that year, both the Children's Bureau and the American Humane Association published proposed language or guidelines for state-mandated reporting statutes (Paulsen, 1967; Paulsen et al., 1965–1966; McCoid, 1956).

Within a year of these events, state legislatures began to enact mandatory reporting statutes. It appears that the first statute

mandating reporting of suspected abuse became law in Idaho in March 1963. This was part of a broader package of legislation intended to address child protection (McCoid, 1965). California enacted the first stand-alone mandated reporting law on May 24, 1963, by amending the state's penal code to require that physicians and surgeons report cases of suspected abuse either to the local law enforcement agency or to the nearest child welfare agency (some areas of the state had no child welfare services at that time) (McCoid, 1965).

Although the California statute imposed a presumptive duty to report suspected child abuse, it contained a rather broad exception: "The physician or surgeon shall not be required to report as required herein if in his opinion it would not be consistent with the health, care, or treatment of the minor." Other states quickly followed Idaho's and California's lead, and by early 1964, at least 14 states had established mandatory reporting laws (Foster, 1966). Five others had declined to adopt such a statue (Foster, 1966). Three years later, every state except Hawaii had adopted a mandated reporting law, as did the District of Columbia and the Virgin Islands (Paulsen, 1967).

The early reporting laws were typically limited in two ways. First, they generally required the reporting of only serious physical injuries that were thought to be the result of intentional infliction. Second, they most often focused on reporting by medical professionals, particularly physicians, although a few did require other professionals to report suspected abuse (Myers, 2006; Paulsen, 1967; Paulsen et al., 1965–1966).

The first mandatory reporting laws focused on cases of physical abuse that resulted in serious physical injuries necessitating medical treatment (Paulsen, 1967). Neglect and lesser physical injuries were not routinely reportable under the early statutes (Paulsen, 1967). By 1967, only three states' statutes required that neglect be reported (Paulsen, 1967). The rationales for this omission were twofold. First, it was believed that inadequate public resources existed to address the potentially large number of cases of neglect. Second, there was concern that reporting neglect would intrude unnecessarily into family privacy (Paulsen, 1967). As I will subsequently discuss, sexual abuse and psychological battering were not specifically contemplated in these early statutes.

Few of the original reporting laws contained a definition of *abuse* or *child abuse* (Paulsen, 1967). Some early legal commentators argued that if a definition were provided, cases would be missed. By not defining *abuse* and *neglect*, the thinking went, the net would be cast wider, fewer cases would be missed, and more children would be protected (Paulsen, 1967). From the beginning, it was intended that reporters would err on the side of overreporting rather than underreporting of possible cases, a fact that has over time become ever more controversial.

The early laws generally limited the duty to report primarily to the medical professions, specifically physicians (Paulsen, 1967). This was true for several reasons. First, doctors possess unique diagnostic skills and could therefore reveal cases that others, particularly laypersons, could not. This would happen because doctors would be able to determine that the explanation provided by parents or caretakers of how the child's injury had occurred would not match the injuries the doctor observed on examination (Paulsen, 1967). Thus, as is the case today, this gulf between the observed injuries and the explanation of how they came about would give rise to a reasoned suspicion on the part of the doctor and trigger the legal duty to report.

A second reason was that other professionals (e.g., educators and social workers) were reporting their concerns to local authorities even in the absence of a statutory mandate that they do so (Paulsen, 1967). Medical professionals expressed two concerns about reporting in the absence of a legal mandate. First, as Paulsen explained in 1967, "It was feared that a good many physicians felt that reporting was . . . mere 'meddling'" (p. 4) into private family life. Second, there was concern about violating professional confidentiality. Physicians feared that by disclosing patient information gained through the physician–patient relationship to law enforcement or social welfare, authorities would expose them to civil liability for slander, liable, or other tort claims (Paulson, 1967; McCoid, 1965). This fear, according to some legal commentators, was unfounded (Foster, 1966). Nevertheless, to address the issue, immunity provisions were routinely included in statutes to protect physicians from the possibility of civil liability for breaching confidentiality when they reported their suspicions in good faith. At the time, most states already required physicians to report wounds that resulted from acts of violence such as gunshots or stabbing, so it was not clear that disclosure of otherwise confidential information pursuant to that legal mandate was actionable in a civil suit for damages (Paulsen, 1967). A final rationale for the statues was concern that medical professionals would not report because of the amount of time it would take for law enforcement investigations and appearances in court, which would take them away from their primary responsibility of treating patients (Foster, 1966).

