

Institutional (Chain of Command) Child Abuse Reporting: An Exploratory Overview

*Franne Sippel, EdD; Karyl Meister, PhD;
Nancy Guardia, MSW*

Abstract

This study aims to address a gap in the literature in the United States regarding institutional reporting and its impact on children. Institutional or chain of command child abuse reporting requires the mandatory reporter (MR) to report suspected child maltreatment to their supervisor or designee rather than directly to child protective services (CPS), or law enforcement, or both. After reviewing limited available research, anecdotal evidence, expert opinions, and court cases and after comparing statutory reforms, the authors identify serious child safety concerns regarding institutional reporting: It is the common denominator of ongoing child sexual abuse in institutions and organizations, it places the MR at greater risk of retaliation, it decreases child maltreatment reporting, it dilutes the report's validity and makes it more difficult to assess danger in the home, it increases the liability risk for the institution/organization, it attracts predators, it prioritizes lawsuit fears over children's safety, and it allows reporting law violations. The study concludes with limitations and recommendations for needed legislative changes to better safeguard vulnerable children and the MRs tasked with protecting them.

Key Words: *Institutional reporting, chain of command reporting, child maltreatment prevention, retaliation against mandatory reporters, mandatory reporting of child abuse*

Introduction

Abuse Reporting of Children in Educational Institutions

Failure to report sexual abuse by educational institutions nationwide demonstrates a systemic problem associated with institutional reporting, as evidenced by the following examples. In 2011, the nation learned that Pennsylvania State University's top administrators did not report Jerry Sandusky's rape of a child. Their failure to report allowed Sandusky to continue preying upon young boys for more than a decade (Freeh Sporkin & Sullivan, 2012). The Penn State scandal compelled Pennsylvania legislators to examine their child abuse reporting laws. They discovered Pennsylvania was one of only seven states (including Georgia, Idaho, Massachusetts, Missouri, South Dakota, and Virginia) that allowed hospital, school, and

organizational employees to report to a supervisor or designee rather than directly to child protective services (CPS) or the police (National Center for the Prosecution of Child Abuse [NCPCA], 2016).

Recognizing how institutional reporting jeopardized children's safety, Pennsylvania eliminated institutional reporting in 2014 and made all school employees and volunteers mandatory reporters (MRs; Rittmeyer, 2014). Pennsylvania's S21 legislation required MRs to make an immediate direct report of suspected abuse to ChildLine and immediately notify the person in charge of the institution, school, facility, or agency (Suspected Child Abuse—Mandated Reporting Requirements Act, 2022).

Although there are several significant changes to the way child abuse is reported and investigated in Pennsylvania, the most significant change affecting

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educators is that chain of command reporting procedure for child abuse is no longer acceptable. This is something that went from an accepted practice to a third-degree felony if the underlying abuse rises to the level of a felony (Persick, 2015).

Further, Pennsylvania's Domestic Relations Code SB 33 (2014) safeguards reporting MRs, providing whistleblower protection from employment discrimination for MRs who make good faith reports. If the MR is fired or discriminated against regarding any employment practice and a ruling is found in favor of the MR, the MR may be reinstated with back pay.

The Penn State scandal highlighted how direct reporting could have prevented decades of further harm to child victims, and the nation took note (Guardia, n.d.). Consequently, between 2012 and 2019, state legislators enacted 140 bills to amend, strengthen, and expand existing child abuse reporting laws (Guardia, n.d.; National Conference of State Legislators [NCSL], 2021).

Many other educational institutions have experienced scandals related to unreported sexual abuse. The University of Maryland–Baltimore County (UMBC) settled a \$4.14 million lawsuit with students affected by the sexual misconduct of a swimming coach who sexually abused and harassed male swimmers (U.S. Department of Justice [USDOJ], 2024). The USDOJ (2024) claimed UMBC's administrators warned the coach of impending locker searches in 2015 after students complained he was using a camera to film them, thereby thwarting the investigation. Further, when a male student reported sexual touching by the coach in 2019, the administration again failed to report any misconduct.

In 2023, an Ithaca College student reported that the associate dean of the Roy H. Park School of Communications and three other employees had sexually harassed and abused him (Pierre & Panwar, 2024). According to Pierre and Panwar (2024), the student filed a lawsuit against Ithaca College, stating

the administration knew about the professor's Grindr page, which targeted students. Though administrators and faculty knew about the abuse, the school failed to report it, causing further harm to the student.

In addition to not reporting sexual assaults or harassment by faculty and staff, many educational institutions fail to report sexual assaults by other students. Hilldale College, Occidental College, Liberty University, and the University of Connecticut are several colleges that have been investigated in the last decade for failure to report sexual assault or rape on campus (Booth-Singleton, 2023; Burchill, 2022; Testa, 2014; Umansky, 2024), continuing to foster a culture of silence.

Institutional reporting in high school has also contributed to the ongoing abuse of minors. In the Los Angeles Unified School District (LAUSD), a teacher sexually assaulted multiple students, according to Kim (2014). In 1983, a parent reported that a teacher exposed himself to students. For three decades, numerous other complaints have been made about this teacher's sexual behavior with students, including masturbating during classes in the 1990s. Only when photos were turned over to the police by an unknown source in 2011 was an investigation initiated. The teacher eventually pleaded no contest and was sentenced to 25 years in prison.

