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29 April 2011

The Secretary
Protecting Victoria's Vulnerable Children Inquiry
GPO Box 4708
Melbourne, VIC, 3001

Dear Panel Members

Re: Submission regarding Term of Reference 3

I am an academic in the School of Law at Queensland University of Technology in Brisbane, and one of my areas of research expertise is the nature, justifiability and effect of mandatory reporting laws. I have conducted extensive theoretical and empirical research into these laws, both generally, and applied to specific types of abuse (especially sexual abuse). I have been involved in the conduct of two of the most extensive studies of reporting practice in Australia (a 2006-08 study of teachers in three States reporting sexual abuse: *Teachers Reporting Child Sexual Abuse: Towards Evidence-based Reform of Law, Policy and Practice*, and a 2008 study of nurses reporting all forms of maltreatment: *Nurses and mandatory reporting of child abuse and neglect*).

I am grateful for the opportunity to provide a submission to the Inquiry, which concerns term of reference 3, and in particular, 3.4.3: What has been the impact of the Victorian system of mandatory reporting on the statutory child protection services? Have there been any unintended consequences from the introduction of the Victorian approach to mandatory reporting and, if so, how might these unintended consequences be effectively addressed?

My submission does not seek to provide an answer to the question posed in 3.4.3, as without rigorous research into these extremely complex questions in the Victorian context it is not possible to do more than offer individualistic views and impressions. It is likely that both positive and negative effects have flowed from Victoria's approach. To identify the nature and extent of these consequences, and to develop solutions to the problems found, would require extensive research.

Published papers about reporting systems

Rather, my submission is simply to provide the Panel with some published papers that may assist in your deliberations about questions concerning reporting systems. I am very familiar with Professor Scott's work and agree with much of what she has written. My research has led me to conclude, like Professor Scott, that a public health approach to early detection and prevention of child maltreatment is essential, and is particularly well-suited to some types of maltreatment (eg neglect). At the same time, based on the different nature and context of different types of maltreatment and the findings of all my research, I am equally of the view



that an effective child protection system also requires some method of mandatory reporting of suspected severe maltreatment (I state this while accepting that some forms of 'mandatory reporting' can easily lead to undesirable consequences: for example, by not defining reportable cases precisely enough, especially by requiring reports of any extent of 'maltreatment' rather than limiting reports to suspected significant maltreatment; by not training reporters adequately about what to report and what not to report; and by requiring reports of new classes of maltreatment that the child protection system has not been resourced to cater for: see the NSW experience of domestic violence reporting as analysed in Mathews 2011 noted below).

An effective child protection system requires a judicious blend of both approaches. The core reason why a method of mandatory reporting remains required, even if a public health approach is adopted, is that there are many cases of severe maltreatment which by their nature (eg sexual abuse, and physical abuse) are inflicted in private, on very young and vulnerable children (especially those under 4), and unless selected professionals like doctors are required to report suspected severe maltreatment, these cases are less likely to come to the attention of helping agencies. There are many related reasons why this is best achieved through legislation rather than industry policy (including the fact that this can best provide reporters with protections; other reasons are canvassed in some of my papers).

My research has covered theoretical, legal and practical aspects of reporting systems. Most recently, I have published an extended analysis of the claim that mandatory reporting produces 'overreporting' of child maltreatment (Mathews, 2011, in press). This paper explores the extent to which this claim is justified. There are certainly more and less prudent ways to design and implement mandatory reporting duties, and much of my research is concerned with exploring this challenging question of how best to use this strategy as a method of identifying severe cases of child maltreatment at an early stage.

The papers which may be of most use to you are (I have attached these to my submission):

- B Mathews, 'Exploring the contested role of mandatory reporting laws in the identification of severe child abuse and neglect' (in press, M Freeman (ed) *Current Legal Issues Volume 14: Law and Childhood Studies*, Oxford University Press, Oxford, accepted 4 March 2011).
- J Fraser, K Walsh, M Dunne, B Mathews, S Kilby and L Chen, 'Factors influencing child abuse and neglect recognition and reporting by nurses: A multivariate analysis' (2010) 47 *International Journal of Nursing Studies* 146-153.
- B Mathews, K Walsh, M Rassafiani, D Butler & A Farrell, 'Teachers reporting suspected child sexual abuse: results of a three-State study' (2009) 32(3) *University of New South Wales Law Journal* 772-813.
- B Mathews, J Fraser, K Walsh, M Dunne, S Kilby and L Chen, 'Queensland nurses' attitudes towards and knowledge of the legislative duty to report child abuse and neglect: Results of a State-wide survey' (2008) 16(2) *Journal of Law and Medicine* 288-304.
- B Mathews & D Bross, 'Mandated reporting is still a policy with reason: empirical evidence and philosophical grounds' (2008) 32(5) *Child Abuse & Neglect* 511-516.



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- B Mathews and M Kenny, 'Mandatory reporting legislation in the USA, Canada and Australia: a cross-jurisdictional review of key features, differences and issues' (2008) 13 *Child Maltreatment* 50-63.

Other relevant papers are accessible at the website below, should you wish to see them.

Finally, I would like to be advised of the dates and locations of the Inquiry's Public Sitings. If it would be helpful, I would be glad to attend to discuss any of these matters further.

Yours sincerely

A handwritten signature in blue ink that reads 'B Mathews'.

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Inquiry Note:

The article by B. Mathews, 'Exploring the contested role of mandatory reporting laws in the identification of severe child abuse and neglect', in M Freeman (ed) *Current Legal Issues Volume 14: Law and Childhood Studies* (Oxford University Press, Oxford 2011) is not published within this submission at the request of the author as it is currently in-press.

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Mandatory Reporting Legislation in the United States, Canada, and Australia: A Cross-Jurisdictional Review of Key Features, Differences, and Issues

Ben Mathews and Maureen C. Kenny

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Mandatory Reporting Legislation in the United States, Canada, and Australia: A Cross-Jurisdictional Review of Key Features, Differences, and Issues

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Mandatory child abuse reporting laws have developed in particular detail in the United States, Canada, and Australia as a central part of the governments' strategy to detect cases of abuse and neglect at an early stage, protect children, and facilitate the provision of services to children and families. However, the terms of these laws differ in significant ways, both within and between these nations, with the differences tending to broaden or narrow the scope of cases required to be reported and by whom. The purpose of this article is to provide a current and systematic review of mandatory reporting legislation in the 3 countries that have invested most heavily in them to date. A comparison of key elements of these laws is conducted, disclosing significant differences and illuminating the issues facing legislatures and policymaking bodies in countries already having the laws. These findings will also be instructive to those jurisdictions still developing their laws and to those that may, in the future, choose to design a system of mandatory reporting.

Keywords: *mandatory reporting legislation, child abuse and neglect, child protection agencies, cross-jurisdictional review*

Governments throughout the world are increasingly engaged with the challenge of detecting cases of maltreatment at an early stage to protect children and facilitate the provision of services to these

families. As a central tactic in this endeavor, many nations have enacted legislation commonly known as *mandatory reporting laws*, requiring designated persons to report suspected abuse and neglect. The International Society for Prevention of Child Abuse and Neglect recently sought information from 161 countries about matters including the presence of legislative or policy-based reporting duties (Daro, 2007). Of the 72 countries responding, 49 indicated the presence of such duties in law or policy, and 12 respondents indicated the presence of voluntary reporting by professionals (see Table 1).

Some jurisdictions (e.g., the United Kingdom, New Zealand) have chosen not to enact mandatory reporting laws for reasons including the perceived danger of overreporting of innocent cases, which is seen as adversely affecting the interests of children and families and as diverting scarce resources from already known deserving cases. Debate continues about the benefits and disadvantages of having reporting laws (see Drake & Jonson-Reid, 2007; Mathews & Bross, in press; Melton, 2005). Other nations, including Brazil, Denmark, Finland, France, Hungary, Israel, Malaysia, Mexico, Norway, South Africa, and Sweden have created quite general legislative reporting duties. In contrast, legislatures in states and provinces across the United States,

TABLE 1: Countries Indicating the Presence of Legislative, Policy-Based, or Voluntary Reporting Duties

<i>Type of reporting</i>	<i>Countries</i>
Legislative or policy-based	Argentina, Armenia, Bangladesh, Belarus, Benin, Bosnia & Herzegovina, Brazil, Bulgaria, Canada, Chile, Colombia, Democratic Republic of Congo, Denmark, Egypt, England, Estonia, Ethiopia, Finland, France, Honduras, Hungary, Iceland, Israel, Italy, Japan, Republic of Korea, Lebanon, Malaysia, Mauritius, Mexico, Mongolia, Montenegro, Nepal, Peru, Philippines, Portugal, Romania, Russia, Rwanda, Serbia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, Turkmenistan, United States of America, Zambia
Voluntary	Cameroon, China, Germany, India, the Netherlands, New Zealand, Pakistan, Saint Lucia, Scotland, Singapore, Sri Lanka, Togo

Canada, and Australia have given detailed attention to the development of these laws over several decades, and the laws in these jurisdictions continue to evolve in response to new phenomena and evidence of successes and failures in child protection systems. The terms of the laws across jurisdictions in these three nations exhibit many common features, but they also differ in significant ways.

These legislative differences exemplify the contested normative terrain in which these laws operate. Law and policy concerning the detection and reporting of, and the responses to, abuse and neglect are theoretically and practically complex, and exist alongside political, economic, social, and cultural forces in each society. The purpose of this review is not to argue for or against the presence of mandatory reporting laws, or to make proposals about their appropriate scope. Rather, this review provides a synthesis of the reporting laws in jurisdictions across the three countries that have developed them in increasing detail over a long period of time. To date, no such comparison has been conducted, and there has been little analysis of the differences in and issues arising from the laws. This review enables a comparison of key elements of these laws to be made, which discloses some of the most significant differences in the laws, and issues arising from them. This comparison should be instructive for legislatures and policy-making bodies in jurisdictions in which the laws are already in place and in those which may choose to further develop them. It will also be informative for jurisdictions currently without reporting laws but that may desire to enact them in the future.

MANDATORY REPORTING LEGISLATION IN THE UNITED STATES, CANADA, AND AUSTRALIA

The first mandatory reporting laws were enacted in the United States between 1963 and 1967 (Besharov, 1985; Nelson, 1984). Because of motivation largely by the recognition of "battered child syndrome" (Kempe, Silverman, Steele, Droegemuller, & Silver, 1962) and by strong lobbying efforts, these laws were initially limited to requiring medical professionals to report suspected physical abuse inflicted by a child's parent or caregiver (Kalichman, 1999). The scope of this legislation in all states soon expanded in three ways, spurred in part by 1974 federal legislation (Child Abuse Prevention and Treatment Act [CAPTA]) that allocated funds to states on the basis of the parameters of their laws. First, state laws were amended to require members of additional professional groups to report suspicions of abuse (and some states, in fact, required all citizens to make reports). Second, the types of reportable abuse were expanded to include not only physical abuse but sexual abuse, emotional or psychological abuse, and neglect. Third, the extent of harm caused, or suspected to have been caused, that is required to activate the reporting duty was required by CAPTA to be unqualified by expressions such as "serious harm," and most statutes abandoned such qualifications (Kalichman, 1999). Incidentally, this can be contrasted with the current version of CAPTA, which defines child abuse and neglect as meaning "at a minimum, any 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" [Section 42 U.S.C.A. § 5106g(2) (West Supp. 1998)]. More recently, some states have required reports of new types of abusive and neglectful acts, as this review shows.

Such legislative development also occurred in jurisdictions in Australia and Canada. In Australia, legislation was first enacted in South Australia in 1972, and ever since, the eight states and territories have incrementally expanded mandatory reporting requirements. Even now, the legislation continues to develop, exemplified by recent amendments in Queensland in 2004 requiring teachers to report suspected child sexual abuse by school employees only (Mathews, Walsh, Butler & Farrell, 2006), and in 2005 requiring nurses to report all suspected abuse and neglect (Mathews, Walsh, & Fraser, 2006). In Western Australia, the only Australian jurisdiction yet to have a comparable legislative system of mandatory

reporting (although it does have some policy-based reporting requirements), a bill was introduced in 2006 to create a broad model of reporting for the first time. In Canada, also, provinces introduced reporting legislation from the 1960s (e.g., Alberta in 1966).

Across jurisdictions in all three countries, the laws typically have common elements. Usually, the legislation defines which persons are required to make reports. The law identifies what state of knowledge, belief, or suspicion a reporter must have before the reporting duty is activated, requiring a "reasonable" suspicion or belief of abuse or neglect, or some synonymous variation of this, and therefore not requiring *knowledge* of abuse or neglect; reporters are not to conduct their own investigation but are simply required to report their suspicions according to the law. The law defines the types of abuse and neglect that attract the duty to report, or it states that a child suspected to be in need of protection must have their case reported, with key phrases then further defined. Often, the degree of abuse or neglect that requires a report is defined (hence also attempting to define extents of abuse and neglect that do not require reports). Further definitions of types of abuse and neglect may be detailed, and these may include not only exposure to harm but exposure to risk of future harm. Penalties for failure to report according to the duty are stipulated, although these are largely intended to encourage reporting rather than police it. A guarantee of confidentiality is provided concerning the reporter's identity, and the reporter is endowed with immunity from any legal liability arising from a report made in good faith. Practical requirements are detailed regarding when and how the report is to be made and to whom. A final key element of the legislation is to enable any person to make a report in good faith, even if not required to do so, and to provide confidentiality and legal immunity for these persons.

Wary of excluding deserving reports, legislatures are generally careful not to be too restrictive when detailing the types of conduct that constitute the various types of abuse and neglect. Consequently, as with the belief requirement of "reasonable" suspicion or cause, the laws often are somewhat vague and leave much discretion to the reporter. Indeed, reporters may be entrusted with too much discretion; empirical studies and critical evaluations of the laws have shown that the vagueness and ambiguity of concepts such as "reasonable cause" and "significant harm" cause problems for reporters (Deisz, Doueck, George, & Levine, 1996; Levi, Brown, & Erb, 2006; Levi & Loebe, 2004; Swain, 1998, 2000), and conceptual uncertainty has prompted challenges to the

constitutional validity of the laws in the United States (Kalichman, 1999). There is emerging consensus that some of these central concepts in the laws need to be clarified (Besharov, 2005; Brosig & Kalichman, 1992, 1985; Finkelhor, 2005), and this review points to some other ambiguous elements of the laws that arguably also need refinement. There are other difficulties with the reporting of abuse and neglect pursuant to the laws, such as a failure to report that is motivated by numerous factors, including lack of faith in the efficacy of child protection services, but these issues are beyond the scope of this review.

Although the laws have a similar schematic approach, differences emerge in their details. Some of these are of particular importance when considering the normative parameters of reporting laws, the goals of child protection, the need for sound reporting practice, and the aim of effective yet feasible government agency intake and response. It is worth noting that expansions in mandatory reporting laws have consistently produced an increase in the number of reports made to government authorities. This produces greater disclosure of substantiated cases of abuse and neglect, but this also produces a higher number of reports that are not substantiated (Australian Institute of Health and Welfare, 2007). Both effects place additional strain on government child protection systems. Governments should be conscious of this and must make responsible allocations of funding and resources so that child protection systems can perform their functions. This review focuses on four components of the laws having differences that are highly significant: which persons are made mandated reporters; what types of abuse and neglect they are required to report; what extent of suspected harm is required to activate the reporting duty; and whether reports are required only of past abuse or neglect or also of suspected risk of future abuse or neglect.

To ensure a current, accurate review of legislation, we accessed child protection legislation in every jurisdiction in each of the three countries via online legislative databases maintained by state, territory and province legislatures. For U.S. jurisdictions, we also cross-checked with summary data produced by the U.S. Department of Health and Human Services Children's Bureau concerning mandated reporting professions and definitions of abuse and neglect (see Child Welfare Information Gateway, 2005a, 2005b). We conducted legal analysis of the legislation which informed the extraction of relevant information from the legislation. (For a complete listing of the legislation and tables listing relevant parts of the legislation discussed in this article, go to www.fiu.edu/~kennym.)

WHICH PERSONS ARE MANDATED REPORTERS?