Such was the general state of affairs when, in 1974, in response to the needs of children across the country, Congress enacted the Child Abuse Prevention and Treatment Act (CAPTA) in an effort to assist states in funding their child protection systems and to bring more uniformity to the nation's child welfare practice (P.L. 95-247; Faller, 2002). Among the requirements in the original federal legislation was a requirement that each state, if it wished to avail itself of federal CAPTA dollars, enact a mandatory reporting statute that met certain federally defined criteria.

Over time, mandated reporting laws have been expanded to require an ever-greater number of professions and professionals to

report when they suspect a child has suffered maltreatment. Thus, more recent mandatory reporting laws require that a variety of professionals ranging from emergency medical technicians to morticians to dentists report suspected child maltreatment (e.g., Illinois Comp. Stats. Ann. 325 ILCS 5/4, 2012; Stein, 1998).

Similarly, the scope of mandated reporting has broadened over the past 35 years (Stein, 1998). Like physical abuse, child sexual abuse has always existed (Myers, 2006; deMause, 1988). For two centuries in the United States, the sexual assault of children had been addressed, albeit inconsistently and ineffectively, before a systemic effort was launched to address this problem (Myers, 2006). Beginning in the early 1970s, child sexual abuse became the subject of focused study and systematic advocacy that led to wider societal recognition of this phenomenon (Myers, 2006). For instance, whereas Fontana's 1973 book addressed sexual abuse only in passing, by the later years of the decade, leading texts on child maltreatment squarely addressed the issue (Green, 1980; Kempe & Kempe, 1978). By the mid-1980s, the sexual abuse of children was added to the list of maladies that state statutes required be reported to authorities. By 1988, Kathleen Coulborn Faller observed that "[c]hild protection case workers are receiving growing numbers of referrals of cases where children are at risk from ongoing sexual abuse" (Faller, 1988, p. 3).

Just as the sexual abuse of children emerged over time as a salient, independent issue of concern for child advocates, our current thinking about psychological abuse emerged from its origins as a subset of neglect. The impact of psychological maltreatment of children was discussed and considered as a residual effect of neglect long before it became the subject of discussion and study as a distinct form of child maltreatment. For instance, not Dr. Vincent J. Fontana's 1973 book *Somewhere a Child Is Crying: Maltreatment—Causes and Prevention,* nor Kempe and Kempe's 1978 book *Child Abuse*, nor Dr. Aruther H. Green's 1980 book *Child Maltreatment: A Handbook for Mental Health and Child Care Professionals* discuss psychological harm to children as a free-standing form of maltreatment. Rather, Green and Fontana discussed psychological maltreatment as a form of neglect, a failure to provide emotional nurturance, or a form of harm that resulted from physical abuse or sexual abuse, while Kempe and Kempe did not discuss it at all. During the early 1980s, psychological harm came to be understood as both a form of neglect and a form of abuse that resulted from active and intentional humiliation, name calling, and similar kinds of assertive harm inflicted by parents and caretakers. Thus, by 1986, Garbarino, Guttman, and Seeley titled their book on the subject *The Psychologically Battered Child*, inferring that this form of harm to the child could be actively and intentionally inflicted rather than merely a byproduct of another form of maltreatment. As practitioners began to encounter psychologically battered children and as researchers began to understand the impact of this form of maltreatment on children's development, psychological abuse was added to the statutes requiring reporting (Garbarino, Guttman, & Seeley, 1986). Within a few years, psychological abuse of children became an understood phenomenon (American Academy of Pediatrics, 2002). Both CAPTA (42 § U.S.C. 5101, 2012) and state laws now provided for the mandatory reporting of suspected psychological abuse of children (e.g., Cal. Pen. Code §11165.3, 2012; Nev. Rev. Stat. Ann. § 432B.020, 2012).