New Hampshire, in 2020, closed its legal loophole, which allowed high school faculty and staff to have sexual contact with students ages 16–18, making it illegal for those in charge of students to have sexual contact with students ages 13–18 and for 10 months post-graduation. O'Grady (2020) reported that this new law was a direct result of a particular teacher who had engaged in sexual behavior with students for years before the school finally acted, despite complaints from coworkers and students alike. The school claimed no evidence of wrongdoing as the students were within the legal age of consent in New Hampshire, ignoring the power differential between teachers and students.

Zimmerman (2023) clarified in his report, *Catching the Trash*, that teacher unions, educational agencies, principals, and other school personnel would instead cover up sexual abuse by teachers rather than report abuse. He stated that teachers are routinely allowed to resign and move to other schools, labeling this as “passing the trash” (p. 3).

In 2011, seven states (GA, ID, PA, MA, MO, SD, VA) permitted institutional reporting; by 2020, five of those states enacted legal reform with four getting rid of institutional reporting altogether (NCPCA, 2016). Most states enacted criminal penalties for officials who interfere with or prevent mandated reporting (Guardia, n.d.). Massachusetts, South Dakota, and Idaho are the only three remaining states whose laws allow MRs who work in youth-serving institutions and organizations to report suspected abuse to their superiors without any accountability for officials who fail to report (NCPCA, 2016). These legislative changes demonstrate the recognition by most states that direct reporting without interference is the superior reporting procedure.

Specifically, in 2013, Missouri updated its law to state, “The reporting requirements under this section are individual, and no supervisor or administrator may impede or inhibit any reporting under this section” (Reports of Abuse, Neglect, and Under Age Eighteen Deaths). Before enacting this law, MRs in various institutions (e.g., schools, hospitals, etc.) had to report to their supervisor or a designated person, who would then report to CPS. Although not eliminating institutional reporting, Georgia and Virginia added strong protections from administrator inaction or coverup. Georgia’s codified law (Guidelines for Mandatory Reporting of Suspected Child Abuse by Public Health Personnel [Guidelines], 2022) prohibits “the person in charge … from exercising any control, restraint or modification, or making any other change to the information provided by the reporter.” Georgia also mandated that:

[w]ithin 24 hours of receiving such report, such entity shall acknowledge, in writing, the receipt of such report to the reporting individual. Within five days of completing the investigation of the suspected child abuse, such entity shall disclose, in writing, to the school counselor for the school such child was attending at the time of the reported child abuse whether the suspected child abuse was confirmed or unconfirmed. If a school does not have a school counselor, such disclosure shall be made to the principal.
(Guidelines ..., 2022)

This legislation helps ensure that the proper government authorities will be notified (Guardia, n.d.).

In 2015, Virginia passed the Complaints and Reports of Suspected Child Abuse or Neglect Act, which states,

If the initial report of suspected abuse is made to a person in charge or designee … that superior shall notify the initial reporter when the report is made … [and] shall forward to the initial reporter any communication resulting from the report, including any actions taken regarding the report. (para. 2)

Virginia’s new law ensures that the MR will disclose all pertinent information regarding the report to CPS (Guardia, n.d.).

South Dakota enacted the Oral Report of Abuse or Neglect—To Whom Made—Response Report (2015), which requires the MR who witnessed the disclosure or evidence to be present and available when the initial report is made to authorities by the MR’s supervisor. However, South Dakota still allows an MR to report up the chain of command in a hospital or school setting. Further, South Dakota law does not address employer retaliation for an MR’s direct communication with CPS, law enforcement, or accountability if the superior fails to act (Guardia, n.d.).

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In Massachusetts, top administrators make the final decision on what (and if) child abuse allegations are reported to CPS (Guardia, n.d.). The Office of Child Advocate's (2021) Massachusetts Mandated Reporter Commission (MRC) interim report noted that "it is not uncommon" for MRs to make a report to their supervisor and believe a 51-A (the required report of suspected abuse) was filed with CPS "only to discover months later that a report was never made" (p. 58). On June 30, 2021, despite knowing that many MA supervisors failed to follow through and report suspected abuse directly to CPS/police, MRC recommended keeping institutional reporting in their state law. MRC rationalized that damage to the institution or alleged abuser via an investigation needs to be weighed against the need to protect children. This continues to send the message that the institution or the abuser is more important than the abused child.

Other Areas of Institutional Reporting of Sexual Abuse

In the following examples, the sexual abuse of vulnerable children continued unchecked for decades because MRs were employed in settings where direct reporting was prohibited. Though fallout from chain of command reporting may be found across many religious institutions, universities, and organizations, the authors chose these *specific examples* because they were well documented, demonstrate the far-reaching impact on children across varied settings, and highlight the importance of direct reporting.

Reporting Religious Abuse

Examples of systemic institutional problems are ample across many varied religious institutions. Although the Catholic church is the most well-known example, many religious institutions have covered up sexual abuse. The Church of Jesus Christ of Latter-day Saints (LDS) has had its share of scandals (Rezendes & Dearen, 2023). In April 2023 (Associated Press [AP], 2023), according to an AP

staff writer, the LDS church was required to pay \$2.28 billion to a woman who reported the church covered up repeated sexual abuse by her stepfather. The woman had told many church members and officials about the abuse, but church leaders failed to act. Rezendes and Dearen (2023) reported there were recordings of church leaders derailing investigations by prohibiting bishops from testifying about known abuse, written confidentiality agreements, and pledges to destroy critical information about abuse.