Legislation adopts one of two approaches when imposing reporting duties. One approach, adopted by most states in Australia and the United States, as well as the Yukon Territory in Canada, is to designate as mandated reporters members of professions who are likely to come into contact with children in their work, and who are seen as well placed by virtue of their occupation, training and knowledge to detect abuse and neglect. Commonly, this occupation-specific approach includes as reporters those involved in education, law enforcement, and welfare and health systems, among others. Such designated reporters are usually required to report suspicions developed during the course of their work, but some jurisdictions compel reports from these people of suspected abuse or neglect, regardless of the context in which the suspicion arises. As evidenced by the differences between jurisdictions, a key issue that arises here is which professions are selected as mandated reporters.

A second approach, adopted by all Canadian provinces except the Yukon Territory, a substantial minority of 18 U.S. states, and the Australian jurisdiction of the Northern Territory, is to impose reporting duties on all citizens. An important question arising from this approach is whether it produces a higher potential for overreporting, as many reporters will not have expertise or training in detection and reporting of abuse and neglect or in the precise scope of the reporting duty. A third approach is not to require any person to make reports; that is, not to have mandatory reporting in the true sense of the expression. In these three countries, Western Australia is the sole jurisdiction that is yet to impose a legislative duty on any class of person to report any form of abuse or neglect. Instead, Western Australia has a series of policy-based reporting duties, reporting obligations imposed on Family Court personnel (that are imposed by Australian federal law on all Australian jurisdictions), and limited reporting duties imposed on police and hospital administrators. It can be noted that the Premier of Western Australia indicated in March 2007 that mandatory reporting of child sexual abuse would soon be legislated. A major question arising here is whether this absence of legislative duty (whether supplemented by a policy-based approach or not) produces different reporting outcomes to a legislation-based approach.

WHAT BROAD TYPES OF ABUSE AND NEGLECT ARE REQUIRED TO BE REPORTED?

In most but not all jurisdictions in these three countries, the legislation requires reports concerning

three major categories of abuse: physical abuse, sexual abuse, and psychological abuse (sometimes termed *emotional* or *mental abuse*), and neglect (see Table 2). As well, the statutes either expressly or implicitly include abandonment of a child as a circumstance requiring a report. There are other nonmaltreatment circumstances that either require reports or authorize government agency intervention, or both, such as the absence of parents able or willing to care for the child (e.g., through death, imprisonment, or incapacity), but these are not further considered here because this review focuses on abuse and neglect.

As addressed later in this review, most legislative differences surround the extent of harm required to activate the reporting duty. However, there are some differences between jurisdictions even at the broader level of the types of abuse required to be reported. Such differences arise in large part because of the contested normative context of these laws and from their placement within a jurisdiction's broader child protection system which has its parameters determined by theoretical preferences and practical concerns. In Australia, Victoria and the Australian Capital Territory do not require reports of psychological abuse or of neglect. In the United States, Illinois and Idaho do not expressly require reports of psychological abuse, although Idaho does require reports of mental injury as a result of sexual abuse. Washington does not expressly require reports of psychological abuse, although its definition of child abuse and related terms are arguably broad enough to include this class of abuse. The choice whether to include psychological harm as a reportable class of abuse is one of the difficult normative choices facing legislatures. Some eminent commentators, such as Melton and Davidson (1987), have questioned the appropriateness of requiring reports of this class of abuse.

THE SOURCE OF ABUSE REQUIRED TO BE REPORTED

A major issue arises concerning the source of abuse that the laws are intended to respond to. Reporting of neglect inherently involves only the parent/child relationship and so this issue does not arise there. However, for physical, sexual, and psychological abuse, legislatures need to decide whether the reporting duty only applies to abuse inflicted by selected perpetrators like parents and other adult caregivers, or whether it applies regardless of who the perpetrator is, thus including, for example, harm or abuse inflicted by other children and nonfamilial adults provided it satisfies the relevant definition of harm or abuse. This review has revealed different approaches to this issue.

TABLE 2: Broad Types of Abuse and Neglect Required to Be Reported

<i>State/province/territory</i>	<i>Broad types of abuse and neglect required to be reported</i>
Canada	
All provinces	Physical, sexual, and emotional/psychological abuse, and neglect
Australia	
Australian Capital Territory, Victoria	Physical and sexual abuse only
New South Wales, Northern Territory, Queensland, South Australia, Tasmania	Physical, sexual, and psychological abuse, and neglect
Western Australia	None
United States	
All states	Physical abuse, sexual abuse, emotional or psychological or mental abuse (but see text regarding Idaho, Illinois, and Washington), and neglect Require reports of substance-exposed newborns, either expressly requiring reports, and/or constructively doing so by adding substance exposure of a newborn to the definition of abuse and neglect
Alaska, Arizona, Arkansas, California, Colorado, District of Columbia, Florida, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, North Dakota, Oklahoma, South Carolina, South Dakota, Texas, Utah, Virginia, Wisconsin	
Hawaii	Requires the department of human services to operate a program using policies and procedures, including appropriate referrals to child protective services and other services, to address the needs of infants born and identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure, and including a requirement that health care providers involved in the delivery or care of an affected infant notify child protective services of the occurrence of the condition
Alabama, Connecticut, Delaware, Georgia, Idaho, Kansas, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Vermont, Washington, West Virginia, Wyoming	No provisions for substance-exposed newborns
Arkansas, District of Columbia, Florida, Hawaii, Illinois, Iowa, Minnesota, Texas	Giving, or permitting a child to consume, specified drugs
Florida, Kentucky, Minnesota, New York, Rhode Island, Texas	Use of drugs by caregiver impairing ability to adequately care for the child
Colorado, Indiana	Manufacture (or attempted manufacture) of drug in presence of child or on premises occupied by a child
Iowa, Montana, Oregon, South Dakota, Virginia	Exposing a child to the criminal distribution, production, or manufacture of dangerous drugs
North Dakota, Oregon	Exposing a child to a controlled substance or drug paraphernalia
District of Columbia	Exposing a child to use, sale, distribution, or manufacture of a drug or drug paraphernalia

NOTE: The following states do not address either substance-exposed newborns or exposure of children to drug-related activity: AL, CT, DE, NJ, and VT.

CONFINING THE REPORTING DUTY TO ABUSE BY SELECTED PERPETRATORS

Motivated by normative preference and practical considerations, a legislature may confine the reporting duty concerning selected types of abuse to abuse inflicted by a particular class of perpetrator. It is arguable that, in all three countries, the laws are most concerned with abuse perpetrated by the child's parent or adult caregiver (in this article, we

use the term *parent* for conciseness but intend to also denote other relationships of legal guardianship). This is consistent with the content of, and context informing, the first reporting laws, with the fact that reports are made to child protection agencies rather than to police (enabling assistance to the child and his or her family and more serious intervention such as removal of the child from the family, if warranted), and it accords with the fact that parents are responsible for most abuse. As well, even now, the

definition of child abuse and neglect in CAPTA refers to "at a minimum, any recent act or failure to act on the part of a parent or caretaker." So, for example, New South Wales requires reports of psychological harm only when the source of that harm is the child's parent or caregiver, and South Australia and Tasmania require reports of suspected risk of future harm only where that future harm is anticipated to be inflicted by a person with whom the child resides. Many jurisdictions in the United States also confine the reporting requirement of certain types of abuse (typically physical and emotional abuse, but in many cases, also sexual abuse) to cases in which the perpetrator is a specified person, usually a parent, caregiver, or other individual having care, custody, or control of the child, or a person who is responsible for the care of the child (AZ, DE, GA, IN, IA, KY, ME, MN, MS, MO, MT, NV, NJ, NM, NY, NC, ND, OH, OK, RI, SC, SD, VT, VA, & WV); this also may include other adults residing with the child (AR, HI, IL, MD, & PA), any relative of the child (HI, IL, MD, & TN), or a paramour of the child's parent (IL & PA). Furthermore, Michigan includes a teacher, a teacher's aide, or a member of the clergy. In Canada, Saskatchewan limits the reporting duty to abuse by the child's parent.

Such an approach clearly limits the class of cases requiring a report, although whether this limit affects actual reporting practice is another question. For example, if a reporter in New South Wales is aware of a child's severe psychological harm, but not of its exact source, there would be no good reason not to report because the source could be one stipulated by the statute and the reporter is not meant to investigate their suspicion to identify the perpetrator. However, the purpose of the limit can be discerned in attempting to encourage only those reports to child protection agencies deemed appropriate or necessary and amenable to intervention by child protection departments. These limits would, for example, be intended to prevent reports of abuse perpetrated through known or suspected school bullying. A legislature may want to exclude a circumstance of abuse from the mandatory reporting duty if its child protection department is not legislatively empowered to intervene in that type of case; often, the legislative bases for child protection intervention are different from the grounds requiring reports from mandated reporters (Bromfield & Higgins, 2005). An issue facing legislatures adopting this strategy is the extent to which it produces failure to report cases of abuse by nonparents, which may be just as harmful to the child and of which the child's parents may be unaware.

APPLYING THE REPORTING DUTY TO ABUSE BY ANY PERSON

Different normative preferences motivate other legislatures to require reports of suspected physical, psychological, and sexual abuse or harm inflicted on children by any person, thus including abuse by siblings, other children, or other familial or nonfamilial adults, in which such abuse is of sufficient severity to satisfy its statutory definition. This review and analysis has disclosed that legislatures impose this broader reporting duty in different ways.

First, as is usually the case in Australian jurisdictions, the laws may be silent about the source of the abuse and require reports when a reporter has suspicion of the child's injuries or symptoms of the abuse. Legislative drafters need to be aware that, if the statute is silent about the source of the abuse requiring reports, there is probably no sound reason justifying a narrow interpretation excluding abuse by nonparents from the reporting duty. A rare court case from Australia, *EM v. St Barbara's Parish School* (2006) SAIRComm 1, concerning a teacher's failure to report nonparental abuse supports this interpretation. Counsel for the appellant teacher did not argue that the nonparental status of the abuser meant that the duty to report was not activated; as well, the court did not indicate that such an interpretation was preferable or possible. Reporters bound by these laws who are faced with a child exhibiting sufficient symptoms of abuse or injury will therefore have the reporting duty activated, regardless of the suspected identity of the perpetrator. For example, where a reporter has symptom-based evidence to suspect an 8-year-old girl is being sexually abused, or that a 1-year-old boy is being physically abused, the reporting duty will be activated regardless of whether the reporter has any information or suspicion concerning the perpetrator's identity. Whether the perpetrator in such cases is thought to be the child's parent, parent's partner, other relative, sibling, babysitter, or other person, the activation of the reporting duty would not be affected. This is also the case in the Canadian province of New Brunswick and in a substantial minority of states in the United States, with such states either silent about the perpetrator's identity or expressly providing that the abuse is inflicted by "a person" or "any person" (AL, AK, CA, CO, CT, DC, FL, ID, LA, MA, NE, NH, OR, TX, UT, WA, WI, & WY; and, arguably, KS & WA).

Second, as exemplified by some of these U.S. states and by several Canadian provinces, legislation may expressly require reports of suspected harm by persons other than parents. Different jurisdictions

achieve this object by one of three different methods, some of which are quite ambiguous and raise questions of interpretation. One method is to clearly impose the duty so that it applies to abuse by any person, with no additional reference to the child's parent's ability to protect the child. For example, Nova Scotia has a separate provision requiring reports of third-party abuse defined as "a person other than a parent or guardian"; Manitoba expressly defines abuse as an act by "any person" resulting in injury and empowers reporters to make reports of such abuse to the child's parent or a government agency; and many of the U.S. states listed earlier expressly refer to the acts of "a person" or "any person." A second, more ambiguous, method is to impose the duty expressly but in more confined circumstances, typically those in which the child's parents are also "unable or unwilling to protect the child." British Columbia requires reports of cases where a child "has been, or is likely to be, physically harmed, sexually abused or sexually exploited by another person and if the child's parent is unwilling or unable to protect the child"; Newfoundland and Labrador requires reports when the child is physically, sexually, or emotionally harmed (or is at risk of physical or sexual harm) by "a person" and the child's parent "does not protect the child"; and the Yukon Territory requires reports when a parent "fails to take reasonable precautions to prevent any other person" abusing the child. This strategy is probably motivated by the notion that a child who is in the care of a parent able and willing to provide protection will not require further governmental assistance to do so. It is another question whether such a limit affects actual reporting practice. A final method is to refer to the parent's failure to protect the child from injury by others in circumstances in which the parent is unwilling or unable to protect the child or should have known of the injury or of the risk of injury. Ontario requires reports when the child has suffered or is at risk of suffering physical harm caused by the parent's inadequate protection, or when the child has suffered or is at risk of sexual abuse by "another person" when the parent "knows or should know of the possibility . . . and fails to protect the child." The Northwest Territories require reports when a child has suffered or is at substantial risk of suffering physical harm "caused by the parent's inability to care and provide for or supervise and protect the child adequately"; when a child has been sexually abused by a person "in circumstances where the child's parent knew or should have known of the possibility . . . and was unwilling or unable to protect the child"; or when a child has shown evidence of emotional harm

and the parent does not obtain remedial services for that harm. Prince Edward Island requires reports when the child has suffered either sexual abuse or emotional harm by another person and the parent knew or ought to have known of the possibility yet failed to protect the child. An issue raised by the method adopted by the Northwest Territories and Prince Edward Island regarding sexual abuse is whether it gives sufficient protection to the abused child; it seems illogical to not require a report from a person knowing of the abuse when the parent lacks knowledge of the child's abuse.

Third, the legislation may not explicitly require reports of nonparental abuse but, arguably, implicitly requires reports of such cases. This strategy may apply only for specified types of abuse and typically applies the same additional condition that the child's parents are unable or unwilling to protect the child. Alberta, for example, requires reports when the child's guardian "is unable or unwilling to protect the child from physical injury or sexual abuse . . . [or] emotional injury" without stating that such injury may be inflicted by another parent or adult. In Australia, Victoria, which is silent about the source of abuse, requires reports of specified harm only if the child's parents also "have not protected, or are unlikely to protect" the child from the harm, and the Northern Territory requires reports of suspected risk of future sexual abuse from unspecified sources if the child's parents "are unable or unwilling to protect" the child from it.

A fourth approach, although ambiguous, appears to limit the reporting duty to parental abuse but to also require reports when a parent knowingly allows the infliction of injury. For example, the Northern Territory requires reports of physical injury only when "inflicted or allowed to be inflicted by a parent"; in the United States, a significant minority of states use the same terminology (AZ, IL, KY, MS, MT, NV, NJ, NY, NC, ND, RI, SC, & VA). West Virginia uses the phrase "knowingly allowed," limiting reports of physical and emotional injury to those inflicted, or knowingly allowed to be inflicted, in the home by a child's parent, guardian, or custodian. Other states (NM, PA, & TN) refer to abuse caused by the parent's actions or "inactions" (or "failure to act"), and still others refer to abuse caused by the parent's acts "or omissions" (e.g., HI, IN, IA, & Saskatchewan). These ambiguous phrases create an interpretative problem. It is unclear whether they are intended to apply only to abuse by nonparents that the parent "allowed" knowingly and did nothing to prevent or to abuse by nonparents that the parent was unaware of and unable to prevent. The better legal interpretation

may be the former, but if so, this would mean there was no obligation to report a case in which a child may be suffering abuse and be unassisted by a parent.

NEW CATEGORIES OF ABUSE/NEGLECT: SUBSTANCE-EXPOSED NEWBORNS, EXPOSURE TO DRUG-RELATED ACTIVITY, EXPOSURE TO DOMESTIC VIOLENCE

Recent years have seen some jurisdictions require reports of some new specific types of abuse and neglect. Possibly, the most significant of these concerns the duty (typically imposed on medical practitioners) to report prenatal substance abuse when substance-exposed newborns are encountered. This new duty is largely a result of a provision inserted in CAPTA by the Keeping Children and Families Safe Act of 2003; Section 42 U.S.C. (5106(b) (2) (A) (ii) of CAPTA now includes as a condition of states' eligibility for federal funding the presence of policies and procedures to address the needs of infants born and identified as being affected by illegal substance abuse or withdrawal symptoms from prenatal drug exposure. Jurisdictions with these provisions either include newborn exposure and suffering from drug exposure in the definition of abuse or neglect or require reports by designated professionals of suspicions of this circumstance (see Table 2). Arizona, for example, states the following:

A health care professional . . . who, after a routine newborn physical assessment of a newborn infant's health status or following notification of positive toxicology screens of a newborn infant, reasonably believes that the newborn infant may be affected by the presence of alcohol or a drug listed in section 13-3401 shall immediately report this information, or cause a report to be made, to child protective services in the department of economic security. For the purposes of this subsection, "newborn infant" means a newborn infant who is under thirty days of age. (Ariz Rev. Stat. 13-3620 E)

Another new category concerns reports of prenatal substance abuse by expectant mothers. Three U.S. states (MN, ND, & WI), require reports of prenatal substance abuse before a child is born, with Wisconsin including alcohol as a named substance. Illinois enables but does not compel such reports. In Australia, New South Wales, Queensland, and Victoria have recently enabled, but do not compel, reports to be made of prenatal substance abuse before a child is born, to enable protective action to be taken by government agencies. As with all voluntary reports, these attract protections concerning confidentiality and immunity. This class of conduct raises two major

issues: Should reports be compelled or merely enabled, and which substances should the reporting provision include?