Variation in Current State Laws

Today, every state, the District of Columbia, and the territories (e.g., Puerto Rico) have laws mandating the reporting of various types of maltreatment to children's protective services (Children's Bureau, 2011). Over the past 35 years, as these laws have expanded in their applicability and scope, they have also grown more varied. The specifics of each state's law are unique in terms of what must be reported, to what governmental agency—children's protective services or law enforcement—and by which professional disciplines.

Definitions of what constitutes child maltreatment and must therefore be reported will vary from jurisdiction to jurisdiction, but these definitions, as with all reporting requirements, are generally guided by the definition of *child abuse* and *neglect* established in the federal Child Abuse Prevention and Treatment Act (CAPTA)(42 USC § 5101). CAPTA defines *child abuse or neglect* as "[a]ny recent act or failure to act on the part of a parent or caretaker which results in death, serious physical or emotional harm, sexual abuse or exploitation; or an act or failure to act, which presents an imminent risk of serious harm" (US DHHS, 2011, p. vii).

State-mandated reporter laws vary considerably in their specifics in terms of who must report suspected child maltreatment. Some states make every adult without regard to occupation or their relationship with the child a mandated reporter. Thus, for example, Indiana's mandated reporting statute states simply "an individual who has reason to believe that a child is a victim of child abuse or neglect shall make a report" to the relevant child protection agency (Indiana Code Annotated § 31-33-5-1, 2012). Other states' statutes set out elaborate lists of professionals who must report. For example, Arkansas law sets out 37 categories of professionals who are mandated to report (Ark. Code Ann. § 12-18-402, 2012), while California requires no fewer than 40 categories of professionals to report (Cal Pen Code § 11165.7, 2012). Both these examples, however, pale in comparison to Illinois law, which identifies no fewer than 57 separate categories of professionals and paraprofessionals who must report when they have suspicion that a child is being abused or neglected (325 Ill Comp Stats Ann 5/4, 2012).

In addition to physical abuse, neglect, sexual abuse, and psychological abuse, CAPTA and most state laws now address specific factual situations that must be reported. For instance, CAPTA requires that child protection authorities be notified when a child

"is born with and identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder" (42 USC § 5106a(b)(2)(B)(ii), 2012). Thus, in Michigan, for instance, a mandated reporter who knows or has reason to suspect that a baby is born having been prenatally exposed to illicit drugs or alcohol in his or her system must report this to children's protective services (Mich Comp Laws Ann 722.623a). Similarly, when a female child under 12 years old becomes pregnant, children's protective services must be notified (Mich Comp Laws Ann § 722.623(8), 2012). Similarly, "the presence of a venereal disease in a child who is over 1 month of age but less than 12 years of age is reasonable cause to suspect abuse and neglect have occurred" (Mich Comp Laws Ann §722.623(9), 2012).

Present-day mandated reporting statutes typically articulate when the duty to report is triggered. In most states, "reasonable cause to suspect" or "reasonable cause to believe" that a child is maltreated will trigger duty (e.g., 325 Ill Comp Stats Ann 5/4, 2012; Cal Pen Code § 11166, 2012). There has long been a question whether the "reasonable cause" is an objective standard or a subjective one (Paulsen, 1967). That is, must the individual who is mandated to report herself hold the belief (subjective) or is the standard that a reasonable person in the mandated reporter's position (objective) before the duty is triggered? Because failure to report may carry serious consequences for the reporter, both civil and criminal, this is an important question. It appears that the weight of legal authority comes down in favor of an objective standard and the mandated reporter could be responsible for a failure to comply with the law if a reasonable person in the reporter's situation should have had a reasonable suspicion.

Most states now explicitly permit any person who suspects that a child is being maltreated by a parent, legal guardian, legal custodian, or other person legally responsible for a child's health or welfare to report one's suspicion to the local child protection agency (e.g., Mich Comp Law Ann 722.624, 2012).