In 2019, the Southern Baptist Convention (SBC) faced a similar scandal when hundreds of cases of sexual abuse by clergy surfaced (Gross, 2022). Gross (2022) interviewed the journalist Robert Downen from the Houston Chronicle, who broke the story in 2019. As a result of Downen's story, the SBC commissioned an independent study regarding sexual abuse within the church. The commission discovered a secret list of abusers maintained by the SBC since 2007, detailing more than 700 victims of sexual abuse by clergy, church volunteers, and others within the church. The SBC had transferred many clergy members to other congregations, giving them access to numerous children in multiple states. Rather than report the abuse, the SBC "passed the trash."

Accusations and systemic coverups of child sexual abuse within the international Catholic Church hierarchy began receiving public attention in the 1980s and 1990s. In 2002, the *Boston Globe's* Spotlight team revealed that for decades, U.S. bishops and archbishops had accepted priests with histories of sexually abusing children, reassigning them to other parishes and schools to abuse new victims. Thousands of abuse allegations made by victims, parents, and church staff were covered up within the Church hierarchical reporting system. Problems with accountability are rooted in the Church structure, with dioceses governed "like fiefdoms ... with little centralized oversight above the level of bishops or archbishops assigned to that region" (Green, 2019, para 26).

A 2018 Pennsylvania grand jury report of child sexual abuse in six of Pennsylvania's eight dioceses found that in 54 of the state's 67 counties, priests abused over 1000 children. These abuse allegations were covered up by Church officials: "Priests were raping little boys and girls, and the men of God who were responsible for them not only did nothing, they hid it all for decades" (Pennsylvania State Supreme Court, 2018, p. 7).

There has been a growing international movement to hold Church leaders accountable for systemic abuse and coverups. In February 2019, Pope Francis abolished the practice of "pontifical secret" regarding clergy sexual abuse cases in response to increasing criticism that such confidentiality shields pedophiles, prevents direct reporting to the police, and silences victims (CBS News, 2019). Pope Francis decreed that "pontifical secret" no longer applies to abuse allegations. However, the Vatican fails to mandate direct reporting of suspected abuse to law enforcement (Winfield, 2019).

The U.S. Conference of Catholic Bishops voted to establish an independent third-party system for reporting suspected child sexual abuse by current and retired bishops (Sadowski, 2019). The system would allow individuals to report online or through a toll-free number. All reports must be reported to the appropriate bishop or archbishop, who must report to law enforcement. This lack of outside oversight is a prime example of an inherent conflict of interest.

Dallam et al.'s (2021) and CHILD USA's (2021) research further confirms that the U.S. archdioceses failed to enact sufficient policies to prevent child sexual abuse. After examining 32 written policies on child protection and comparing policies across archdioceses, the researchers found the current policies to be inconsistent and inadequate. They identified the need for the Catholic Church to adopt evidence-based best practices for reporting and addressing child sexual abuse within the organization. While each of the archdioceses has policies for direct reporting to civil authorities, these policies fail to consistently adhere to the states' reporting laws, do not identify who is an MR,

rarely specify what information should be included in reports to authorities, and do not consistently address ramifications for failing to report.

Reporting USA Olympic Sports and USA Gymnastics Abuse

Since 1982, over 290 coaches and officials associated with the USA Olympic sports organizations have been accused of sexual misconduct, according to Hobson and Rich (2017b, para. 3) in their *Washington Post* review of sports governing bodies' banned lists, newspaper articles, and court documents in several states. Interviews with dozens of Olympic sports officials and a review of thousands of pages of lawsuit records filed by victims reveal a culture that prioritizes winning and reducing liability risk over children's safety.

In 2010, attorney and Olympic gold medalist Nancy Hogshead-Makar began receiving calls regarding the sexual abuse of athletes participating in Olympic and club sports, according to Moran (2018). She learned that sports' governing bodies under the USA Olympic Committee (USOC) stated that they did not have a legal duty to protect athletes from abuse or enough insurance to address abuse claims. In 2012, she helped convince the USOC's board to adopt a rule preventing coaches from having relationships (sexual or romantic) with athletes they were coaching, regardless of age or consent. They were given a year to implement the rule. However, over time, she recognized the USOC's lack of commitment to protect athletes.

The Larry Nassar scandal, which revealed how a former USA Gymnastics and Michigan State University doctor had sexually abused hundreds of women for decades, prompted changes. With bipartisan support, Congress gave final approval to the Protecting Young Victims From Sexual Abuse and Safe Sport Authorization Act, also known as the Safe Sport Act (Protecting Young Victims From Sexual Abuse and Safe Sport Authorization Act, P.L. 115-126, 2018; Moran, 2018). This law tasks the USOC and its national governing bodies with a legal duty to prevent sexual, physical, and emotional abuse

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of amateur athletes. Those involved in USA Olympic and amateur sports must report any sexual abuse allegations *directly* to law enforcement within 24 hours.