In the same genre of drug-related activity, child protection legislation in some 18 U.S. states now requires reports of the exposure of any child to various types of illegal drug activity (see Table 2). Such acts are sometimes incorporated in definitions of abuse or neglect, and can include supplying drugs to a child; use of a drug by a caregiver compromising ability to care for the child; manufacture of drugs in a child's presence or in premises occupied by a child; allowing a child to be present where equipment for such manufacture is stored or used; and exposure of a child to drug sale, equipment or activity. Most of the other states include such matters in criminal statutes as offenses or as circumstances of aggravation, rather than (or in some cases in addition to) reporting obligations within child protection laws (these other states include AK, AZ, CA, GA, ID, IL, IA, KS, LA, ME, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, OK, OR, PA, UT, VA, WA, WV, and WY).

Another new class of abuse requiring reports in some jurisdictions is the exposure of a child to domestic violence. In Australia, New South Wales expressly requires reports of the risk of serious psychological or physical harm to a child as a consequence of exposure to domestic violence. Similarly, Tasmania requires a report when a child's safety, psychological well-being, or interests are "affected or likely to be affected" by family violence. In Canada, seven jurisdictions include exposure to domestic violence as a circumstance where a child is in need of protection. However, only one (Newfoundland and Labrador) requires a report of exposure to domestic violence even if there is no harm or risk of harm to the child; the other six (Alberta, Manitoba, the Northwest Territories, Nova Scotia, Prince Edward Island, and Saskatchewan) require reports only where the child has been harmed, is "likely to suffer harm" or is at "substantial risk" of harm as a result of the domestic violence. Few U.S. states expressly require reports regarding exposure to domestic violence. Montana expressly includes in its definition of psychological abuse or neglect severe maltreatment through acts or omissions that are injurious to the child's emotional, intellectual, or psychological capacity to function, including the commission of acts of violence against another person residing in the child's home; West Virginia also explicitly includes exposure to domestic violence as constituting abuse to a child. The District of Columbia includes in its definition of a neglected child one whose parent has failed to make reasonable efforts

to file a petition for civil protection from intrafamily violence. Interestingly, Washington takes the opposite approach, specifying that exposure to domestic violence does not of itself constitute maltreatment. Generally, other states do not expressly include exposure to domestic violence, but many that have more detailed definitions of abuse and neglect may arguably extend to the consequences of domestic violence (AK, AZ, AR, CA, CO, FL, ID, IL, IA, KS, KY, LA, ME, MD, MN, MS, NV, NH, NJ, NM, NY, NC, ND, OH, PA, RI, SC, TN, TX, UT, VT, WI, & WY). States with less detailed definitions of types of abuse also could be argued to extend to situations of domestic violence.

Finally, it can be noted that some jurisdictions have chosen to expressly require reports of some types of conduct that may not commonly be specified as abuse or neglect (but that may fall within broader expressions of a type of abuse or neglect). The first example of this can be seen in jurisdictions such as the Northern Territory in Australia and Illinois in the United States, explicitly including female genital mutilation as a circumstance required to be reported. The second example is that of Quebec, which expressly requires reports of a child who is made to beg, do work disproportionate to capacity, or perform for the public in a way unacceptable for his or her age.

Within each jurisdiction, these newer types of abuse may be considered more or less urgent, depending on social-cultural context and practical realities such as resourcing. Nevertheless, the broader conceptual banners under which some of these provisions reside can be seen to raise issues central to reporting laws and child protection systems generally. Jurisdictions in the United States may have initially required reports of substance-exposed newborns to respond to crack cocaine use by pregnant women, which may be a less common occurrence in other jurisdictions. However, those jurisdictions that have not experienced that particular phenomenon will probably still have to confront, sooner or later, the conceptual question of under what circumstances should newborns affected by maternal drug use—whether legal drugs such as alcohol or illicit drugs such as heroin and amphetamines—be the subject of a required report to enable government assistance and or intervention.

WHAT EXTENT OF SUSPECTED HARM IS REQUIRED TO ACTIVATE THE REPORTING DUTY?

Especially for physical abuse, psychological abuse, and neglect, the laws are generally not intended to

require reports of any and all abusive or neglectful behavior. Isolated and/or trivial incidents of less-than-ideal parenting practices are not the concern of the laws; nor are accidental injuries. Rather, the laws are generally concerned with acts and omissions that are harmful to the child's health, safety, well-being, or development. This raises the contentious issue of what should be deemed sufficient harm to require reports and how this is to be expressed in the legislation; Besharov (1985) has proposed limiting the reporting duty to cases of "seriously harmful" behavior. As could be expected, different jurisdictions have adopted different approaches to this question, for each category of abuse and neglect.

Physical Abuse

Although significant differences exist between jurisdictions, a number of general approaches can be discerned. For physical abuse, U.S. states generally adopt one of four approaches. A group of 29 U.S. states (AL, AK, AZ, AR, CA, CT, DE, GA, IL, IA, KS, ME, MD, MA, MI, MS, MO, NE, NH, OH, OK, OR, RI, SD, TN, UT, VA, WA, & WV) merely refers in broad, vague terms to "harm or threatened harm" through physical abuse or physical injury, without further helpful definitions of what constitutes sufficient injury. Nearly all Canadian provinces also simply refer to physical harm or injury without further definition. A second group of 6 states (HI, MN, NV, NM, WI, & WY) provide a nonexhaustive list of the types of injuries that can constitute physical injury sufficient to require a report. A third approach, adopted by Colorado, Idaho, and Montana, gives an exhaustive list of the injuries constituting reportable physical abuse; namely "any case in which a child exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, or death." Finally, a fourth approach is evident in a group of 13 states, which appears to require a higher degree of harm than that of the first approach but does so in conceptual terms rather than specifying types of injury; for example, requiring "serious" injury, or "substantial" impairment of health. This conceptual approach is also used in six Australian states, which require "significant" harm or a synonymous variation of this (e.g., South Australia's and Tasmania's "detrimment to well-being"). Although they elaborate on the first approach, which simply uses the term *harm*, these terms are still inherently ambiguous; thus, decisions to report will depend on the reporter's subjective interpretation of what constitutes "serious" or "significant" harm. In contrast, New South Wales and the Australian Capital Territory require

reports of all physical abuse without qualifying the extent of harm. Uniquely, Alberta requires "substantial and observable injury" evidenced by any of an enumerated list of injuries.

An observation is warranted concerning the issue of corporal punishment. In the United States, 21 states expressly exclude reasonable corporal punishment from cases requiring a report (CO, DC, FL, GA, IL, IN, MN, MS, MO, NJ, NY, ND, OH, OK, OR, RI, SC, TX, WA, WV, & WY). A parent's right to impose reasonable discipline is often also embodied in immunity from criminal prosecution. In Australia, criminal laws in New South Wales, Queensland, and the Northern Territory and common law in all Australian jurisdictions entitle parents to use such force as is reasonable under the circumstances to impart discipline, management, or control (Butler & Mathews, 2007). In Canada, the Yukon Territory also expressly excludes reasonable physical discipline from the classes of reportable abuse. The power to physically discipline children is also present in many other countries and cultures with and without mandatory reporting laws, and the actual employment of that power is more common in some countries than others (Daro, 2007). Therefore, the scope of physical abuse may vary dramatically according to cultural norms.

Sexual Abuse

A minority of legislatures have even taken different approaches to the reporting of sexual abuse, all types of which might intuitively be thought to require detection, report, and intervention. This is because, like other categories of abuse and neglect, there are so many different types of acts and consequence and contexts within which this type of abuse can occur, and these acts are, even in this apparently clear-cut context, open to different classification and judgment. Therefore, although the overwhelming majority of jurisdictions in the three countries do not require any extent of harm to activate the reporting duty (instead, compelling reports of any specified sexual conduct regardless of the presence of harm or otherwise), several states do have such qualifications in the terms of their legislation (it is another question whether in practice these qualifications limit the class of cases actually reported). Thus, in Australia, Victoria and Queensland require that "significant" harm be caused or risked to activate the reporting duty; in the United States, Louisiana requires that the abuse "seriously endangers" the child's health and safety, and Mississippi and New Hampshire require that the circumstances

must indicate that the child's health or welfare is harmed or threatened.

Psychological, Emotional, or Mental Abuse

Many states require a certain extent of harm caused by psychological, emotional, or mental injury to qualify it as reportable. In Australia, the qualification is usually in terms such as "significant" or "serious" harm or significant detriment to development. In the United States, jurisdictions generally require an observable and/or substantial impairment in the ability to function. There are some variations on this theme; Louisiana requires the child's health to be seriously endangered, and Pennsylvania requires serious injury. South Carolina is an example of a state requiring not only the "discernible and substantial impairment of the child's ability to function" but the evidentiary support of this by medical opinion. Wisconsin has a detailed definition of "emotional damage," requiring "harm to a child's psychological or intellectual functioning . . . evidenced by one or more of the following characteristics exhibited to a severe degree: anxiety; depression; withdrawal; outward aggressive behavior; or a substantial and observable change in behavior, emotional response or cognition that is not within the normal range for the child's age and stage of development." A number of Canadian provinces also further define emotional injury requiring reports: some requiring "severe anxiety, depression, withdrawal, or self-destructive or aggressive behaviour" (British Columbia, Nova Scotia), with Ontario adding to this definition "delayed development" and Nunavut adding "any other severe behavior consistent with the child having suffered emotional harm." Saskatchewan requires "serious impairment of mental or emotional functioning," and Alberta requires "impairment of the child's mental or emotional functioning or development" due to any of a long list of specified acts and circumstances. Manitoba refers to "emotional disability of a permanent nature."

Neglect

Most states in the United States and Australia define neglect ambiguously in terms of failure to provide "basic", "adequate", "proper" or "necessary" care, without specifying a degree of harm required to activate the reporting duty. Often, abandonment is included in definitions of neglect, or is listed as a separate basis for a report. In the United States and Australia, some states expressly require a higher degree of consequence of the neglect to make it

reportable: “serious impairment” (IN), “substantial impairment” (LA, NH), “endangerment of child’s life or development or impairment of the child’s functioning” (PA), serious endangerment of the child’s physical health (WI), “serious physical impairment evidenced by severe bodily malfunctioning” (Northern Territory) significant detrimental effect (Queensland), “physical or psychological injury detrimental to the child’s well-being or jeopardizing the child’s physical or psychological development” (South Australia and Tasmania)—these phrases remain ambiguous. In contrast, although some Canadian provinces including Alberta and the Yukon Territory use definitions of neglect similar to those used in the United States and Australia, most do not expressly define the term *neglect*, and many do not even use the term. Instead, most provinces generally detail, in conceptual terms, circumstances of parental failure to act that require a report of a child being in need of protection. The most common circumstances, detailed in nearly all provinces, are medical neglect and a child being in the care of a parent who is unwilling or unable to provide adequate care, supervision, or control. Some provinces require physical or emotional harm to have been caused by the neglect, which could be viewed as not including neglect as a separate basis for reporting. Some provinces include within “neglectful” circumstances the parental failure to provide responses to a child under 12 who has committed defined criminal offences (Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, and Prince Edward Island), and two include malnutrition (Northwest Territories and Nunavut).

Neglect as a Result of Poverty

Another issue facing legislatures is the presence of neglect as a result of poverty, rather than parents’ intentional acts or grievous omissions. Most U.S. jurisdictions expressly exclude poverty-based “neglect” from the definition of reportable neglect. However, if one of the primary functions of the child protection system is to enable the provision of assistance to children and their families, does the exclusion of poverty-based neglect mean that many neglected children receive no assistance when they otherwise might? A child who experiences neglect out of poverty may suffer the same deprivation as a child neglected in a family of higher means. Should the child in the poor family not have the same opportunity for his or her case to be brought to the attention of authorities and helping agencies? It may well be that legislatures are cautious to avoid the potential for the child protection system to remove

children from families on the basis of poverty alone. However, it appears to defeat one of the major purposes of the child protection system if children who suffer neglect as a result of poverty are excluded from, or are less likely to receive, service provision because their cases have less chance of being brought to the attention of helping agencies. This may point to a conflict within child protection systems concerning the provision of assistance versus the removal of children. It may also indicate the sheer enormity of the problem of poverty, and a reluctant surrender to the merely practical necessity to exclude these neglect cases from the ambit of mandatory reporting and child protection systems.

Are Reports Required Only of Past Abuse/Neglect or Also of Risk of Future Abuse/Neglect?

Legislative provisions embody a major conceptual distinction concerning the timing of the suspected abuse or neglect. Arguably, the primary and most common object of the reporting provisions is to disclose cases of abuse or neglect that are presently occurring or have recently occurred. It may well be that reporting cases of more severe abuse that have occurred at some point further in the past is also desired, and it is reasonable to suppose that all suspicions of sexual abuse should be reported, no matter how distant. Certainly, the object of the statutes is not for every possible incident of abuse or neglect to be reported no matter how long ago inflicted, and qualifications about extent of harm support this limit. However, the most significant temporal distinction here lies between the duty to report suspected present or past abuse and the duty to report suspected likely future abuse or neglect that may not have happened yet.

Although largely unexplored by commentators—a rare exception is Besharov (1983)—this is a highly significant dimension of the laws with which legislatures must engage, as the issue is central to the nature of each child protection system. Should the reporting law require reports only of abuse and neglect that has already happened, or should reports also be required of cases of abuse and neglect that, although not having occurred yet, are thought likely to occur in future? It would seem beyond dispute that, especially in cases of child fatalities or severe harm, the most exemplary attainment of child protection would be to prevent the abuse before it happened. However, this may be an object that is only attainable in a subset of cases in which the likelihood of abuse or neglect (and significant abuse at that) can be seen to be very high, and a realistic and prudent approach should prevent any thought that it

is possible to prevent all or even most cases of abuse before they happen. Besharov (1983, 1985) has accepted that a preventive approach should be adopted but argued that the laws are more justifiably limited to cases of past abuse, with only limited preventive exceptions to this instead of an open-ended, vague and overambitious preventive approach. Besharov (1983, 1985) would include three other types of reportable cases: those in which the parent did something that may not have actually harmed the child seriously but was capable of doing so; those in which parents are suffering from severe and demonstrable mental disabilities so that the parent is detached from reality and incapable of providing adequate care; and those in which parents of infants or very young children admit that they fear they may hurt or kill their children. In contrast, Finkelhor (2005) has pointed out that a major purpose of a reporting system is to disclose abusive situations before serious injury occurs. Clearly, if reporters are observing the duty to report when it applies to suspected risk of future abuse, this broadens the field of cases warranting a report and would increase the number of reports, and this eventuality would have to be foremost in the minds of legislators considering this strategy. It is not clear whether and to what extent reporting practice, or intervention practice and success, differs in jurisdictions having this requirement.

There are clear legislative differences here between jurisdictions. In Australia, for example, all jurisdictions with reporting statutes apply the obligation to cases of suspected present and past abuse. One jurisdiction (the Australian Capital Territory) expressly limits the reporting duty to cases of suspected past abuse only. However, four of the eight jurisdictions (New South Wales, Queensland, Victoria, and the Northern Territory) expressly extend the reporting obligation to cases in which the reporter has a reasonable suspicion that a child who may not yet have been abused or neglected is at risk of being abused in future. In these four jurisdictions, this reporting duty applies no matter who the suspected future perpetrator may be. Another two states, South Australia and Tasmania, require reports of suspicions that a child is likely to be abused in the future but only if the suspected future perpetrator is a person who lives with the child. Australian jurisdictions therefore have a strong approach to preventing future abuse. In Canada, different approaches are taken across the provinces, and in several cases the language of the statutes is ambiguous. However, it seems that the majority of provinces generally do require reports of suspected risk of future physical,

sexual, and emotional abuse but do not require reports of suspected risk of future neglect.