The Purpose and Results of Mandated Reporting

Green observed that "the major objective of reporting laws is to increase case finding" (Green, 1980, p. 278). Commentators from various disciplines and from across the political spectrum agree that the reporting laws have accomplished this purpose of bringing cases of suspected maltreatment to the attention of child welfare and law enforcement authorities (Matthews & Bross, 2008; Besharov, 1993; Goldstein, Freud, & Solnit, 1979; Kempe & Kempe, 1978)—perhaps too well (Besharov, 1993).

Shortly after the enactment of the first reporting laws, the numbers of reports of suspected maltreatment began to swell and have grown substantially over the years. In California, for example, there were 4,000 reports of suspected maltreatment by 1968 and 40,000 by 1972. Other states saw similar increases in identified cases over that same 4-year span: in Florida, reported cases increased from 10 to 30,000 and in Michigan, from 721 to 30,000 cases (Kempe & Kempe, 1978).

More recently, in 2010, the last year for which numbers are currently available, the Children's Bureau announced that nationally, approximately 3.3 million reports of suspected abuse and neglect were made to child welfare agencies (US DHHS, 2011). Professionals who had contact with the child made three in five of these reports. After the screening function implemented by state agencies, 1,793,723 of those reports actually received some sort of investigation by children's protective services professionals (US DHHS, 2011). Of those investigated, 436,321 were "substantiated." An additional 24,976 were "indicated," which means essentially that the allegation could not be founded under state law, but there was reason to believe that at least one child may have been maltreated or was at risk for maltreatment (US DHHS, 2011). In 1,262,118 cases, agencies found that there was insufficient evidence to conclude that a child had been maltreated.

As the numbers of reports received in 2010 make clear, in the nearly half century since the adoption of mandated reporting, the numbers of cases of potential maltreatment have increased exponentially.

Mandated Reporting Controversy

The nearly immediate and dramatic increase in the numbers of cases being brought to the attention of child welfare agencies after the enactment of mandated reporting statutes soon prompted knowledgeable commentators to question the efficacy of reporting statutes. In their 1979 book *Before the Best Interests of the Child*, Goldstein, Freud, and Solnit argued, "The overbroad and vague base for mandatory reporting and inquiry has led to overreporting, to unnecessary demands on services that are inadequate even for those children at greatest risk of serious bodily injury" (p. 71). Thus, they concluded, "Laws requiring physicians, nurses,

social workers, and educators to report suspected cases have contributed little to protecting children" (p. 71). Other respected commentators have consistently echoed this argument (Kim, Gostin, & Cole, 2012; Ainsworth, 2002; Besharov, 2005; Besharov, 1993). Focusing on the large number of unsubstantiated cases, these commentators have argued that the resources needed to respond to the large volume of reported cases drains vital resources away from supporting families (Ainsworth, 2002; Faller, 1985; Goldstein, Freud, & Solnit, 1979). They also point out that the system is flawed in that it encourages overreporting of cases in which evidence of abuse or neglect is not clear but also suffers from underreporting of actual cases that are not brought to the attention of the authorities (Besherov, 1993). Despite the concern about overreporting that has persisted since the enactment of the first mandated reporting laws, recent research by Sege et al. (2011) suggests that underreporting is a continuing problem among physicians. Among the reasons given for failure to report are the following: lack of faith in the child protection system, concern about the impact of reporting on their professional relationship with the family, and concern about the possibility of legal action (Sege et al., 2011). In short, these are many of the same concerns that have persisted since before the enactment of the first mandated reporting statutes.

Contrasted with the commentators who have argued that mandated reporting is a failed policy are those who argue that it is in fact a success at what it is intended to accomplish: find cases. Thus, Matthews and Bross (2008) have argued that "without a system of mandated reporting, a society will be far less able to protect children and assist parents and families, because many cases of abuse and neglect will not come to the attention of the authorities and helping agencies" (p. 511). They recognize that while not perfect, the mandated reporting system provides a means by which large numbers of abused and neglected children are identified and provided assistance (Matthews & Bross, 2008). The professionals who take this side in the debate point out that parents who abuse or neglect their children are unlikely to come forward and seek assistance voluntarily (Matthews & Bross, 2008).