On January 3, 2018, the Safe Sport Act (Protecting Young Victims From Sexual Abuse and Safe Sport Authorization Act) was passed by Congress, requiring members of youth-serving sports organizations to report suspected child abuse immediately to police and then to the U.S. Center for SafeSport (the USOC portal for reporting abuse and training coaches on abuse), designating everyone in the Olympic movement as an MR. The USOC (2012) specifically addresses MR retaliation in a “no retaliation regardless of the outcome” policy:

...[The] USOC will not encourage, allow, or tolerate attempts from any individual to retaliate, punish, allow, or in any way harm any individual(s) who report a concern in good faith. Such actions against a complainant will be considered a violation of this policy and grounds for disciplinary action. Any allegations of retaliation should be reported using the same process as for reporting an initial concern. (p. 14)

Failure to report may result in being charged with a federal crime. The complainant’s name is required on the reporting form but may be withheld if requested or as law permits. Anonymous reports are allowed. The Act also created an independent body, U.S. Center for SafeSport, responsible for investigating complaints and ensuring compliance (Gibbs, 2018; Lahitou, 2018).

The Empowering Olympic, Paralympic, and Amateur Athletes Act of 2020 (Bill Track, P.L. 116-189) further protects amateur athletes from abuse by coaches and other U.S. Olympic and Paralympic employees, requiring suspected abuse of a minor be immediately and directly reported to law enforcement (§ 36.1.D). MRs are further protected as whistleblowers. The Center for SafeSport shall report to Congress within 72 hours of an attempt to interfere in or influence the outcome of an investigation (Bill Track 50, n.d., para. 1).

Reporting Abuse by the Boy Scouts of America (BSA)

According to Hamilton and Timon (2020), 35% of BSA victims reported that someone else knew about the abuse at the time it occurred. One in five told Scout leaders or someone else told Scout leaders for them at the time of the abuse. One victim’s (S. D.) lawsuit alleged that the BSA’s organization conspired to keep the sexual abuse of victims a secret (Epstein, 2019). Epstein (2019) reported that the BSA allegedly made 120 reports to the police but acknowledged a history where cases were ignored or handled in a manner inconsistent with protecting scouts. Currently, BSA requires members to report directly to authorities, even if there is a conflict with state law. Additionally, the member who suspects abuse must be the one to make the report. (BSA, 2023). As of May 2020, 82,000 BSA sexual abuse victims have come forward (Baker, 2020).

Impact of Abuse on Native American Children

A 2019, a *Frontline* and *Wall Street Journal* story documented multiple sexual abuse incidents at an Indian Health Service (IHS) substance abuse treatment facility for teens in North Carolina (Weaver, 2019). Weaver stated that several employees reported that an IHS manager instructed them not to report, and one employee stated that she believed she could be fired for insubordination for reporting. However, a few employees did report to the police and the Cherokee Family Safety Program. Those employees later resigned or were fired.

South Dakota has experienced several child sexual abuse (CSA) scandals spanning decades (Weaver et al., 2019), all involving Native American children. According to Weaver et al. (2019), in the Pine Ridge sex scandal, a fellow doctor and MR reported Dr. Weber for suspected child sexual abuse. The colleague experienced retaliation by being transferred to a job in North Dakota, reducing his annual salary by a third. Another professional said he did not report outside the institution because he feared firing. The investigation by the

Wall Street Journal and *Frontline* found that IHS “missed or ignored warning signs, tried to silence whistleblowers, and allowed Mr. Weber to continue treating children despite suspicions of colleagues up and down the chain of command” (para. 6).

In early 2019, IHS updated its child maltreatment reporting policies to address sexual abuse by healthcare professionals. The new policies require employees to report abuse suspicions directly to CPS or law enforcement and their supervisor within 24 hours (Indian Health Service, 2019). However, challenges persisted, such as fear of retaliation, difficulty protecting the MR’s identity, fear that supervisors will not respond appropriately, and confusion over who is supposed to oversee abuse allegations (Chiedi, 2019; Frosch & Weaver, 2019b).

In 2019, a Presidential Task Force on protecting Native American Children in IHS was established (USDOJ, 2020). The purpose of the task force, according to the USDOJ (2020), was to examine systematic problems contributing to serial sexual abuse and address prevention. Recommendations included standardized sexual abuse reporting policies across all clinics and hospitals, centralizing efforts to screen new providers’ backgrounds, and yearly training on sexual abuse by federal law enforcement personnel for employees. The report recommended that Congress pass laws requiring all federal employees to report suspected sexual abuse directly to law enforcement and to strip child sex offenders of federal pensions (Weaver, 2020).

Other South Dakota cases, where state law allows youth-serving institutions and organizations’ MRs to report suspected abuse to their superiors, demonstrate the devastating impact of institutional reporting on Native American children. In March 2019, the Catholic Diocese of Sioux Falls, South Dakota, named 11 priests accused of committing child sex abuse between 1950 and 1992 (Anderson & Fugleberg, 2019). More than 100 former students of South Dakota’s Catholic-run boarding schools filed lawsuits against the federal government, the Sioux Falls diocese, and various religious orders that

ran the schools (Anderson, 2019). Anderson (2019) reported that the lawsuits maintain that abuse was perpetrated on children by priests, nuns, and school employees. The allegations in the lawsuits against the Sioux Falls diocese span from the 1940s through the 1970s.