In many jurisdictions in the United States, reporting obligations are also applied to cases of risk of future abuse or neglect, although, as with the Canadian provinces, this is often difficult to detect because of ambiguity in the language. Although there can be subtle differences—for example, a state may require reports of risk of future harm for some but not all types of abuse—it is possible to discern three broad approaches to this question. One approach, most strongly favoring prevention, is to apply the reporting duty to situations in which the reporter suspects either past or existing abuse or neglect or suspects that there is a risk of future abuse or neglect where no abuse or neglect may yet have occurred. Some states use clear language to indicate this: Connecticut, for example, requires reports when a child is suspected to have been abused or neglected and when a child is suspected to be “placed at imminent risk of serious harm.” Our interpretation of the statutes suggest that other states most clearly adopting this approach (but not always for every type of abuse and neglect) are as follows: DC, FL, HI, IL, KY, ME, MN, MO, MT, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, VT, VA, WI, and WY.

At the other extreme, some states clearly apply the reporting duty only to situations where the reporter suspects the abuse or neglect has already happened. Arizona, for example, requires a report by a designated person of a belief that “a minor is or has been the victim of physical injury, abuse, child abuse, a reportable offense or neglect,” and the term *abuse* is limited to “the infliction or allowing of” certain injuries, thus ruling out cases of suspected risk of future abuse that has not yet occurred. Other states that clearly limit the reporting duty to past abuse and neglect are as follows: DE, GA, IN, IA, MS, NV, NH, ND, and WA.

Between these two groups lay the other states (AL, AK, AR, CA, CO, ID, KS, LA, MD, MA, MI, NE, UT, & WV). Here, the language of the statutes is more ambiguous and open to different interpretations. Our analysis suggests that these states apply the duty to report only when the reporter suspects that acts of abuse or neglect have happened. However, the terminology used raises questions about (a) whether the duty applies only to acts thought to have already occurred but the harm from those acts either has already occurred or is threatened, and (b) whether the duty applies to suspected threatened harm by suspected future acts. Alaska, for example, requires

a designated person to make a report when he or she has "reasonable cause to suspect that a child has suffered harm as a result of child abuse or neglect." Interpreting this provision alone would limit the reporting duty to cases of past abuse or neglect. However, Alaska defines child abuse or neglect as "the physical injury or neglect, mental injury, sexual abuse, sexual exploitation, or maltreatment of a child under the age of 18 by a person under circumstances that indicate that the child's health or welfare is harmed or threatened thereby." Read together, these provisions activate the reporting duty when a designated person has reasonable cause to suspect that a child has suffered harm as a result of injury by a person under circumstances that indicate that the child's health or welfare is harmed or threatened thereby. Combined, the provisions suggest that an act must be thought to have occurred, but the harm from that act—or possibly from future acts—may be thought to be either already present or threatened to arise at some future time.

ISSUES FOR CONSIDERATION

This review has disclosed a number of broad, major issues with which legislatures must engage when designing mandatory reporting legislation. Within these broad issues, others also arise. The broad issues are as follows:

- Are mandated reporters limited to selected occupations (and if so, which), or is the reporting duty imposed on all citizens?
- What types of abuse (physical, emotional, sexual) and neglect are required to be reported?
- What level of suspicion is required to activate the reporting duty (and how is this expressed)?
- Within the three major types of abuse, are reports required of suspected abuse from all sources or from selected perpetrators such as parents and caregivers (and how is this to be clearly expressed)?
- Are any "new" types of abuse required to be reported, and if so, which?
- Are the types of abuse that require reporting defined to indicate the extent of harm required to be suspected (and if so, how), or does the reporting obligation apply to any occurrence of the abuse?
- Are reports required only of past or present abuse, or are reports also required of suspected risk of future abuse (and if so, under what circumstances)?

These issues are contentious, and different legislatures will undoubtedly take different approaches in an attempt to bring cases of abuse and neglect to light that otherwise would go undetected and untreated, while maintaining a practically sustainable and fiscally responsible approach to child protection. Whether refining or developing mandatory

reporting legislation, governments should be aware of the different approaches adopted to date and of the need to express the reporting requirements in language that is as clear as possible. This should be supplemented by training for reporters so that they gain knowledge of the indicators of abuse and neglect, know how to deal appropriately with a situation of disclosure or suspicion, know the situations when a report is and is not required, and know how to make a report that both satisfies the legislative reporting requirements and provides useful assistance to child protective services intake. Of course, although legislation and training are two important components of the child protection system, they interact with others, principally the systems of assessment, response, and case management. The content of the law therefore must be sensitive and adapted to the entire child protection apparatus in any given jurisdiction, and the most successful approach requires coordinated efforts by the whole of government.

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TEACHERS REPORTING SUSPECTED CHILD SEXUAL ABUSE: RESULTS OF A THREE-STATE STUDY

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I INTRODUCTION

Over 3000 cases of child sexual abuse are identified every year in Australia, but the real incidence is higher still. As a strategy to identify child sexual abuse, Australian States and Territories have enacted legislation requiring members of selected professions, including teachers, to report suspected cases. In addition, policy-based reporting obligations have been developed by professions, including the teaching profession. These legislative and industry-based developments have occurred in a context of growing awareness of the incidence and consequences of child sexual abuse. Teachers have frequent contact and close relationships with children, and possess expertise in monitoring changes in children's behaviour. Accordingly, teachers are seen as being well-placed to detect and report suspected child sexual abuse.

To date, however, there has been little empirical research into the operation of these reporting duties. The extent of teachers' awareness of their duties to report child sexual abuse is unknown. Further, there is little evidence about teachers' past reporting practice. Teachers' duties to report sexual abuse, especially those in legislation, differ between States, and it is not known whether or how these differences affect reporting practice. This article presents results from the first large-scale Australian survey of teachers in three States with different reporting laws: New South Wales, Queensland, and Western Australia. The results indicate levels of teacher knowledge of reporting duties, reveal evidence about past reporting practice, and provide insights into anticipated

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future reporting practice and legal compliance. The findings have implications for reform of legislation and policy, training of teachers about the reporting of child sexual abuse, and enhancement of child protection.

II INCIDENCE AND CONSEQUENCES OF CHILD SEXUAL ABUSE

The officially recorded incidence of child sexual abuse has been stable over the past five years, with between 3400 and 3700 Australian children in substantiated reports every year since 2004.¹ Using population statistics,² these data suggest that from 2004–08, the rate of children suffering sexual abuse ranged between 7.92 (2006–07) and 8.44 (2005–06) in every 10 000 children. However, it is widely accepted that the true incidence is significantly higher,

This research was supported under the Australian Research Council's Discovery Project funding scheme (project number DP0664847).

- 1 Most recently, in the 12 month period between 2007–08, there were 3511 separate children in substantiated cases: see, Australian Institute of Health and Welfare, *Child Protection Australia 2007–08*, Child Welfare Series No 45 (2009) 70 (Table A1.2) <<http://www.aihw.gov.au/publications/cws/cpa07-08/cpa07-08.pdf>> at 8 September 2009. The corresponding figure in 2006–07 was 3453 cases: Australian Institute of Health and Welfare, *Child Protection Australia 2006–07*, Child Welfare Series No 43 (2008) 69 (Table A1.2) <<http://www.aihw.gov.au/publications/cws/cpa06-07/cpa06-07.pdf>> at 8 September 2009. In 2005–06, there were 3660 children in substantiated cases: Australian Institute of Health and Welfare, *Child Protection Australia 2005–06*, Child Welfare Series No 40 (2007) 61 (Table A1.2) <<http://www.aihw.gov.au/publications/cws/cpa05-06/cpa05-06.pdf>> at 8 September 2009. In 2004–2005, there were 3574: Australian Institute of Health and Welfare, *Child Protection Australia 2004–05*, Child Welfare Series No 38 (2006) 55 (Table A1.2) <<http://www.aihw.gov.au/publications/cws/cpa04-05/cpa04-05.pdf>> at 8 September 2009.
- 2 For children aged 0–15 years inclusive: Australian Bureau of Statistics, 3201.0: *Population by Age and Sex, Australian States and Territories, Table 9.1 Revised: Estimated Resident Population By Single Year of Age Australia* (2009) <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3201.0Jun%202008?OpenDocument>> at 8 September 2009; Australian Bureau of Statistics, 3201.0: *Population by Age and Sex, Australian States and Territories, Table 9: Estimated Resident Population By Single Year Of Age, Australia* (2007) <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3201.0Jun%202007?OpenDocument>> at 8 September 2009; Australian Bureau of Statistics, 3201.0: *Population by Age and Sex, Australian States and Territories, Table 9: Estimated Resident Population By Single Year Of Age, Australia* (2006) <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3201.0Jun%202006?OpenDocument>> at 8 September 2009; Australian Bureau of Statistics, 3201.0: *Population by Age and Sex, Australian States and Territories, Table 9: Estimated Resident Population By Single Year Of Age, Australia* (2005) <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3201.0Jun%202005?OpenDocument>> at 8 September 2009.

because sexual abuse is perpetrated in private, and many cases are neither disclosed by victims nor detected and reported by other persons.³

Children who experience sexual abuse often suffer both initial and longer-term consequences, although the extent and severity of these differ for each individual.⁴ Immediate and initial consequences commonly include post-traumatic stress disorder,⁵ anxiety,⁶ depression and low self-esteem,⁷ inappropriate sexualised behaviour⁸ and difficulty with peer relationships.⁹ Adolescents are more likely to experience depression and anxiety than younger children, due to a more developed cognition about the nature of the abuse.¹⁰

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- 3 See, eg, Jillian Fleming, 'Prevalence of Childhood Sexual Abuse in a Community Sample of Australian Women' (1997) 166(2) *Medical Journal of Australia* 65. Fleming's 1997 retrospective study of 710 randomly selected women found that 144 (20 per cent) had experienced child sexual abuse involving at least genital contact before the age of 16. Additionally, in a population-based survey of 1784 people conducted in 2003, it was found that at least 12 per cent of women and 4 per cent of men experienced unwanted penetrative abuse before the age of 16: Michael Dunne et al, 'Is Child Sexual Abuse Declining?' (2003) 27 *Child Abuse & Neglect* 141. Compare a national study undertaken in the USA, involving 2626 men and women, in which 27 per cent of the women and 16 per cent of the men disclosed that they were sexually abused while a child: David Finkelhor et al, 'Sexual Abuse in a National Survey of Adult Men and Women: Prevalence, Characteristics, and Risk Factors' (1990) 14 *Child Abuse & Neglect* 19. Cf Stephen Dinwiddie et al, 'Early Sexual Abuse and Lifetime Psychopathology: a Co-twin Control Study' (2000) 30 *Psychological Medicine* 41, where use of a different definition of child sexual abuse, namely 'Before age 18, were you ever forced into sexual activity, including intercourse?', produced a finding that 5.9 per cent of women and 2.5 per cent of men had been sexually abused.
 - 4 See generally Kathleen Kendall-Tackett, Linda Williams and David Finkelhor, 'Impact of Sexual Abuse on Children: A Review and Synthesis of Recent Empirical Studies' (1993) 113(1) *Psychological Bulletin* 164; Kimberley Tyler, 'Social and Emotional Outcomes of Childhood Sexual Abuse: A Review of Recent Research' (2002) 7 *Aggression and Violent Behavior* 567.
 - 5 Susan McLeer et al, 'Psychiatric Disorders in Sexually Abused Children' (1994) 33 *Journal of the American Academy of Child and Adolescent Psychiatry* 313; David Wolfe, Louise Sas and Christine Wekerle, 'Factors Associated with the Development of Post-Traumatic Stress Disorder among Child Victims of Sexual Abuse' (1994) 18 *Child Abuse & Neglect* 37; Sue Boney-McCoy and David Finkelhor, 'Prior Victimization: A Risk Factor for Child Sexual Abuse and for PTSD-Related Symptomatology among Sexually Abused Youth' (1995) 19 *Child Abuse & Neglect* 1401; Susan McLeer et al, 'Psychopathology in Non-Clinically Referred Sexually Abused Children' (1998) 37 *Journal of the American Academy of Child and Adolescent Psychiatry* 1326; Judith Trowell et al, 'Behavioural Psychopathology of Child Sexual Abuse in Schoolgirls Referred to a Tertiary Centre: A North London Study' (1999) 8 *European Journal of Child and Adolescent Psychiatry* 107; Allison Dubner and Robert Motta, 'Sexually and Physically Abused Foster Care Children and Posttraumatic Stress Disorder' (1999) 67 *Journal of Consulting and Clinical Psychology* 367.
 - 6 Dinwiddie et al, above n 3.
 - 7 Josie Spataro et al, 'Impact of Child Sexual Abuse on Mental Health: Prospective Study in Males and Females' (2004) 184 *British Journal of Psychiatry* 416; Heather Swanson et al, 'Nine Years After Child Sexual Abuse' (2003) 27 *Child Abuse & Neglect* 967; Theresa Wozencraft, William Wagner and Alicia Pellegrin, 'Depression and Suicidal Ideation in Sexually Abused Children' (1991) 15 *Child Abuse & Neglect* 505.
 - 8 Jon McClellan et al, 'Age of Onset of Sexual Abuse: Relationship to Sexually Inappropriate Behaviours' (1996) 35 *Journal of the American Academy of Child and Adolescent Psychiatry* 1375.
 - 9 Anthony Mannarino, Judith Cohen and Susan Berman, 'The Children's Attributions and Perceptions Scale: A New Measure of Sexual Abuse-Related Factors' (1994) 23 *Journal of Clinical Child Psychology* 204.
 - 10 Christine Gidycz and Mary Koss, 'The Impact of Adolescent Sexual Victimization: Standardized Measures of Anxiety, Depression and Behavioural Deviancy' (1989) 4 *Violence and Victims* 139.

Adolescents are more susceptible to self-harm,¹¹ suicidal ideation and behaviour,¹² substance abuse and running away from home.¹³ Low self-esteem often continues throughout adolescence, with associated effects on academic and personal achievement.¹⁴ Adverse physical and mental health effects often continue through adult life,¹⁵ and some victims become offenders.¹⁶

Many victims of sexual abuse do not disclose their experience, or only disclose it a significant time after the events.¹⁷ Instead, a child will often develop coping mechanisms.¹⁸ Nondisclosure is especially likely when the child is either, or both, preverbal or too young to understand the nature of the acts.¹⁹ Very young children may be persuaded the acts are normal, especially where the abuse is presented as bestowing favour on the child.²⁰ Even when a child does know or feel the acts are wrong or harmful, she or he may feel guilt and responsibility for

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- 11 Graham Martin et al, 'Sexual Abuse and Suicidality: Gender Differences in a Large Community Sample of Adolescents' (2004) 28 *Child Abuse & Neglect* 491; see also Sarah Romans et al, 'Sexual Abuse in Childhood and Deliberate Self-Harm' (1995) 152 *American Journal of Psychiatry* 1336.
 - 12 Dinwiddie et al, above n 3; Beth Molnar, Lisa Berkman and Stephen Buka, 'Psychopathology, Childhood Sexual Abuse and Other Childhood Adversities: Relative Links to Subsequent Suicidal Behaviour in the US' (2001) 31 *Psychological Medicine* 965; Martin et al, above n 11.
 - 13 Mary Rotherham-Borus et al, 'Sexual Abuse History and Associated Multiple Risk Behaviour in Adolescent Runaways' (1996) 66 *American Journal of Orthopsychiatry* 390.
 - 14 Wozencraft, Wagner and Pellegrin, above n 7.
 - 15 Spataro et al, above n 7; Allan Horwitz et al, 'The Impact of Childhood Abuse and Neglect on Adult Mental Health: A prospective study' (2001) 42 *Journal of Health and Social Behaviour* 184; Paul Mullen et al, 'Childhood Sexual Abuse and Mental Health in Adult Life' (1993) 163 *British Journal of Psychiatry* 721.
 - 16 Daniel Salter et al, 'Development of Sexually Abusive Behaviour in Sexually Victimized Males: a Longitudinal Study' (2003) 361 *Lancet* 471; Freda Briggs and Russell Hawkins, 'A Comparison of the Childhood Experiences of Convicted Male Child Molesters and Men Who Were Sexually Abused in Childhood and Claimed to be Non-offenders' (1996) 20 *Child Abuse & Neglect* 221.
 - 17 Kamala London et al, 'Disclosure of Child Sexual Abuse: What Does the Research Tell us About the Ways that Children Tell?' (2005) 11 *Psychology, Public Policy, and Law* 194; Mary Paine and David Hansen, 'Factors Influencing Children to Self-Disclose Sexual Abuse' (2002) 22 *Clinical Psychology Review* 271; Sharon Lamb and Susan Edgar-Smith, 'Aspects of Disclosure: Mediators of Outcome of Childhood Sexual Abuse' (1994) 9 *Journal of Interpersonal Violence* 307; Diana Elliott and John Briere, 'Forensic Sexual Abuse Evaluations of Older Children: Disclosures and Symptomatology' (1994) 12 *Behavioral Sciences and the Law* 261; Finkelhor et al, above n 3; Maria Sauzier, 'Disclosure of Child Sexual Abuse: For Better or Worse' (1989) 12 *Psychiatric Clinics of North America* 455.
 - 18 Roland Summit, 'The Child Sexual Abuse Accommodation Syndrome' (1983) 7 *Child Abuse & Neglect* 177.
 - 19 Lucy Berliner and Jon Conte, 'The Process of Victimization: The Victims' Perspective' (1990) 14 *Child Abuse & Neglect* 29.
 - 20 Queensland Crime Commission and Queensland Police Service, *Project AXIS – Child Sexual Abuse in Queensland: The Nature and Extent* (2000) 83–7
<<http://www.cmc.qld.gov.au/data/portal/00000005/content/00848001141363218928.pdf>> at 9 September 2009.

