

## Mandatory Reporting of Elder Abuse: Exploring the Benefits and Harms

Note: This fact sheet was adapted from a longer article by Jessica Mindlin, Esq., and Bonnie Brandl, MSW, entitled, “*Respecting Elders, Protecting Elders: Untangling the Mystery of What Sexual Assault Advocates Need to Know About the Mandatory Reporting of Elder Abuse*” published in **Reshape** (Spring 2011; no. 27).

Is mandating reporting of elder abuse beneficial or detrimental for older victims?

Supporters of mandatory reporting laws often assert that:

- Victims will be safer because many older adults may not recognize that they are being victimized, are unaware of services, or may be too ashamed, afraid or physically unable to seek help without outside intervention. Mandatory reporting may enhance these victims’ safety by linking them with services that will provide information and referrals to improve their living situations.<sup>i</sup> Holding offenders accountable may also enhance victim safety;<sup>ii</sup>
- Professionals who interact most frequently with victims typically receive training on mandatory reporting, thereby enhancing these providers’ understanding of the dynamics of elder abuse and helping them provide better services to their older clients;
- Mandatory reporting may lead to a greater number of cases reaching Adult Protective Services, elder abuse agencies, or law enforcement officers, thus increasing our understanding of the prevalence and incidence of elder abuse,<sup>iii</sup> and leading to improved services for this population, which may include vulnerable, isolated, or frail older adults.



In contrast, some victim service providers fear that mandatory reporting laws can be harmful for older victims. Advocates and others opposed to mandatory reporting are concerned that such laws may:

- Undermine victim autonomy insofar as it takes away from the victim the decision whether, when and from whom to ask for help. Victims lose the right to decide whether an investigation can take place and who learns about the abuse. Victims may find themselves in court or that their case is being discussed in the media even if they did not want anyone to know about the sexual or physical assaults, financial exploitation, or other abuse;
- Lead some victims not to seek (or return for) help from a victim service provider or other agency because they know a report will be made regardless of their wishes;
- Breach confidentiality so significantly that it will harm their relationship with both an individual victim and the elder community more generally, and that once compromised a victim's or community's trust can never be fully restored;
- Wrongly presume that: (1) elder abuse service providers have expertise in sexual assault, domestic violence and/or stalking in later life; (2) service providers have the training and resources to provide culturally sensitive services in all communities; (3) supportive services are in place with qualified staff and necessary resources; and (4) offenders will be held accountable. All too often, one of more of these issues is a problem in a local community.
- Be an ageist response, treating victims differently simply by virtue of their age.<sup>iv</sup>

There is no simple answer to the question of whether mandatory reporting of elder abuse benefits or harms an individual victim or older victims overall. This will depend on the individual victim, agency expertise, local law enforcement and adult protective services response, family and community support, etc. Regardless of whether you believe mandatory reporting is beneficial or burdensome for victims and those who serve them, you will need to comply with your jurisdiction's mandatory reporting provisions.

*Disclaimer: The general information presented here is intended for educational purposes only. It does not constitute and is not a substitute for independent legal advice and should not be relied upon for that purpose. If you need legal advice you should consult with your own attorney.*

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<sup>i</sup> Hyman, A. "Mandatory reporting of Domestic Violence by Health Care Providers: A Policy Paper." San Francisco, CA: Family Violence Prevention Fund. Retrieved June 24 (1997): 2007; Freed, P. and V. Drake "Mandatory Reporting of Abuse: Practical, Moral, and Legal Issues for Psychiatric Home Healthcare Nurses," *Issues in Mental Health Nursing*, 20, 423 – 436 (1999).

<sup>ii</sup> See Hyman, A. at 1.

<sup>iii</sup> *Id.*

<sup>iv</sup> Faulkner, L. "Mandating the Reporting of Suspected Cases of Elder Abuse: An Inappropriate, Ineffective and Ageist Response to the Abuse of Older Adults," *Family Law Quarterly*, Vol. XVI, No. 1, 69 – 91 (1982).

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