Between 2004 and 2010, victims filed several lawsuits, according to Anderson (2019). In response, the Diocese maintained that they were not responsible for any alleged abuse that took place at Catholic-run schools. South Dakota lawmakers passed last-minute legislation changing the state’s statute of limitations, making it impossible for victims older than 40 to pursue legal action against any institution. The Rapid City Diocese, according to Zions (2019), published a list of 21 priests credibly accused of sexual abuse while serving in schools, churches, hospitals, and on the Pine Ridge and Rosebud reservations from 1951 to 2018. All priests are deceased except for one, who was suspended from ministry in 2018 after his abuse was reported to the police. In 2019, he was sentenced to 6 years in prison.

Abuse Reporting by Governments and the U.S. Military

Between 2010 and 2014, Lardner et al. (2016) reported there were approximately 1,584 substantiated cases of military dependents being sexually abused. In 840 cases, the perpetrator was an enlisted service member; in 332 cases, the perpetrator was a family member. Consequently, three Democratic senators urged the Defense Secretary to lift the military’s “cloak of secrecy” and make records more transparent from their sex crimes trials (para. 9).

In 2016, Talia’s Law (National Defense Authorization Act for the Fiscal Year 2017, 2016) was enacted, requiring any childcare provider on a U.S. Department of Defense installation to report suspected abuse directly to CPS and the provider’s supervisor. This law was incorporated into the more significant 2016 National Defense Authorization Act in 2017 after Talia, the child for whom the law is named, was beaten to death by her enlisted father (military.com, 2017). Talia’s mother sued the U.S. Department of Defense for failing to report the suspected abuse.

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Warner's research (2019) noted that clergy CSA and military sexual assaults present serious unaddressed issues by Congress, the media, and grand jury investigations. Religious and military institutions "claim and may be accorded separate and privileged status, beyond the reach of democratic laws and procedures" (p. 20). As of April 28, 2023, institutional reporting regarding child abuse remains within the military:

- (a) The Secretary of Defense shall request each State to provide for the reporting to the Secretary of any report the State receives of known or suspected instances of child abuse and neglect in which the person taking care of the child is a member of the armed forces (or the spouse of the member).
- (b) In this section, the term "child abuse and neglect" has the meaning provided in section 3 of the Child Abuse Prevention and Treatment Act. (PL 93-247; 42 U.S.C. 5101 note; Reporting of Child Abuse. 10 U.S. Code § 1787, 2013)

In 2022, according to military.com, the military finally gave the option of direct reporting to CPS or to 911 while still providing for institutional reporting to military police or the Family Advocacy Program (FAP). If people report abuse to FAP, FAP will then notify CPS. Although not totally doing away with institutional reporting in the military, this new directive at least gives the option to report outside military institutions.

Professionals Who Support Direct Reporting of Abuse

Child abuse experts have also weighed in on institutional reporting and its impact on children. Victor Vieth, former director of the National Center for the Prosecution of Child Abuse and founder of the Zero Abuse Project, said institutional reporting policies "defy common sense and should be changed" (abc7NY, 2011, para. 7). Further, "allegations of physical or sexual child abuse must be promptly and thoroughly investigated...[T]he response should be coordinated, sensitive and swift" (Vieth, 2001, para. 4).

Further, Mathews et al. (2008) conducted a comparative study of policy-based reporting duties in government and non-government schools in Western Australia, Queensland, and New South Wales. They found that non-government teachers in Queensland and both non-government and government teachers in Western Australia must report suspected abuse to a director of the school's governing body or the principal. They concluded that reporting directly to the relevant government department would not add to a principal's busy workload and would prevent lost, delayed, or unforwarded reports. He determined that the principal should be informed that the teacher intends to report and concluded that direct reporting by the teacher was the superior reporting method. They also recommended that policies inform reporting teachers that their identities will be protected to the greatest possible degree.

International child maltreatment law expert Ben Mathew's research and recommendations led to all eight Australian states and territories and New Zealand adopting direct reporting statutes in the mid-2000s (Mathews et al., 2006). Mathews and Walsh (2011) recommended that teachers report directly to a child safety department or law enforcement while keeping school principals informed. This would avoid any failure by the principal to forward the report.

Mathews et al. (2016) conducted a 7-year study exploring the impact of the new direct reporting legislation in the State of Western Australia. Results demonstrated that MR reports of suspected child sexual abuse increased from a mean of 662 pre-law to 2448 post-law. The number of investigated reports increased 3 times from a mean of 451 to 1363 and the number of substantiated investigations increased from an annual mean of 160 to 327, indicating that the number of identified sexually abused children doubled. *These numbers indicate that enacting direct reporting increases the number of reports made and investigated and increases the number of identified sexually abused children, raising their chances of receiving much-needed services.*

Best practices in child abuse reporting are also addressed by other professionals. Jetta Bernier, Executive Director of Massachusetts Citizens for Children (MassKids), and Marci Hamilton, Founder of CHILD USA, have identified institutional reporting as a safety hazard to children in their support of the the Child Sexual Abuse Prevention Bill (Massachusetts Citizens for Children, 2017). Bernier calls for ending institutional reporting, and Hamilton calls out child sexual abuse embedded in institutions (Child Sexual Abuse Prevention Bill, 2017; Hamilton, 2021).