the acts.²¹ A child may be unwilling to disclose due to embarrassment and shame. An abused child is often sworn to secrecy through threats or bribery,²² and may fear reprisals from the abuser,²³ or that abuse will be perpetrated on other family members.²⁴ She or he may fear that if a disclosure is made, the family will be affected badly or destroyed.²⁵ The child may also fear the complaint will not be believed and can be wary of being punished for complaining.²⁶ Finally, the child may be unwilling to disclose out of fear that the perpetrator would be punished, since the child may still love the offender.²⁷ Nondisclosure is more likely when the perpetrator is a parent or family member,²⁸ or other trusted figure. These factors contribute to the greater likelihood that if the abuser is a family member, victims may suffer numerous abusive acts, which can occur over a period of months or years.²⁹ Fleming's Australian study found that 48 per cent of the women who suffered sexual abuse as children had never disclosed it. Of those

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- 21 Philip Ney et al, 'Child Abuse: A Study of the Child's Perspective' (1986) 10 *Child Abuse & Neglect* 511; Berliner and Conte, above n 19; Kay Bussey and Elizabeth Grimbeek, 'Disclosure Processes: Issues for Child Sexual Abuse Victims' in Ken J Rotenberg (ed), *Disclosure Processes in Children and Adolescents* (1995) cited in Queensland Crime Commission and Queensland Police Service, above n 20, 88; Tina Goodman-Brown et al, 'Why Children Tell: A Model of Children's Disclosure of Sexual Abuse' (2003) 27 *Child Abuse & Neglect* 525.
 - 22 Queensland Crime Commission and Queensland Police Service, above n 20, 89–90.
 - 23 Diana Russell, *The Secret Trauma: Incest in the Lives of Girls and Women* (1986) 132; Thomas Lyon, 'The Effect of Threats on Children's Disclosure of Sexual Abuse' (1996) 9(3) *The APSAC Advisor* 9; Sally Palmer et al, 'Responding to Children's Disclosure of Familial Abuse: What Survivors Tell Us' (1999) 78 *Child Welfare* 259; Goodman-Brown et al, above n 21.
 - 24 Berliner and Conte, above n 19; Goodman-Brown, above n 21.
 - 25 Micaela Crisma et al, 'Adolescents Who Experienced Sexual Abuse: Fears, Needs and Impediments to Disclosure' (2004) 28 *Child Abuse & Neglect* 1035; Louanne Lawson and Mark Chaffin, 'False negatives in Sexual Abuse Disclosure Interviews: Incidence and Influence of Caretaker's Belief in Abuse in Cases of Accidental Abuse Discovery by Diagnosis of STD' (1992) 7 *Journal of Interpersonal Violence* 532.
 - 26 Beverley Gomes-Schwartz, Jonathan Horowitz and Albert Cardarelli, *Child Sexual Abuse: The Initial Effects* (1990).
 - 27 Marcellina Mian et al, 'Review of 125 Children 6 Years of Age and Under Who Were Sexually Abused' (1986) 10 *Child Abuse & Neglect* 223; Tilman Furniss, *The Multi-Professional Handbook of Child Sexual Abuse: Integrated Management, Therapy, and Legal Intervention* (1991).
 - 28 Steven Kogan, 'Disclosing Unwanted Sexual Experiences: Results from a National Sample of Adolescent Women' (2004) 28 *Child Abuse & Neglect* 147; Berliner and Conte, above n 19; Catalina Arata, 'To Tell or Not to Tell: Current Functioning of Child Sexual Abuse Survivors Who Disclosed their Victimization' (1998) 3 *Child Maltreatment* 63; Sauzier, above n 17; Louise Sas, *Three years after the verdict* (1993). Where the perpetrator is a relative, it is even more likely that the delay in disclosure will be long. An analysis of Queensland Police Service data from 1994–98 found that of 3721 reported offences committed by relatives, 25.5 per cent of survivors took 1–5 years to report the acts; 9.7 per cent took 5–10 years; 18.2 per cent took 10–20 years, and 14.2 per cent took more than 20 years. In contrast, of the 1058 cases where the offender was not known to the complainant, 27.4 per cent reported the offence within a week, 34.4 per cent reported it within 1–4 weeks, and a further 18.5 per cent reported it within 1–6 months: Queensland Crime Commission and Queensland Police Service, above n 20, 86 (Table 25).
 - 29 Stephen Smallbone, William Marshall and Richard Wortley, *Preventing Child Sexual Abuse* (2008), 7–8; Michael Dunne and Margot Legosz, 'The Consequences of Childhood Sexual Abuse' in Queensland Crime Commission and Queensland Police Service, *Project AXIS – Child Sexual Abuse in Queensland: Selected Research and Papers* (2000) 44, 47–55; David Fergusson and Paul Mullen, *Childhood Sexual Abuse: An Evidence Based Perspective* (1999) 47; David Finkelhor, 'Current Information on the Scope and Nature of Child Sexual Abuse' (1994) 4 *Future of Children* 31.

who did, almost half only disclosed at least 10 years after the first event.³⁰ Similarly, an American study of 288 female child rape victims found that only 12 per cent had ever reported their assaults to authorities, and over 25 per cent had never disclosed their assault to anyone prior to the study.³¹ A national study in the USA found that of 416 women and 169 men who suffered child sexual abuse, 33 per cent and 42 per cent respectively had never disclosed it before the study, and a further 24 per cent and 14 per cent had only disclosed at least one year after the events.³² Even where a parent knows of the child's abuse, reports to police still will often not be made.³³

III LEGISLATION AND POLICY REQUIRING TEACHERS TO REPORT SUSPECTED CHILD SEXUAL ABUSE

Many jurisdictions have enacted legislation which requires members of selected professions to report suspected cases of child sexual abuse. These legislative reporting duties are a central plank of child protection policy,³⁴ aiming to identify cases of child sexual abuse which would not otherwise come to the attention of helping agencies. Disclosure is intended to facilitate child protection and, where appropriate, the provision of support and intervention services to children and families. This in turn aims to improve health, development and wellbeing, with longer-term benefits including the minimisation of future costs to children and society.³⁵

These laws, often called mandatory reporting laws, have particularly strong justifications for cases of child sexual abuse. We have already noted data about the incidence of sexual abuse, evidence about the severe consequences often caused, and evidence of victims' difficulty in disclosure and other obstacles to disclosure. In addition to this, relatively few adults who commit child sexual abuse will themselves alert authorities to it, since child sexual abuse nearly always constitutes criminal conduct and will render the confessor liable to criminal and civil liability. Finally, small but significant numbers of offenders

30 Fleming, above n 3.

31 Daniel Smith et al, 'Delay in Disclosure of Childhood Rape: Results From a National Survey' (2000) 24 *Child Abuse & Neglect* 273. Participants had an average age of 44.9.

32 Finkelhor et al, above n 3.

33 David Finkelhor, Janis Wolak and Lucy Berliner, 'Police Reporting and Professional Help Seeking for Child Crime Victims: A Review' (2001) 6(1) *Child Maltreatment* 17; David Finkelhor and Jennifer Dziuba-Leatherman, 'Children as Victims of Violence: A National Survey' (1994) 94(4) *Pediatrics* 413; David Finkelhor, 'The International Epidemiology of Child Sexual Abuse' (1994) 18(5) *Child Abuse & Neglect* 409.

34 There are connections between the goals of governments' child protection policies and the goals of criminal justice systems, but this article is primarily concerned with the role of reporting duties and child protection.

35 Ben Mathews and Donald Bross, 'Mandated Reporting is Still a Policy with Reason: Empirical Evidence and Philosophical Grounds' (2008) 32 *Child Abuse & Neglect* 511.

have large numbers of victims, so that in some cases interruption of abuse will prevent not only the continued suffering of one child, but of many.³⁶

While not adopted in all Western nations, these reporting laws have now been enacted by all jurisdictions in Australia, Canada, and the USA, and in many other nations.³⁷ Often, a professional group (such as the education profession) may implement policy-based reporting obligations applying to their members, which reinforce the legislative duty. In other cases, a profession's policy-based reporting duties will supplement a jurisdiction's weak or non-existent legislative reporting duty.³⁸ Policy-based reporting duties have the same aims as their legislative counterparts, but lack the imprimatur of Parliament. They do not contain either the full range of protections common to legislative duties (such as immunity from suit), or the legislative penalty for failure to report. However, since the policy-based duty is administered by the relevant educational authority, non-compliance may expose the subject of the duty to professional disciplinary measures.

A Key differences between States and sectors

When this study was conducted, different legislative reporting duties operated in the three States. In New South Wales, teachers were required to report a reasonable suspicion that a child had been, or was at risk of being, sexually abused or ill-treated.³⁹ In Queensland, teachers were required to report suspected child sexual abuse only where the suspected perpetrator was an employee at the school.⁴⁰ In Western Australia, there was no legislative reporting obligation.⁴¹ Hence, the study occurred in a context of one State (New South

36 See, eg, Smallbone, Marshall and Wortley, above n 29, 7–8; Stephen Smallbone and Richard Wortley, *Child Sexual Abuse: Offender Characteristics and Modus Operandi*, Trends and Issues in Crime and Criminal Justice Paper No 193, Australian Institute of Criminology (2001) <<http://www.aic.gov.au/documents/1/D/7/%7B1D7F5F5E-2B6A-44CA-B2CB-9B330AE888A8%7Dt1193.pdf>> at 4 October 2009.

37 Ben Mathews and Maureen Kenny, 'Mandatory Reporting Legislation in the USA, Canada and Australia: A Cross-Jurisdictional Review of Key Features, Differences and Issues' (2008) 13(1) *Child Maltreatment* 50.

38 Not all jurisdictions have enacted legislative reporting duties. For arguments against mandatory reporting laws, see Gary Melton, 'Mandated Reporting: A Policy Without Reason' (2005) 29 *Child Abuse and Neglect* 9; Frank Ainsworth and Patricia Hansen, 'Five Tumultuous Years in Australian Child Protection' (2006) 11 *Child and Family Social Work* 33. For responses to these arguments, see Mathews and Bross, above n 35; Brett Drake and Melissa Jonson-Reid, 'A Response to Melton Based on the Best Available Data' (2007) 31 *Child Abuse and Neglect* 343.

39 See *Children and Young Persons (Care and Protection) Act 1998* (NSW) ss 23, 27.

40 *Education (General Provisions) Act 2006* (Qld) s 365 (applying to government school teachers), and s 366 (applying to nongovernment school teachers).

41 However, legislation requiring teachers to report suspected sexual abuse commenced in WA in 2009. On 19 June 2008, the *Children and Community Services Amendment (Reporting Sexual Abuse of Children) Act 2007* (WA) was passed. The legislation, which became operational on 1 January 2009, inserted a new Division 9A into the *Children and Community Services Act 2004* (WA). The key provision is s 124B, which requires doctors, nurses, midwives, police officers and teachers to report a belief on reasonable grounds that a child has been the subject of sexual abuse on or after 1 January 2009, or is the subject of ongoing sexual abuse.

Wales) with a very broad legislative reporting duty; another (Queensland) with an extremely restricted reporting duty; and a third (Western Australia) with no legislative reporting duty.⁴²

While Western Australia had no legislative reporting duty, and Queensland had a legislative duty stripped of most practical substance,⁴³ both had broad policy-based reporting duties in government and nongovernment school sectors. Thus, while teachers in those two States were not required by legislation to report suspected child sexual abuse (in the case of Queensland, by perpetrators other than those within the school), they were under a policy-based obligation to report these suspicions. New South Wales also had complementary policy-based reporting duties applying in its government schools, and in all but one nongovernment school in the study. The policy-based reporting obligations were similar across States and sectors, but did have some notable differences, and sometimes were inconsistent with the State's legislative duty. These inconsistencies had the potential to confuse teachers unless they were trained about how to comply with the policy.⁴⁴

B Evidence about reporting knowledge and practice

Despite the social importance of the reporting duties, there is little empirical research into teachers' reporting practice in these different contexts of law and policy, or into contextual factors influencing their reporting practice. In addition, there is little evidence about the extent of teachers' knowledge of their reporting duties, and their history of reporting (and failing to report) child sexual abuse. A study in New South Wales compared the sexual abuse reporting by teachers and school counsellors in the year before and after the introduction of legislative mandatory reporting duties. Reports of suspected sexual abuse almost tripled from 98 to 286. Of these reports, substantiation rates were stable at around 60 per cent, thus leading to the disclosure of significantly more substantiated cases, as well as a slight increase in unsubstantiated cases.⁴⁵ It was concluded that an

42 Queensland's legislative provisions are not duplicated in any other Western jurisdiction in the world. They have been criticised as not being about child protection, but rather being concerned to protect schools from potential legal liability: see Ben Mathews and Kerryann Walsh, 'Queensland Teachers' New Legal Obligation to Report Child Sexual Abuse' (2004) 9(1) *Australia & New Zealand Journal of Law & Education* 25.

43 This is because Queensland's provision only applies to suspected sexual abuse by school employees, and perpetrators of child sexual abuse from this group of individuals constitute a relatively small subset of offenders.

44 Ben Mathews et al, 'Teachers' Policy-Based Duties to Report Child Sexual Abuse: A Comparative Study' (2008) 13(2) *Australia and New Zealand Journal of Law and Education* 23. Major differences concerned: one diocese in NSW not having a policy (36); only WA government school policy unequivocally requiring reports regardless of any calculation of the extent of harm to the child (37–8); policies in both WA sectors only applying to past and presently-occurring abuse, not future risk of abuse (38–9); numerous differences in whom the teacher is required to report to (39–42); different requirements imposed on Principals (42–3); and only NSW (both sectors) and the WA nongovernment sector providing clear protection of the teacher's identity as the reporter (43–4).

45 David Lamond, 'The Impact of Mandatory Reporting Legislation on Reporting Behaviour' (1989) 13 *Child Abuse & Neglect* 471.

intensive training effort assisted in the positive outcomes, and minimised the larger increases in unsubstantiated reports found in other jurisdictions after introduction of reporting obligations. Research in South Australia has indicated that a significant proportion of teachers were unaware of their reporting duty. It also found that those without any or recent training were particularly likely to have significant gaps in knowledge about their reporting duty, and were less likely to appreciate the incidence and seriousness of child abuse. However, those with recent training displayed significantly better anticipated responses to a child's disclosure of abuse.⁴⁶

Overseas studies have found that many teachers were unaware of their legal duty and lacked sufficient training about their duty and about child abuse in general. In the United States, a national study of 568 elementary and middle school teachers found that two thirds of the teachers had experienced insufficient training, lacked sufficient knowledge about how to detect and report suspected cases, and feared legal consequences as a result of reporting (showing a lack of knowledge of the legal protections they had as mandated reporters).⁴⁷ Another study of 197 teachers found a widespread belief that they had not received adequate training about child abuse and reporting.⁴⁸ Significant knowledge gaps were found in a study of 200 teachers, including lack of knowledge about how to make reports, and about the immunity from liability conferred on teachers as mandated reporters.⁴⁹ Another study of 664 teachers, school counsellors and principals found that 89 per cent were familiar with the law, but 40 per cent considered themselves insufficiently prepared to deal with recognising and reporting child abuse (with teachers more likely to fall in this group).⁵⁰ An earlier study also found significant gaps in training and knowledge of the reporting duty among teachers, concerning the reporting of all forms of child abuse.⁵¹ Another earlier study of reporters including school principals found that while a significant number of principals would refuse to report suspected child sexual abuse even if they knew it was their legal duty to do so – for reasons including perceived likelihood of further harm and little benefit to the child – teachers were more likely to report suspected sexual abuse than other types of abuse, and perceived sexual abuse as particularly serious.⁵²

46 Russell Hawkins and Christy McCallum, 'Mandatory Notification Training for Suspected Child Abuse and Neglect in South Australian Schools' (2001) 25 *Child Abuse & Neglect* 1603.