Recent Changes in State Laws

In an effort to enhance case finding and to protect children, policy makers have determined that they will calibrate policy to err on the side of overreporting rather than follow the suggestions of those who have advocated for a narrowing of the reporting mandate. While the problem of underreporting will almost certainly persist in the wake of the recent child sexual abuse scandals, legislatures across the country have begun to amend and expand their mandated reporting statutes. At this writing, at least 14 states have amended their laws in response to the sexual abuse of children on Penn State's campus by Jerry Sandusky. Numerous other states are in the process of reviewing their laws and may enact amendments to address perceived shortcomings in reporting requirements (Loviglio, 2012). In addition, in the immediate aftermath of the disclosure of Jerry Sandusky's serial abuse of children, on November 16, 2011, Pennsylvania Senator Robert P. Casey introduced Senate Bill 1877, the Speak Up to Protect Every Kid Act. This legislation would amend the Child Abuse Prevention and Treatment Act to expand mandated reporting to those circumstances, such as involved Sandusky, in which a child is abused by someone who is not the child's parent, guardian, or legal custodian, in order to provide federal financial support for public education campaigns that would raise awareness of the need to report suspected child maltreatment, and to fund the training of volunteers in the need to report suspected maltreatment.

Recent changes in state laws can be grouped into a number of general responses (see Table 1). Some states have explicitly applied mandated reporting laws to coaches or other employees and volunteers of athletic programs (including those who are unrelated to a school, college, or university such as a recreational league), while some have expanded their mandated reporting statutes to include additional professionals or volunteers, such as Court Appointed Special Advocates and similar child welfare service providers. Others have expanded reporting to include not just primary and secondary teachers but also colleges, university, and technical school instructors and employees of these organizations. In addition to statutory mandates to report suspected maltreatment, some state legislatures have provided that institutions of higher learning must adopt internal policies to address employees' duty to report. Washington state explicitly mentioned that the definition of *an employee* include a student employee. One interesting limitation contained in Virginia's law is that it explicitly exempts from the duty to report the lawyers who work for institutions of higher learning and who learn of the suspected abuse through their work for the institution. A number of states have included other non-educator employees of educational institutions (e.g., secretaries and janitors), and several have adopted legislation to promote education and awareness of the duty to report suspected child maltreatment.

Some states have chosen to increase the criminal penalties for failure to report. Florida, for instance, has changed failure to report suspected abuse of a child from a misdemeanor to a felony. Louisiana has specifically made it a crime not to report suspected sexual abuse of a child unless the information is protected by a "privilege of confidentiality recognized by law." Presumably because in the Penn State situation some employees of the University did not report because they feared retaliation, some states have explicitly prohibited employers from retaliating against an employee who reports in good faith suspected child abuse. Louisiana accomplished this result by amending its general whistleblower statute rather than its child protection laws. Two states (Nebraska, West Virginia) have used this opportunity to require better coordination of joint CPS and law enforcement investigations. Florida expanded mandated reporting of child abuse to include situations in which the perpetrator is unrelated