CHILD USA (2021) developed the gold standard evidence-based and expert-vetted policies for youth-serving organizations to prevent child sexual abuse and to report appropriately:

Staff and administrators must report abuse directly to civil authorities. This mode of reporting must take priority over reporting to internal administrative bodies.... Policies mandating proper reporting to civil authorities contributes to prevention by making sure that child sexual offenders are not transferred, absolved by internal investigations, or otherwise inappropriately protected. (p. 14)

Further, the American Bar Association (Davidson, 2012) recommended eliminating chain- of-command reporting, providing whistleblower protections for those who report outside their institution and significantly increasing penalties for anyone who tries to prevent a mandated report.

The authors found very little support for institutional reporting. Deborah A. Ausburn, a proponent of Georgia's institutional reporting law, explained, "Institutions want to know what is going on before they get a visit from child protection authorities" (2019, para. 3). She argued that individual MR reports may miss a pattern of repeated behavior suggesting abuse that a supervisor with institutional knowledge may be more aware of. She suggested that supervisors require staff to write their concerns so they can make the report together.

Another proponent stated that institutional reporting "results in both a cleaner and safer approach for children by having a well-identified and more thoroughly trained professional make the report, so long as the superior does not delay the report or conduct their investigation" (Committee on Health, Education, Labor, and Pensions, 2011, p. 23). The designated person must then make an immediate verbal report followed by a written report to the authorities. Other suggestions included providing written assurance to the MR that the report was filed and ensuring institutions do not punish or prevent the MR from reporting directly to the designee or authorities.

Authors' Conclusions

After reviewing the limited available research, anecdotal evidence, expert opinions, and court cases and comparing statutory reforms, we have identified the following ongoing child safety concerns regarding institutional reporting:

Promoting a culture of silence, *institutional reporting* places the brand and reputation of the institution above all and is the common denominator in the following examples of child sexual abuse scandals: the Catholic Church, USA Olympic Sports, the Boy Scouts, the Bureau of Indian Affairs, and U.S. Military (Daniels, 2017; Formicola, 2016; Frosch & Weaver, 2019a; Gerber, 2016; Grimm, 2020; Persick, 2015). Institutions wary of lawsuits or bad press are apt to look the other way in the hope of protecting the institution and not the child. We have seen this fact repeated numerous times in sexual abuse scandals within institutions (MRC, 2021; Vieth, n.d., personal communication).

Nesbitt (2016) says adverse employment actions such as firing, demotions, job transfers, and being delisted may result from mandated reporting (Nesbitt, 2016). The MR is perceived as a troublemaker or disloyal to the institution and punished. MR employees who report outside the institution directly to CPS or the police may be fired or disciplined for violating their employer's protocol (*Conley v. Roman Catholic*

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Archbishop, 2000). Further, state laws protecting MRs from adverse employment actions are not present in every state and may be unenforced. In just over half of the states, employer retaliation, such as firing, is prohibited following reporting. However, only 11 states include an enforcement statute for retaliation (Hughes, 2018). Additionally, research has found that retaliation against reporting MRs is more prevalent in hospital and agency settings, where institutional reporting is more common. Even witnessing another MR's retaliation after reporting suspected child maltreatment results in other MRs being less likely to report (Sippel et al., 2023).

On May 23, 2017, the Pennsylvania Superior Court in *Krolczyk v. Goddard Systems, Inc.* (2017) issued a landmark employment ruling, allowing fired MR employees to sue for wrongful discharge after they planned to report suspected child abuse as legally required to the U.S. Department of Public Welfare. Superior Court Judge Mary Bowes, at line 551, explained in her ruling that “[i]f an MR could be fired for articulating an intent to report suspected abuse, it would have a chilling effect on the very purpose for the statute in question.” This decision means that MR employees who report suspected child abuse can initiate wrongful termination claims if no contract exists (i.e., “at-will employees”), which limits the employer’s ability to fire them. Moreover, they can demonstrate that the firing resulted from their performance of a legal duty or reporting a crime (Rees, 2017). This research implies that reporting MRs are at greater risk of retaliation.

There is an inherent conflict of interest when institutions and schools can weigh the damage to their organization’s reputation and liability costs against their reporting duty. If top administrators delay or fail to report, abuse may continue for years, causing vulnerable children further preventable harm (Big Island Now, 2016; Gerber, 2016). Maltreatment suspicions may be discouraged to preserve a school district’s reputation (Dombrowski & Gischlar, 2006). Further, school administrators can create obstacles, making it difficult for educators to report. The MR employee must bypass the administrator or face

legal sanction (Crosson-Tower, 2003). Kenny (2001) reported that a teacher survey (N=197) revealed that 73% had never reported. Eleven percent indicated there were instances where they suspected abuse but failed to report it. One reason for this was that they felt unsupported by their administrators.