47 Nadine Abrahams, Kathleen Casey and Deborah Daro, 'Teachers' Knowledge, Attitudes and Beliefs About Child Abuse and its Prevention' (1992) 16 *Child Abuse & Neglect* 229.

48 Maureen Kenny, 'Child Abuse Reporting: Teachers' Perceived Deterrents' (2001) 25 *Child Abuse & Neglect* 81.

49 Maureen Kenny, 'Teachers' Attitudes Toward and Knowledge of Child Maltreatment' (2004) 28 *Child Abuse & Neglect* 1311.

50 Wesley Crenshaw, Lucinda Crenshaw and James Lichtenberg, 'When Educators Confront Child Abuse: An Analysis of the Decision to Report' (1995) 19 *Child Abuse & Neglect* 1095.

51 Anne Reiniger, Esther Robinson and Margaret McHugh, 'Mandated Training of Professionals: A Means for Improving Reporting of Suspected Child Abuse' (1995) 19(1) *Child Abuse & Neglect* 63.

52 Gail Zellman, 'Child Abuse Reporting and Failure to Report Among Mandated Reporters' (1990) 5 *Journal of Interpersonal Violence* 3.

IV THIS STUDY

The broad aim of this study was to explore the outcomes produced by different legislative and policy contexts regarding the reporting by teachers of child sexual abuse, and to explore the extent and probable causes of both failure to report, and unnecessary reporting.⁵³ The more specific aims of this part of the study were to gather evidence concerning: (a) teachers' knowledge of the legislative reporting duty; (b) teachers' knowledge of the policy-based reporting duty; (c) teachers' actual past reporting practice; and (d) teachers' anticipated future reporting practice. In this article, we present findings in the form of descriptive statistics.

A Method

The three participating States were purposively selected because of their different legislative reporting obligations. Primary schools catering for children in the age range of 5–12 years were targeted, both because of the prevention focus of the study, and because most sexual abuse is perpetrated against children in this age group.⁵⁴ Schools were classified into government and nongovernment schools, in accordance with Australian Bureau of Statistics national data classifications. To ensure representativeness, a proportionate sample of government and nongovernment schools across rural and urban areas was generated from master lists of schools obtained from school authorities.⁵⁵

Dillman's tailored design method was followed in designing a cross-sectional (one point in time) self-administered teacher survey.⁵⁶ Informed by empirical

53 In a forthcoming article, the authors report on this broad aim, using multivariate analyses to identify associations between factors tending to produce different types of reporting behaviour.

54 While different studies have produced different findings about the ages at which children are most often sexually abused, some of these do not distinguish between unwanted sexual experiences between peers, and unwanted sexual experiences perpetrated by adults or persons in clearly defined positions of power regarding the child. For our purposes, which focus not on peer-to-peer acts, but on sexual abuse inflicted on children by adults or persons in clearly defined positions of power regarding the child, we are proceeding on the basis that most such abuse is inflicted on children under 12. In support of this departure point, see the national study conducted in the USA by David Finkelhor, above n 3, which found that of 416 women and 169 men reporting child sexual abuse, 78 per cent and 69 per cent respectively were aged 12 or under, and the median ages were 9.6 and 9.9 respectively. See also, Jessie Anderson et al, 'The Prevalence of Childhood Sexual Abuse Experiences in a Community Sample of Women' (1993) 32 *Journal of the American Academy of Child and Adolescent Psychiatry* 911. Two Australian studies found slightly higher mean ages at first episode: 10 years (Fleming, above n 3) and 10.8 years (Dinwiddie et al, above n 3) respectively.

55 Government schools are administered by the relevant Department of Education in each State, and comprise approximately 70 per cent of schools in each State; nongovernment schools, such as Catholic schools and independent schools, are not administered by those departments: Australian Bureau of Statistics, 'More students and more teachers in Australian Schools over the last decade: ABS' (Press Release, 28 February 2008) <<http://www.abs.gov.au/ausstats/abs@.nsf/mediareleasesbytitle/84829036269D0245CA2573FD00112545?OpenDocument>> at 9 September 2009.

56 Don Dillman, *Mail and Internet Surveys: The Tailored Design Method* (2nd ed, 2007).

research on child abuse reporting,⁵⁷ we developed a survey instrument named the *Teacher Reporting Questionnaire* ('TRQ'). The TRQ had eight parts, capturing information about demographics; workplace role; education and training; reporting history; attitudes about reporting; knowledge of reporting duty under policy; knowledge of reporting duty under legislation; and responses to scenarios. Informed by analysis of State legislation and industry policies, the parts concerning knowledge of legislation and policy were custom-made to incorporate jurisdictional differences. The purpose of the scenarios was to explore teachers' anticipated reporting behaviour when presented with situations which may involve abuse, and the effect on reporting behaviour of a known duty to report, particularly where abuse was suspected but not reported. The design of the scenarios was informed by previous empirical studies and evidence about the indicators of child sexual abuse. The TRQ was pilot tested and refined in a multi-stage process involving an expert review panel, structured focus group, cognitive interviews, and field testing with a convenience sample of 21 teachers from a Queensland nongovernment school.

Ethical approval for the study was granted by the University Human Research Ethics Committee.⁵⁸ Approval to conduct the research was also sought from 20 separate government and nongovernment school authorities. All granted approval except the New South Wales Department of Education and Training. Participants therefore were from both government and nongovernment schools in Queensland and Western Australia, but only from nongovernment schools in New South Wales. This resulted in five groups of teachers from five sectors participating in the study: New South Wales nongovernment schools ('NSWNGS'); Queensland government schools ('QGS'); Queensland nongovernment schools ('QNGS'); Western Australian government schools ('WAGS'); and Western Australian nongovernment schools ('WANGS').

Participating schools were posted packages of questionnaires. A contact person at each school was asked to distribute these to teachers, and to collect and return completed questionnaires. Individual teachers were given an information sheet about the research.⁵⁹ The sensitive nature of the research was taken seriously and participants were provided with a list of free counselling services should they experience distress. Teachers returned 470 completed questionnaires, representing a return rate ranging from 50.0 per cent to 66.3 per cent across the 5

57 Crenshaw, Crenshaw and Lichtenberg, above n 50; Hawkins and McCallum, above n 46; Ben Mathews et al, 'Queensland Nurses' Attitudes Towards and Knowledge of the Legislative Duty to Report Child Abuse and Neglect: Results of a State-Wide Survey' (2008) 16(2) *Journal of Law and Medicine* 288; Kerryann Walsh et al, 'Case, Teacher and School Characteristics Influencing Teachers' Detection and Reporting of Child Physical Abuse and Neglect: Results from an Australian Survey' (2008) 32(10) *Child Abuse & Neglect* 983; Maureen Kenny, above n 49; Gail Zellman, 'Report Decision-Making Patterns Among Mandated Child Abuse Reporters' (1990) 14 *Child Abuse & Neglect* 325.

58 University Human Research Ethics Committee Reference Number 0700000298.

59 This explained its aims, acknowledged that participation was voluntary and anonymous, advised that they could withdraw from the study at any time before submitting their questionnaire, and affirmed that their responses were confidential.

sectors: an overall return rate of 55.3 per cent. The number of surveys sent and returned, and the resulting return rates are displayed in Table 1.

Table 1: Surveys sent, surveys returned, and return rates by sector

State	Sector	Surveys sent	Surveys returned	Response rate (%)
NSW	NSWNGS	154	84	54.5%
Qld	QGS	241	121	50.2%
	QNGS	200	123	61.5%
WA	WAGS	166	83	50.0%
	WANGS	89	59	66.3%
Totals		850	470	55.3% overall

B Results

The majority of respondents were female, ranging from 79.3 per cent (QGS) to 91.6 per cent (WAGS) of the respective groups. The mean age of teachers varied from 40.35 (QNGS) to 44.54 years (WAGS). These features closely reflect the overall primary-teaching workforce profile.⁶⁰ Across sectors, respondents were lower primary teachers (39.0 per cent to 56.6 per cent), upper primary teachers (19.8 per cent to 26.0 per cent), principals and deputy or assistant principals (8.1 per cent to 19.8 per cent), or in specialist roles such as school counsellors (10.8 per cent to 25.4 per cent).

Respondents had engaged in different types of training about child sexual abuse. Levels of participation in preservice training were generally lower, with 14.0 per cent (QGS), 22.0 per cent (WANGS), 28.9 per cent (WAGS), 37.4 per cent (QNGS) and 42.9 per cent (NSWNGS) of teachers having participated in preservice training related specifically to child sexual abuse. Levels of participation in inservice training related to child abuse and neglect generally were higher, with WAGS highest (86.7 per cent). Similar levels were evident for NSWNGS (64.3 per cent), QGS (65.3 per cent) and QNGS (64.2 per cent). The lowest levels were found for WANGS (23.7 per cent). In each sector, on average, teachers over the course of their careers had undertaken a total of between 2.5 and 4.8 hours of inservice training related to child abuse and neglect generally.

60 Australian Bureau of Statistics, above n 55, reporting females comprising primary teaching staff in proportions of 81.6 per cent (NSW), 79.7 per cent (Qld) and 80.0 per cent (WA). In Queensland, the mean age for primary teachers is 42 years: Department of Education and Training and the Arts, *Annual Report 2007–08* (2008) 135, <<http://deta.qld.gov.au/reports/annual/07-08/pdf/full-deta-annual-report-08.pdf>> at 9 September 2009. Most respondents held an undergraduate diploma or bachelor-level qualification. NSWNGS teachers were most highly qualified with 32.1 per cent having postgraduate qualifications, but this figure was not dramatically higher than the figure in the other sectors.

1 *Teachers' knowledge of the legislative reporting duty*

Teachers were asked a series of questions about their legislative reporting duty. This series of questions involved respondents from QGS, QNGS and NSWNGS.⁶¹

(a) Sufficient familiarity with the legislative reporting duty to answer questions about it

To prevent undesirable distortion of the data, teachers were first asked if they were sufficiently familiar with their reporting duty under the legislation to answer questions about it. Table 2 shows the number and percentage of teachers in Queensland and New South Wales, by sector, who possessed sufficient familiarity.

Table 2: Teachers' familiarity with legislation, by State and sector

Sector/State	Sufficiently familiar (number / %)	Not sufficiently familiar (number / %)	Total (number / %)
NSWNGS (and total)	62 (74.7%)	21 (25.3%)	83 (100.0%)
QGS	57 (48.3%)	61 (51.7%)	118 (100.0%)
QNGS	54 (43.9%)	69 (56.1%)	123 (100.0%)
Qld total	111 (46.1%)	130 (53.9%)	241 (100.0%)
Total	173 (53.4%)	151 (46.6%)	324 (100.0%)

Slightly more than half of the teachers overall (53.4 per cent) indicated they were sufficiently familiar with the legislation to answer questions about specific aspects of the legislative reporting duty. New South Wales teachers self-reported more familiarity with the legislation (74.7 per cent) than their Queensland counterparts (46.1 per cent). There were similar levels of familiarity in QGS (48.3 per cent) and QNGS (43.9 per cent) sectors. Teachers who responded that they were not sufficiently familiar with the legislation to answer further questions about it were directed to proceed to the next section of the questionnaire without answering the questions about the legislation.

(b) Knowledge of content of the legislative reporting duty

The questions about the legislation focused on key features of the reporting duty. The questions concerned whether the reporting duty applied only to cases of sexual abuse suspected to have been inflicted by a confined class of perpetrator or to any perpetrator (Suspected perpetrator); whether the teacher had

⁶¹ The TRQ instruments for Western Australia did not include this section as no legislation existed at the time of the study.

to report when having certainty or only reasonable suspicion (State of mind); whether the duty to report only applied if the harm thought to have been caused was significant (Extent of harm); whether the duty applied only to past sexual abuse or also to risk of future abuse (Past/future); to whom the teacher should make the report (Report destination); when the report must be made (Time of report); how the report must be made (Oral/written report); whether the reporter's identity is protected by the legislation from disclosure (Identity protected); the penalty for failing to report (Penalty); and whether the teacher could be held liable for a report made in good faith that turned out to be unsubstantiated (Liability). Table 3 details the number and percentage of correct and incorrect answers to each question, by State and sector.

Table 3: Number and percentage of correct and incorrect responses to each question regarding the knowledge of legislation, by State and sector

Question	State and sector							
	NSWNGS and total		QGS		QNGS		Qld total	
	Correct (%)	Incorrect (%)	Correct (%)	Incorrect (%)	Correct (%)	Incorrect (%)	Correct (%)	Incorrect (%)
Suspected perpetrator	61 (98.4%)	1 (1.6%)	0 (0%)	57 (100%)	1 (1.9%)	53 (98.1%)	1 (0.9%)	110 (99.1%)
State of mind	59 (95.2%)	3 (4.8%)	57 (100%)	0 (0%)	52 (96.3%)	2 (3.7%)	109 (98.2%)	2 (1.8%)
Extent of harm	16 (25.8%)	46 (74.2%)	51 (89.5%)	6 (10.5%)	43 (81.1%)	10 (18.9%)	94 (85.5%)	16 (14.5%)
Past or future/both	48 (77.4%)	14 (22.6%)	42 (73.3%)	15 (26.3%)	38 (71.7%)	15 (28.3%)	80 (72.7%)	30 (27.3%)
Report destination	12 (19.4%)	50 (80.6%)	47 (82.5%)	10 (17.5%)	45 (83.3%)	9 (16.7%)	92 (82.9%)	19 (17.1%)
Time of report	53 (85.5%)	9 (14.5%)	46 (80.7%)	11 (19.3%)	35 (64.8%)	19 (35.2%)	81 (73.0%)	30 (27.0%)
Oral/written report	50 (80.6%)	12 (19.4%)	31 (54.4%)	26 (45.6%)	29 (53.7%)	25 (46.3%)	60 (54.1%)	51 (45.9%)
Identity protected	43 (69.4%)	19 (30.6%)	41 (71.9%)	16 (28.1%)	31 (57.4%)	23 (42.6%)	72 (64.9%)	39 (35.1%)
Penalty	4 (6.5%)	58 (93.5%)	5 (8.8%)	52 (91.2%)	2 (3.7%)	52 (96.3%)	7 (6.3%)	104 (93.7%)
Liability	39 (62.9%)	23 (37.1%)	33 (57.9%)	24 (42.1%)	33 (61.1%)	21 (38.9%)	66 (59.5%)	45 (40.5%)

According to the legislation, the correct responses for Queensland teachers were that the reporting duty applies: only where the suspected perpetrator is a school staff member; where there is reasonable suspicion; regardless of the extent of harm; to suspected past abuse only; with the report to be made immediately, in writing, to the principal or the principal's supervisor (if a government school

teacher) or to the principal or a director of the school's governing body (if a nongovernment school teacher); with the reporter's identity protected;⁶² with a penalty for failure to report of A\$1500;⁶³ and with immunity from liability if the report was not substantiated.

Queensland teachers' responses showed that only one teacher answered correctly regarding the identity of the suspected perpetrator. Nearly all (98.2 per cent) answered correctly regarding the state of mind, and most (85.5 per cent) teachers answered correctly regarding the extent of harm required to activate the duty. About one quarter (27.3 per cent) answered incorrectly concerning the temporal classes the duty applies to. A small proportion (17.1 per cent) answered incorrectly regarding the report destination. While about one quarter (27 per cent) answered incorrectly concerning when the report must be made, almost half (45.9 per cent) were incorrect about the requirement that reports be made in writing. Over one third (35.1 per cent) did not know their identity was protected. Almost all teachers did not know the statutory penalty (93.7 per cent), and four in ten (40.5 per cent) did not know they were immune from liability. There were three areas where knowledge differences between government and nongovernment schools appeared especially prominent in the Queensland sectors: the extent of harm required to activate the duty (89.5 per cent QGS; 81.1 per cent QNGS), when the report must be made (80.7 per cent QGS; 64.8 per cent QNGS), and the protection of the reporter's identity (71.9 per cent QGS; 57.4 per cent QNGS).