Table 1: Recent Changes to Mandated Reporter Laws

CHANGE TO REPORTING LAW	STATES ADOPTING CHANGE
Explicitly apply mandated reporting to coaches or other employees and volunteers of athletic programs	Georgia, Illinois, Louisiana, Oregon, Virginia, West Virginia
Expand mandated reporting to include additional professionals or paraprofessionals (e.g., Court Appointed Special Advocates, child welfare service providers)	South Dakota, West Virginia
Expand mandated reporting to include college and university instructors and staff and/or require that institutions of higher education adopt reporting policies	Georgia, Illinois, Louisiana, Oregon, Virginia, Washington, Iowa
Include noneducator employees of educational institutions (e.g., janitors and secretaries) as mandated reporters	Georgia, Illinois, Louisiana, Oregon, Virginia, West Virginia, Wisconsin
Require education to promote awareness of duty to report	Florida, Indiana, Nebraska
Increased penalties for failure to report	Florida, Louisiana, Virginia, West Virginia
Explicitly prohibit employers from retaliating against employees who report suspected maltreatment	Iowa, Wisconsin, Louisiana
Require better coordination of investigations between children's protective services and law enforcement	Nebraska, West Virginia
Require mandated reporting when the suspected perpetrator is unrelated to the child	Florida
Establish task force to study necessary changes to mandated reporting law	Vermont

to the child rather than limiting it to situations where the suspected perpetrator is the parent, guardian, or legal custodian of the child, and Vermont established a task force including relevant governmental agencies, such as the Department of Children and Families and the Department of Education as well as the Vermont Network Against Domestic and Sexual Violence. The legislature charged the task force with reporting back to the legislature how schools should best respond to student reports of abuse or neglect. Similarly, Pennsylvania adopted legislation establishing a commission to study ways to improve reporting as well as other aspects of its child protection laws (Wolfe, 2012).

Conclusion—Impact of Changes

These recent changes to the reporting laws—and those that are likely still to come—will no doubt fuel the long-standing debate about the efficacy of such statues, whether they are efficient uses of resources, and whether they invite unnecessary intrusion into the private realm of family life. Will it really make children safer if we legally mandate, subject to criminal penalties, that the little league coach or the school secretary report child abuse rather than just the school teacher or principal? We should not hope for too much. There may be relatively modest increases in the number of cases reported. But in the Sandusky scandal, two individuals—one a janitor and one an assistant football coach, both adults—actually saw Mr. Sandusky sexually assaulting children at different times. One of those incidents involved the perpetrator performing oral sex on a young boy; in the other incident, he was in the process of anally penetrating another young boy (Freeh, Sporkin & Sullivan, 2012). Despite this rare occurrence of an eyewitness actually seeing the sexual abuse of a child (Meyer, 1994), nothing was done. Indeed, the Final Report issued by Penn State's Special Investigative Counsel contains nothing that suggests that in either incident the adult witness took any action to even intervene to stop the sexual assault he saw in progress! And, of course, neither initiated any report to the authorities—law enforcement or CPS. Either of those individuals could have simply picked up the telephone and called the police. Despite clear reason to know of the sexual abuse of children, individuals at the highest level of the university structure failed to do what seems obvious even to one utterly unaware of the duty to report sexual abuse of children or the dynamics of child sexual abuse. And despite the fact that they should have known of his abuse of children, Mr. Sandusky was permitted to travel from Pennsylvania to Texas with the Penn State football team for the Alamo Bowl in 1999 in the company of a young boy, who apparently stayed in his hotel room (Free, Sporkin, & Sullivan,

2012). This case is reminiscent of the Kitty Genovese murder, where numerous members of a community stood passively by while a young woman was killed (Foster, 1966).

Under the egregious circumstances of this particular case, what was lacking was not a statutory duty to report. Rather, what was lacking was an understanding of the moral imperative to protect children from obvious harm. As Kim, Gostin, and Cole (2012) have observed, "Notwithstanding legal duties, there appears to be systematic underreporting of child abuse and neglect" (p. 38). Their observation is supported by the work of Sege (2011) and his colleagues. This state of affairs, in the words of the Penn State Special Investigative Counsel, demonstrates "[a] striking lack of empathy for child abuse victims" (Freeh, Sporkin, & Sullivan, 2012). Despite nearly fifty years of mandated reporting, there continues to be reluctance on the part of individuals—both professionals who work closely with children and members of the lay public—who simply do not want to get involved. Until we change this attitude as it relates to the abuse and neglect of children, we will never be able to identify and properly respond to all incidences of child maltreatment.

Perhaps the West Virginia legislature got it right when it recently changed the purpose clause of its mandated reporting law, which exists "to promote adult responsibility for protecting children."

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