Educators lacking support from their educational institution for reporting are less likely to report (Bell & Singh, 2016). Though school professionals recognize child maltreatment more than any other group of MRs, according to the Fourth National Incidence Study of Child Abuse and Neglect (Sedlak et al., 2010), 20% reported their schools prevented direct reporting to CPS. They surmised this may be one reason for the low-investigation rate (20% or less) for maltreated children in schools (p. 22).

Bryant (2009) surveyed 740 members of the American School Counselor Association. Factors influencing their decision *not* to report suspected abuse included feeling the administration would not support reporting (n=20), the principal directed them not to report (n = 17), and they were not the schools’ authorized MR (n=13). Therefore, research demonstrates that institutional reporting decreases the chance that a report will be made.

A direct maltreatment report is already secondhand when the MR relays the information to CPS or the police. However, with institutional reporting, the MR may have to report to a designee, who then relays it to a top administrator, who then contacts law enforcement, diluting the report’s validity. If the institution reports, critical details may be omitted, resulting in the report being screened out. The person directly receiving information regarding suspected abuse would be best positioned to provide critical details and answer follow-up questions (Vieth, personal communication). For instance, mental health professionals are trained to observe a client’s nonverbal behavior, which is essential when a child reports abuse. Research indicates that children’s nonverbal emotions tend to occur more often and precede their verbal disclosure (Karni-Visel et al., 2023).

According to forensic computer analyst Hollie Strand and Special Agent Cam Corey, institutional reporting means child victims are more likely to be interviewed multiple times, diluting the report's validity (Nord, 2015). This makes the process more traumatic and forces children to defend their stories. It also makes it more difficult for police and/or CPS to assess safety concerns accurately. This may result in children remaining in dangerous homes (Mandatory Child Abuse Reports, 2015). Therefore, direct reporting increases a report's validity, making assessing danger in the home easier.

Additionally, predators are drawn to places where they have easy access to children. When an institution fails to report and moves the alleged predator to another location, this may send an unintended invitation to other predators. It also allows predators to perpetrate on large numbers of children and the same child for many years (Epstein, 2019; Formicola, 2016).

In *Landstrom v Barrington* (1990), a teacher reported abuse to her principal, who reported to CPS. When the report proved unfounded, the parents sued the school district. It took 3 years for the court to conclude that the district was not liable. In October 2013, Penn State was sued after top administrators failed to report, resulting in \$59.7 million paid to 26 victims (CNN Editorial Research, n.d.). In *Doe v. Gavins* (2023), the plaintiffs won \$650,000 against the city of Boston due to a school creating an unsafe environment where sexual assault "flourished" (1.A.2), where abuse reporting was discouraged, and where the reporting MR teacher was fired. Further, Michigan State University (MSU) was fined \$4.5 million for improperly handling the Larry Nassar case after MSU was required to pay over \$500 million to Nassar's victims (Bauer-Wolf, 2019). Recently, the U.S. Department of Education fined Liberty University \$14 million for failing to report sexual assaults. Instead, Liberty University punished the victims for failing to follow the campus code of conduct and did not punish the alleged perpetrators (Umansky, 2024).

According to Guardia (n.d.), a review of 16 appellate civil court cases brought by parents and child victims who experienced sexual abuse in Massachusetts schools highlights the tragedies that occur when state law allows school MRs to report to their superiors, who then fail to make a report. While school officials spend time on internal investigations and cover-ups, children experience ongoing abuse. In *Thomas v. Town of Chelmsford* (2017), the court ruled that schools do not have a special relationship with students and an obligation to protect them from outside harm, stating that schools and municipalities were immune from prosecution for failing to report abuse. The First Circuit Court of Appeals upheld the decision, despite eight other Circuit Court of Appeals ruling otherwise in similar cases (Guardia, n.d.). Guardia (n.d.) explained that many of Massachusetts's courts have granted qualified immunity in civil courts to schools and their respective administrators, boards, and committee members for failing to report abuse. Students were irreparably harmed in these cases, demonstrating poorer grades, academic progress, and school attendance.

These civil cases represent a fraction of Massachusetts's school child sexual abuse cases in which administrators delayed or failed to report. Further, the resulting confidential lawsuit settlement agreements between victims and school districts cost taxpayers millions, making it impossible to assess the full impact of institutional reporting accurately. Such examples demonstrate that chain-of-command reporting may increase the institution's liability risks.

Hobson and Rich (2017a) reported that when a taekwondo coach was accused of sexually abusing three aspiring female Olympic athletes, one victim attempted to get the Olympic national governing body, USA Taekwondo, to ban him from coaching. Court records indicate that though the governing body believed the victim, they did not ban the coach because they "feared a lawsuit." The *Washington Post* (Hobson & Rich, 2017a, 2017) reported that this is a familiar story for those who work with sports victims: fear of getting sued surpasses children's safety. Consequently, the United States Olympic and

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Paralympic committees opened a web-based portal in 2017 called the U.S. Center for SafeSport to train coaches on sexual abuse issues/protocol and for players to report abuse by coaches (Hobson & Rich, 2017a).

Sinanan (2011) reported that some schools create their reporting procedures and fail to comply with reporting laws by conducting internal investigations. Bartucci (2012) found that 26% of 59 midwestern principals reported not strictly adhering to established reporting laws. Other principals reported that there were no written policies or procedures addressing child maltreatment reporting (Bell & Singh, 2017). Prioritizing lawsuit fears over child safety and allowing reporting violations also appear to be associated with institutional reporting.