For New South Wales teachers, according to the legislation, the correct responses were that the reporting duty applies: to all cases regardless of the identity of the suspected perpetrator; where there is reasonable suspicion; only when 'concerned for the child's welfare' (which implicitly allows consideration of the extent of harm); to both suspected past abuse or risk of future abuse; with the report to be made as soon as possible, in writing, to the Department of Community Services; with the reporter's identity protected; with a penalty for failure to report of \$22 000; and with immunity from liability if the report is not substantiated.⁶⁴

Responses of the New South Wales teachers showed that all but one (98.4 per cent) answered correctly regarding the identity of the suspected perpetrator, and nearly all (95.2 per cent) answered correctly regarding the state of mind. Three quarters (74.2 per cent) answered incorrectly regarding the extent of harm required to activate the duty, but just over three quarters (77.4 per cent) answered correctly regarding the temporal classes to which the duty applies. Only one fifth (19.4 per cent) answered correctly about the report destination. There were very high levels of knowledge about both when to report (85.5 per cent) and that the

62 Although this is not evident from the *Education (General Provisions) Act 2006* (Qld) provisions, but is the effect of related provisions in the *Child Protection Act 1999* (Qld) s 186.

63 At the time of the study. This has since increased to \$2000 due to an increase in the size of a penalty unit from \$75 to \$100: *Penalties and Sentences Act 1992* (Qld) s 5(1)(c).

64 To be amended in 2009 by the *Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009* (NSW) Schedule 1 cl 1]–[2] and [7], when this legislation commences. These provisions amend the previous legislation, requiring only reports of cases of significant harm, and omitting the penalty.

report must be in writing (80.6 per cent). However, almost one third (30.6 per cent) did not know their identity as the reporter was protected, almost all (93.5 per cent) did not know the statutory penalty, and over one third (37.1 per cent) did not know they were immune from liability.

(c) Total knowledge of legislation across entire sample

Table 4 details the means and standard deviations for the total knowledge of legislation scores, for each sector and State, for all teachers in these three sectors. Those who indicated they did not have sufficient familiarity with the legislation to answer questions about it were allocated a score of 0.

Table 4: Knowledge of legislation score, by State and sector: total, mean and standard deviation⁶⁵

State/Sector	Total legislation knowledge				
	Number	Minimum	Maximum	Mean	Standard deviation
NSWNGS (and NSW total)	84	0/9	9/9	4.07	2.64
QGS	121	0/9	9/9	2.58	2.86
QNGS	123	0/9	9/9	2.19	2.69
Qld total	244	0/9	9/9	2.38	2.78

Recalling that significant numbers of respondents did not know enough about the legislation to answer questions about it, then overall, total knowledge scores were relatively low. NSWNGS teachers had higher knowledge than all Queensland teachers. QGS teachers had slightly higher knowledge than their QNGS counterparts. For Queensland teachers, almost universal lack of knowledge about the provisions regarding suspected perpetrators drove the Queensland data downwards by a factor of one point. Among those who did answer questions about the content of the legislative duty, the very low proportion of correct answers regarding the penalty compounded this effect. Every other question was answered correctly by at least half those respondents in each sector who had declared they had sufficient knowledge to answer further questions. Among QGS teachers, only one question was almost always answered correctly (state of mind), and only three questions were answered correctly by over 80 per cent (those regarding extent of harm, report destination and when to report); and two more were only answered correctly by a bare majority (written report and liability). For QNGS teachers, only one question was answered almost always correctly (state of mind); only two questions were answered correctly by

⁶⁵ This scale reports results for nine out of ten questions that were included in the Queensland and New South Wales versions of the TRQ. One question was excluded from the analysis because the legislative provision in Queensland was not as clear as that in NSW, making it unreasonable to compare teacher knowledge about that item.

over 80 per cent of teachers (those regarding extent of harm and report destination); and two more were only answered correctly by a bare majority (written report and identity protected).

For NSWNGS teachers, almost universal lack of knowledge about the penalty drove the data downwards by a factor of one point. Among those answering further questions, two questions were almost always answered correctly (suspected perpetrator and state of mind). As well, two other questions were answered correctly by over 80 per cent of these respondents (when to report and written report). Two further questions attracted very low correct response rates of about one fifth and one quarter (report destination and extent of harm respectively).

2 Teachers' knowledge of the policy-based reporting duty

Teachers were asked a series of questions about their policy-based reporting duty. This series of questions involved teacher respondents from all five sectors.

(a) Awareness of existence of a policy-based reporting duty, and sufficient familiarity with the policy to answer questions about it

To prevent distortion of the data, teachers were first asked if they were aware of the existence of a formal school policy about reporting child sexual abuse, and if so, whether they were familiar enough with this policy to answer questions about it. Tables 5 and 6 show these results.

Table 5: Teachers' awareness of the existence of a formal school policy⁶⁶

State/sector	Aware of a school policy (number / %)	Not aware, or unsure, of a school policy (number / %)	Total (number / %)
NSWNGS and total	67 (80.7%)	16 (19.3%)	83 (100.0%)
QGS	101 (84.9%)	18 (15.1%)	119 (100.0%)
QNGS	87 (71.3%)	35 (28.7%)	122 (100.0%)
Qld total	188 (78.1%)	53 (21.9%)	241 (100.0%)
WAGS	65 (78.3%)	18 (21.7%)	83 (100.0%)
WANGS	14 (23.7%)	45 (76.3%)	59 (100.0%)
WA total	79 (55.7%)	63 (44.3%)	142 (100.0%)
Total all sectors	334 (71.7%)	132 (28.3%)	466 (100.0%)

⁶⁶ Four teachers did not respond.

Table 6: Teachers who stated awareness of existence of a school policy, who were sufficiently familiar with the policy to answer questions about it, by State and sector⁶⁷

State/sector	Sufficiently familiar (number)	Not sufficiently familiar (number)
NSWNGS and total	48	18
QGS	48	53
QNGS	52	35
Qld total	100	88
WGS	38	27
WANGS	7	7
WA total	45	34
Total all sectors	193	140

Results showed that across the entire sample, 71.7 per cent of respondents were aware of the existence of a formal school policy about reporting child sexual abuse, while 28.3 per cent were unaware or unsure of the existence of the policy. There were, however, variations between States. New South Wales and Queensland teachers had similar levels of awareness with 80.7 per cent and 78.1 per cent of respondents respectively indicating awareness, however far fewer Western Australian teachers (55.7 per cent) possessed this awareness. There were also sector variations, with generally higher rates of awareness in government school sectors. Teachers from QGS had the highest awareness of the existence of school policy (84 per cent), higher than their nongovernment counterparts in both NSW (80.7 per cent) and Queensland (71 per cent). Teachers from WAGS also showed high levels of awareness of the existence of policy (78 per cent). In WANGS, only 23 per cent of teachers knew of the existence of the policy.

Of the teachers who knew of the existence of a school policy, 58 per cent were sufficiently familiar with the policy to answer questions about it. There were variations by State, with New South Wales teachers reporting more familiarity (72.7 per cent) than their Western Australian (57 per cent) and Queensland (53.2 per cent) counterparts. By sector, NSWNGS teachers had the highest level of familiarity with the policy (48/66) followed by QNGS (52/87), WAGS (38/65), QGS (48/101) and WANGS (7/14).

Of all participants, considering both awareness of the existence of policy and sufficient familiarity to answer questions about it, 48 out of 83 (58 per cent) NSWNGS participants had both awareness and familiarity. This compares with 38 out of 83 (45 per cent) from WAGS, 52 out of 122 (42 per cent) from QNGS, 48 out of 119 (40 per cent) from QGS, and 7 out of 59 (11 per cent) from WANGS.

⁶⁷ One teacher did not respond.

Teachers who responded that they either did not know their school had a policy, or that they knew of such a policy but were not sufficiently familiar with the policy to answer further questions about it, were directed to proceed to the next section of the questionnaire without answering the questions about policy.

(b) Knowledge of content of the policy-based reporting duty

Teachers who indicated both policy awareness and sufficient familiarity to answer questions were asked a series of questions about the content of the reporting duty in the policy. These questions were similar in nature to those about the legislative reporting duty, concerning whether the policy-based duty applied to all or only limited suspected perpetrators (Suspected perpetrator); what state of mind is needed to enliven the duty (State of mind); if a certain extent of harm was required to activate the duty (Extent of harm); whether the duty applied only to past sexual abuse or also to risk of future abuse (Past/future); and to whom the teacher should report (Report destination).⁶⁸ Table 7 details the number and percentage of correct and incorrect answers to each question, by State. Table 8 shows results by sector.

Table 7: Number and percentage of the correct and incorrect responses to each question regarding the knowledge of policy, by State

Question	State					
	NSW		Qld		WA	
	Correct (Number / %)	Incorrect (Number / %)	Correct (Number / %)	Incorrect (Number / %)	Correct (Number / %)	Incorrect (Number / %)
Suspected perpetrator	48 (100.0%)	0 (0.0%)	97 (97.0%)	3 (3.0%)	44 (100.0%)	0 (0.0%)
State of mind	46 (95.8%)	2 (4.2%)	96 (96.0%)	4 (4.0%)	44 (100.0%)	0 (0.0%)
Extent of harm	15 (31.2%)	33 (68.8%)	10 (10.1%)	89 (89.1%)	38 (86.4%)	6 (13.6%)
Past/future or both	34 (73.9%)	12 (26.1%)	68 (68.0%)	32 (32.0%)	8 (18.2%)	36 (81.8%)
Report destination	43 (89.6%)	5 (10.4%)	91 (91.0%)	9 (9.0%)	36 (81.8%)	8 (18.2%)

⁶⁸ Teachers were also asked if the reporter's identity is protected from disclosure, but results for this question were excluded from analysis due to ambiguities in policy documents about whether identity was, or was not, so protected.

Table 8: Number and percentage of correct and incorrect responses to each question regarding the knowledge of policy, by sector

Question	Sector									
	NSWNGS		QGS		QNGS		WAGS		WANGS	
	Correct (%)	Incorrect (%)	Correct (%)	Incorrect (%)	Correct (%)	Incorrect (%)	Correct (%)	Incorrect (%)	Correct (%)	Incorrect (%)
Suspected perpetrator	48 (100.0)	0 (0.0)	47 (97.9)	1 (2.1)	50 (96.2)	2 (3.8)	38 (100.0)	0 (0.0)	6 (100.0)	0 (0.0)
State of mind	46 (95.8)	2 (4.2)	48 (100.0)	0 (0.0)	48 (92.3)	4 (7.7)	38 (100.0)	0 (0.0)	6 (100.0)	0 (0.0)
Extent of harm	15 (31.2)	33 (68.8)	3 (6.2)	45 (93.8)	7 (13.7)	44 (86.3)	33 (86.8)	5 (13.2)	5 (83.3)	1 (16.7)
Past/future	34 (73.9)	12 (26.1)	34 (70.8)	14 (29.2)	34 (65.4)	18 (34.6)	6 (15.8)	32 (84.2)	2 (33.3)	4 (66.7)
Report destination	43 (89.6)	5 (10.4)	42 (87.5)	6 (12.5)	49 (94.2)	3 (5.8)	32 (84.2)	6 (15.8)	4 (66.7)	2 (33.3)

According to the policy, the correct responses for Queensland teachers were that the reporting duty applies: to all cases regardless of the identity of the suspected perpetrator; where there is reasonable suspicion; only where there is suspected significant harm or risk of significant harm; to both suspected past abuse and risk of future abuse; with the report to be made to the principal (if a government school teacher) or to the principal or a director of the school's governing body (if a nongovernment school teacher). Responses from the Queensland teachers showed almost universal accurate knowledge regarding the suspected perpetrator (97.0 per cent), state of mind (96.0 per cent), and very high knowledge regarding report destination (91.0 per cent). Over two thirds (68.0 per cent) were correct about past/future abuse. In contrast, only 10.1 per cent answered correctly that the duty only applies to cases of suspected significant harm.

For New South Wales teachers, according to the policy, the correct responses were that the reporting duty applies: to all cases regardless of the identity of the suspected perpetrator; where there is reasonable suspicion; only when 'concerned for the child's welfare' (which implicitly allows consideration of the extent of harm); to both suspected past abuse and risk of future abuse; with the report to be made to the principal or an executive officer of the school's governing body. Responses from the New South Wales teachers showed universal correct knowledge of the suspected perpetrator (100 per cent), and almost universal correct knowledge (95.8 per cent) about the state of mind. There was a very high level of knowledge (89.6 per cent) regarding report destination, and reasonably high knowledge (73.9 per cent) about the duty applying to both past abuse and suspected future abuse. In contrast, under one third (31.2 per cent) knew the duty technically only applied where the harm suspected created in the teacher a concern for the child's welfare (extent of harm).

For Western Australian teachers, according to the policy, the correct responses were that the reporting duty applies: to all cases regardless of the identity of the suspected perpetrator; where there is reasonable suspicion;⁶⁹ only where there is suspected significant harm or risk of significant harm; only to suspected past or presently-occurring abuse (not to risk of future abuse); with the report to be made to the principal or the District director (if a government school teacher) or to the principal or the principal's supervisor (if a nongovernment school teacher). Responses from Western Australian teachers showed universally correct knowledge (100 per cent) regarding the suspected perpetrator and the state of mind (100 per cent), and very high levels of knowledge about the extent of harm (86.4 per cent) and report destination (81.8 per cent). In contrast, a very high proportion (81.8 per cent) answered incorrectly regarding the requirement to only report suspected past or presently-occurring abuse.

(c) *Total knowledge of policy across entire sample*

Table 9 details the means and standard deviations for the total knowledge of policy scores, for each State and sector. Those who indicated they did not have sufficient familiarity with the policy to answer questions about it were allocated a score of 0.

Table 9: Knowledge of policy score, by State and sector: total, mean and standard deviation⁷⁰

State/Sector	Total policy knowledge				
	Number	Minimum	Maximum	Mean	Standard deviation
NSWNGS (and NSW total)	84	0/5	5/5	2.33	1.95
QGS	121	0/5	5/5	1.73	1.85
QNGS	123	0/5	5/5	1.53	1.86
Qld total	244	0/5	5/5	1.63	1.85
WAGS	83	0/5	5/5	1.77	1.98
WANGS	59	0/5	5/5	0.44	1.24
WA total	142	0/5	5/5	1.22	1.83

Recalling that significant numbers of respondents did not know enough about the policy to answer questions about it, policy knowledge scores were relatively low. Teachers from the NSW nongovernment sector held the highest levels of policy knowledge overall. There were generally higher mean knowledge scores

69 The policies in Western Australia sometimes use terms requiring that the teacher have a 'concern', which in this context is synonymous with reasonable suspicion.

70 Here, results out of five questions are reported. There was one more question in the TRQ, but this was excluded from analysis because of the possibility of more than one correct answer, due to ambiguous terms in policy documents.

for government school sectors. Overall, however, NSWNGS displayed higher knowledge, and WANGS displayed lower knowledge (although this sector had very few respondents). Almost universal lack of knowledge about some items drove the results down by almost an entire point: for QGS, QNGS, and NSWNGS, concerning the extent of harm; and for both WAGS and WANGS, concerning the requirement to only report suspected past or presently-occurring cases. Among those who answered further questions about the duty, there were generally high levels of knowledge.

3 Teachers' actual past reporting practice

(a) Past reporting practice

Teachers were asked if, in their capacity as a primary school staff member, they had ever reported child sexual abuse, and if so, how many cases. They were also asked if they had ever suspected child sexual abuse but had decided not to report it. Four categories of reporting practice were identified: those who, when suspecting child sexual abuse, had sometimes reported but sometimes not reported; those who when suspecting, had always reported; those who when suspecting had never reported; and those who had neither suspected nor reported. Table 10 details responses from the entire sample. Table 11 provides results by State and sector.