Recommendations

Mandating direct reporting in all states and settings (public and private) and requiring reporting within 24 hours to CPS or law enforcement and the reporter's superior will make child abuse laws consistent across jurisdictions. This greatly clarifies an MR's reporting role. Failure to report must result in steep fines and criminal charges to ensure those responsible for reporting are following the law.

Classifying all those who have contact with children in any capacity as MRs and expanding the definition of *school* to include all public and private state colleges and universities will enhance child protection. This is important when power differentials exist between coaches, professors, and children under their care at extracurricular camps held on university and college campuses. In addition, all religious leaders and volunteers (pastors, nuns, bishops, Sunday school teachers, etc.) should be classified as MRs. Child abuse is a crime and should supersede religious freedom.

Creating whistleblower protections for reporting MR employees who may experience retaliation for direct reporting is crucial to protecting MRs when performing their legal duty. Whistleblower protections should apply if an employer tries to

prevent, discourage, or intentionally release the MR's identity or discipline reporting MRs. Creating a special cause of action for MRs who face retaliation in the form of harassment, defamation of character, or frivolous licensure board complaints is also essential. Sippel et al. (2023) stated that statutes should include monetary damages for a prevailing MR, including attorneys' fees and court costs. Statutes should also include a method to enforce the statute once enacted.

Additionally, since many MRs reported being unsure of existing laws, MRs need required training on how to recognize child maltreatment and the who, when, where, and how to report it. Training on proactively responding to multiple types of retaliation following reporting is critical. MRs should be educated on state and federal immunity laws offering protection against retaliation (e.g., filing suit against wrongful termination) (Sippel et al., 2023). All states should be required to adopt and implement child sexual abuse prevention education in all K-12 schools, providing training for identifying and reporting suspected abuse. The Enough Abuse Campaign and Erin's Law are examples. Senator Joan Lovely (2019) introduced a petition to a bill (Massachusetts Bill S.313, 2019) as an example of comprehensive legislation to prevent. Annual training should be required for employees, independent contractors, and volunteers in schools and youth-serving organizations to help individuals identify and report suspected abuse.

Establishing a national data system within and between states for child abuse offenders who have a history of sexual misconduct and abuse would be prudent to ensure that perpetrators are unable to change from school to school, state to state, or church to church. This would create greater oversight when an abuser crosses state lines. No more "passing the trash" from one state, institution, church, or school to the next.

States should also mandate that insurance carriers cover negligent failure to prevent child sexual abuse in youth-serving organizations. States should require insurance carriers to conduct an annual state-of-the-art "child protection audit." If the organization fails the audit, insurance carriers should deny coverage

until the organization has remedied it (Hamilton, 2019, para. 7).

The Safe Sport Act should be further evaluated for efficacy. This will help determine whether the Safe Sport Act could be expanded and modified to protect children in the public domain.

Limitations

An exploratory study was conducted due to a gap in the research regarding institutional reporting in the United States. Because exploratory research only provides qualitative data, the interpretation may be biased. Therefore, additional research is needed to validate the identified concerns regarding institutional reporting.

Further, there is a lack of data comparing the effectiveness of direct versus institutional reporting in the United States. This limits our information to available means, including anecdotal information, court documents, statutory reforms, expert opinions, and newspaper reports. Mathews et al.'s (2016) research is the only known research examining the differences in reporting behavior, number of investigations, and number of substantiated reports before and after implementing direct reporting. More research is needed in the United States and other countries where institutional reporting exists.

Summary

This study identified ongoing child safety concerns regarding institutional reporting. Chain-of-command reporting is the common denominator of ongoing child sexual abuse in institutions and organizations, placing the MR at greater risk of retaliation while decreasing child maltreatment reporting. It dilutes the report's validity, making assessing danger in the home more difficult. It increases the liability risk for the institution or organization, may attract predators, prioritizes lawsuit fears over children's safety, and enables reporting law violations. Enacting direct reporting in all states and settings, public and private, may prevent ongoing child abuse and provide greater protection for reporting MRs and the children they serve.

About the Authors

Franne Sippel, EdD, is Licensed Psychologist at Northern Plains Psychological Associates in Aberdeen, South Dakota, and co-host of the mental health podcast, Shrink Rap the Podcast. She is a guest writer for the Psychology Today blog. She is coauthor of *Mandatory Reporting and the Retaliation Factor*, published by Children and Youth Services Review (2023).

Karyl Meister, PhD, LPC, NPT-C, holds a PhD in Counselor Education and Supervision from the University of Arkansas and is currently pursuing a second PhD in Forensic Psychology from Walden University. They currently adjunct for Northern State University in Aberdeen, SD, and work for Open Door Center for Change in Madison, WI. They are a coauthor of *Mandatory Reporting and the Retaliation Factor* published by Children and Youth Services Review (2023).

Nancy Guardia, MSW, is a retired clinical social worker who practiced in Massachusetts for over 20 years. She is a member of the National Association of Social Workers and of The American Professional Society on the Abuse of Children. She served on the Child Policy Institute's Expert Committee on Child Maltreatment Reporting Law Reform.

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