Table 10: Past reporting practice for whole sample⁷¹

Reporting practice	Number	Percentage
When suspected, sometimes reported and sometimes not reported	25	5.3
When suspected, always reported	87	18.5
When suspected, never reported	33	7.0
Had never suspected nor reported	321	68.3
Total	470	100.0

Table 11: Past reporting practice by sector and State

Group of reporter	NSWNGS and total	QGS	QNGS	Qld total	WAGS	WANGS	WA total	Sample total
When suspected, sometimes reported and sometimes not reported	3 (3.6%)	9 (7.4%)	3 (2.4%)	12 (4.9%)	6 (7.4%)	4 (6.8%)	10 (7.0%)	25 (5.3%)

⁷¹ Data were missing from four respondents (0.9 per cent): one from QNGS, one from NSWNGS, and two from WAGS.

When suspected, always reported	20 (23.8%)	22 (18.2%)	22 (17.9%)	44 (18.0%)	17 (21.0%)	6 (10.2%)	23 (16.2%)	87 (18.6%)
When suspected, never reported	4 (4.8%)	6 (5.0%)	10 (8.1%)	16 (6.6%)	9 (11.1%)	4 (6.8%)	13 (9.2%)	33 (7.1%)
Had never suspected nor reported	56 (66.7%)	84 (69.4%)	87 (70.7%)	171 (70.1%)	49 (60.5%)	45 (76.3%)	94 (66.2%)	321 (68.9%)
Total	83 (100.0%)	121 (100.0%)	123 (100.0%)	244 (100.0%)	81 (100.0%)	59 (100.0%)	140 (100.0%)	466 (100.0%)

Responses showed that over two thirds (321/470: 68.3 per cent) of teachers had never suspected child sexual abuse nor reported it. Almost one third (145/470: 31.7 per cent) had suspected child sexual abuse at some point in their career. Of these 145 teachers who had suspected child sexual abuse at some time, 87 (60.0 per cent) stated that they had always reported their suspicions, whereas 33 (22.8 per cent) had never reported their suspicions, and 25 (17.2 per cent) had reported sometimes but not always.

At State and sector level, the frequency of teachers who had never suspected child sexual abuse nor reported it was roughly similar at around 59.0–76.3 per cent. Regarding the incidence of teachers who had, at some time, suspected child sexual abuse, frequencies between States were similar, ranging from 29.5 per cent (Queensland: 72/244) to 32.0 per cent (WA: 46/140). There was some variation between sectors: while QGS (30.6 per cent), QNGS (29.3 per cent) and NSWNGS (33.3 per cent) were similar, WAGS was somewhat higher (39.5 per cent) and WANGS somewhat lower (23.7 per cent).

Of the 145 teachers who had, at some time, suspected child sexual abuse, there was variation between States in frequency of always reporting when suspecting abuse; with NSWNGS having the highest frequency (20/27: 74 per cent), followed by Queensland (44/72: 61 per cent), and Western Australia (23/46: 50 per cent). Of these 145, there were also differences in frequencies of never reporting when suspecting abuse: NSWNGS had the lowest frequency (4/27: 14.8 per cent); Queensland had a higher frequency (16/72: 22.2 per cent) and WA was higher still (13/46: 28.3 per cent).

Of the entire sample, by State and sector, New South Wales teachers also had a lower incidence of never reporting when suspecting abuse (4.8 per cent) than Queensland teachers (6.6 per cent) and Western Australian teachers (9.2 per cent). Of those who had never reported when suspecting abuse, no pattern could be seen by sector: QGS teachers (5.0 per cent) had a lower frequency than QNGS teachers (8.1 per cent), but WAGS teachers had a higher frequency (10.8 per cent) than WANGS teachers (6.8 per cent). There were similar frequencies by State and sector of sometimes reporting but not always reporting, ranging from 2.4 per cent to 7.4 per cent by sector.

(b) Effect of known duty to report on past failure to report suspicion

Of the entire sample, 145 respondents had, at some time in their career, suspected child sexual abuse. Of these, 58 had failed to report at least one such suspicion. These 58 teachers were asked whether in retrospect, they would have reported those suspicions if they had have known at the time that legislation or policy required them to report.⁷² Table 12 shows the results.

Table 12: Whether decision not to report would be different if at the time the teacher knew of a duty to report, either in legislation or policy

Known existence of duty to report in either legislation or policy, or both: effect on whether decision not to report would be different	Number	Percentage
Yes, whether duty was in legislation or policy	35	60.3
Yes, if duty was in legislation, but no if duty was in policy	7	12.1
No, if duty was in legislation, but yes if duty was in policy	4	6.9
No, whether duty was in legislation or policy	11	19.0
Missing	1	1.7
Total	58	100.0

Results showed that over half (60.3 per cent) would have changed their decision, and therefore would have reported their suspicion, if they had have known they were obliged by either legislation or policy to report their suspicion. A further 12.1 per cent and 6.9 per cent would also change their decision, and therefore would have reported their suspicion, if they had have known they were obliged to report under legislation (but not policy), or policy (but not legislation), respectively. Combined, almost four in five (79.3 per cent) would have reported a suspicion that they did not actually report, if at the time they had been aware of duties to report co-existing in both legislation and policy. In contrast, almost one fifth (19.0 per cent) of these teachers would not have changed their decision not to report even if they had have known they were obliged to report under either legislation, policy or both.

4 Teachers' anticipated future reporting practice

In this section, teachers were presented with six scenarios about child sexual abuse. The scenarios were developed to assess reporting effectiveness: both failure to report cases that a knowledgeable teacher would report, and unnecessary reporting of cases that a knowledgeable teacher would not report. The purpose was to explore anticipated reporting practice, and the effect of a known duty to report in cases where abuse was suspected but not reported.

⁷² Teachers were also asked about the relative significance of a number of designated factors in their decisions not to report. Analysis of the significance and influence of these reasons for failure to report is conducted in a forthcoming article using multivariate statistics.

Three categories of scenarios were developed, with two scenarios in each category.⁷³ Two scenarios were classed as ‘Category 1 cases’ which had clear indications of sexual abuse, and which should always be reported by a reasonably knowledgeable teacher. Two were ‘Category 2 cases’ which had less clear indications of sexual abuse, but which still contained sufficiently strong evidence of sexual abuse that they should always be reported by a reasonably knowledgeable teacher. Two were ‘Category 3 cases’ which had no clear indications of sexual abuse, instead containing evidence of developmentally normal childhood activity or innocent conduct by a child’s guardian, such that these cases should never be reported by a reasonably knowledgeable teacher. Teachers were asked a series of questions after each scenario: whether they had reasonable grounds for suspecting sexual abuse; whether policy required a report; whether legislation required a report; whether they would actually report; and, if they would not report, whether this decision would be changed if they knew policy or legislation required them to.

(a) *Anticipated future reporting practice for entire sample*⁷⁴

(i) *Category 1 scenarios*

In the two Category 1 scenarios, involving situations which should have been reported by a reasonably knowledgeable teacher, nearly all (97.7 per cent and 89.4 per cent for scenarios 1 and 4 respectively) teachers indicated that they had reasonable grounds for suspecting sexual abuse, and would report their suspicion. There was a very low incidence of failure to report in each of these cases (1.05 per cent and 2.1 per cent). Results are shown in Table 13.

Table 13: Reasonable suspicion, and anticipated reporting of Category 1 scenarios (Scenarios 1 and 4)

	Scenario 1 n (%)	Scenario 4 n (%)
Reasonable suspicion		
Reasonable grounds	459 (97.7%)	420 (89.4%)
No reasonable grounds	0 (0.0%)	2 (0.4%)
Not sure	8 (1.7%)	16 (3.4%)
Missing	3 (0.6%)	32 (6.8%)
Total	470 (100.0%)	470 (100.0%)
Anticipated reporting		
Would report	460 (97.9%)	418 (88.9%)
Would not report	5 (1.05%)	10 (2.1%)
Missing	5 (1.05%)	42 (8.9%)
Total	470 (100.0%)	470 (100.0%)

⁷³ The scenarios appear in the Appendix to this article.

⁷⁴ Some data were missing, explaining percentages not totalling 100.

(ii) Category 2 scenarios

These two scenarios involved situations which should have been reported by a reasonably knowledgeable teacher, but which had less clear evidence than existed in the Category 1 scenarios. Responses showed that for each of these scenarios, more than four in ten respondents (43.0 per cent and 44.0 per cent, for scenarios 2 and 5 respectively) indicated that they had reasonable grounds for suspecting sexual abuse. Over one quarter (28.5 per cent and 28.1 per cent) were unsure. About one fifth (20.0 per cent and 16.8 per cent) thought there were no grounds for suspecting abuse. More respondents indicated they would report (65.7 per cent and 64.7 per cent respectively), than suspected abuse (43.0 per cent and 44.0 per cent respectively). Approximately one quarter of all respondents (25.7 per cent and 24.2 per cent respectively) would not report these cases. Importantly, of those who would not report these cases, 8.3 per cent and 7.9 per cent of respondents respectively did actually suspect abuse. Results are shown in Table 14.

Table 14: Reasonable suspicion, and anticipated reporting of Category 2 scenarios (Scenarios 2 and 5)

	Scenario 2 n (%)	Scenario 5 n (%)
Reasonable suspicion		
Reasonable grounds	202 (43.0%)	207 (44.0%)
No reasonable grounds	94 (20.0%)	79 (16.8%)
Not sure	134 (28.5%)	132 (28.1%)
Missing	40 (8.5%)	52 (11.1%)
Total	470 (100.0%)	470 (100.0%)
Anticipated reporting		
Would report	309 (65.7%)	304 (64.7%)
Would not report	121 (25.7%)	114 (24.2%)
Missing	40 (8.5%)	52 (11.1%)
Total	470 (100.0%)	470 (100.0%)
Suspicion, and failure to report		
Suspect but would not report	10/121 (8.3%)	9/114 (7.9%)
Do not suspect and would not report	57/121 (47.1%)	47/114 (41.3%)
Unsure and would not report	48/121 (39.7%)	54/114 (47.3%)
Missing	6/121 (4.9%)	4/114 (3.5%)
Total	121 (100.0%)	114 (100.0%)

(iii) Category 3 scenarios

Category 3 scenarios involved situations which should not have produced a suspicion of abuse, nor have been reported by a reasonably knowledgeable teacher. These scenarios produced mixed responses, with Scenario 6 appearing to pose greater challenges for teachers. For both scenarios, most teachers (75.5 per cent and 44.9 per cent for scenarios 3 and 6 respectively) indicated they did not

have reasonable grounds for suspecting sexual abuse. For Scenario 3, only 2.3 per cent of teachers felt they had reasonable grounds to suspect abuse, whereas for Scenario 6, this figure was 15.7 per cent. For Scenario 3, three quarters of teachers (75.5 per cent) knew there were no reasonable grounds to suspect abuse, whereas for Scenario 6, less than half (44.9 per cent) had this knowledge. Scenario 6 generated relatively high levels of uncertainty (31.7 per cent) about the existence of reasonable grounds.

In terms of reporting, the majority (83.4 per cent and 52.5 per cent respectively) of teachers would not make a report. However, Scenario 6 generated a higher incidence of reporting, with over one third of teachers (36.6 per cent) choosing to report this case, compared with 7.5 per cent for Scenario 3. Results are shown in Table 15.

Table 15: Reasonable suspicion, and anticipated reporting of Category 3 scenarios (Scenarios 3 and 6)

	Scenario 3 n (%)	Scenario 6 n (%)
Reasonable suspicion		
Reasonable grounds	11 (2.3%)	74 (15.7%)
No reasonable grounds	355 (75.5%)	211 (44.9%)
Not sure	72 (15.3%)	149 (31.7%)
Missing	32 (6.8%)	36 (7.7%)
Total	470 (100.0%)	470 (100.0%)
Anticipated reporting		
Would report	35 (7.5%)	172 (36.6%)
Would not report	392 (83.4%)	247 (52.5%)
Missing	43 (9.1%)	51 (10.9%)
Total	470 (100.0%)	470 (100.0%)

(b) *Effect of known reporting duty on anticipated failure to report suspected sexual abuse*

(i) *Among teachers in entire sample*

Returning to the Category 2 scenarios (Scenarios 2 and 5), where reports should have been made by a reasonably knowledgeable teacher, teachers who suspected abuse but would not report were asked if their decision not to report would change if they knew of a duty to report. Although small in number, most would change their decision not to report if they knew they were obliged to report it. This applied equally whether the duty was in legislation or policy. Results are shown in Table 16.

Table 16: Anticipated effect of known duty to report on decision not to report suspected abuse in Category 2 scenarios

Scenario	Of those who suspected abuse but would not report, would a known duty to report change their decision (number / %)	
	If duty in legislation	If duty in policy
Scenario 2	8/10 (80%)	8/10 (80%)
Scenario 5	7/9 (77.8%)	7/9 (77.8%)

(ii) Among teachers previously indicating past actual failure to report suspicion, effect on anticipated failure to report suspected sexual abuse of known reporting duty

This section explores the effect of a known reporting duty on anticipated failure to report suspected abuse, in the teachers who indicated that in their actual practice, they had never reported their suspicions ($n = 33$), or had only sometimes reported their suspicions ($n = 25$) (see Table 10). Using these teachers' responses to the Category 2 scenarios, subgroups were identified who suspected abuse, but would not report it, and who were unaware that they were required by policy or legislation to report their suspicion ($n = 17$ for Scenario 2; $n = 20$ for Scenario 5). These teachers were asked if their decision not to report these scenarios despite suspecting sexual abuse would change if they knew they had a duty to report their suspicion, either in policy or legislation. Results showed that for Scenario 2, 14 of the 17 teachers would have changed their decision if they knew they were required to report whether by policy or legislation. Only three would not have changed their decision. For Scenario 5, 18 of the 20 teachers would have changed their decision if they knew they were required to report, whether by policy or legislation, and only two would not have changed their decision.

C Discussion

1 Teachers' knowledge of the legislative reporting duty

(a) Sufficient familiarity with the legislative reporting duty to answer questions about it

A major finding of this study is that significant proportions of teachers were not sufficiently familiar with the legislative reporting duty to answer questions about key features of that duty. This finding was particularly evident in both Queensland sectors, where over half the respondents lacked sufficient knowledge to answer further questions. In contrast, one quarter of NSWNGS teachers lacked sufficient knowledge. Given that teachers from the three sectors had similar levels of participation in inservice training, these finding may be partly explained by the higher amount of training received by NSWNGS teachers. Lack of familiarity with the legislative duty is a significant problem which should be remedied. The fault for this should not be borne by teachers; nor is it helpful to attempt to sheet home blame to any party. Instead it should be recognised that it is imperative that adequate training be delivered to all teachers about a legislative duty which constitutes an important aspect of their professional role, and which

in turn is a central part of governments' strategy to protect children from sexual abuse.

(b) Knowledge of content of the legislative reporting duty

There were a number of prominent results concerning knowledge of the legislative duty. The most remarkable was perhaps the Queensland teachers' nearly universal lack of knowledge that their reporting duty was limited to a particular category of suspected perpetrator (school staff). This is understandable given the uniquely restricted nature of the legislative duty in this respect, and given that the policy obligation in both sectors is inconsistent with this, by requiring reports regardless of perpetrator identity. Nevertheless, teachers deserve to know the true content of the legislative duty, and this can easily be remedied in training. Of course, teachers should not be discouraged from reporting suspicions of sexual abuse where the perpetrator is not a school employee. The most appropriate response in this respect, as argued elsewhere,⁷⁵ is for the Queensland Parliament to amend this provision, which would both harmonise legislation and policy, and create a legislative approach consistent with other jurisdictions in Australia and around the world.

Across sectors, very high levels of knowledge existed regarding the state of mind required to activate the reporting duty. High levels of knowledge were evident regarding when the report must be made; and the application of the duty to suspected past and or future risk of abuse. However, considerably fewer teachers gave correct responses to questions concerning immunity from liability and identity protection: about one third of teachers in each of the three sectors lacked knowledge about these protections. Both these protections are very important features in the legislation, of which teachers deserve to be aware. In addition, it is important for teachers to be reassured about their legal and practical position in these respects, since fear of liability and fear of reprisals have been identified in the literature as influential reasons for failure to report suspected child sexual abuse. These gaps in knowledge need to be addressed. Fortunately, these are simple concepts to convey, and so could easily and speedily be done by amending training approaches to include a greater focus on the specific factual dimensions of the reporting duties, and regularly updating them to changes in these facts. Regarding the protection of the reporter's identity, other concerns may exist about the possibility of the suspected perpetrator deducing the source of the report, leading to possible reprisals, especially in small communities. These concerns need to be remedied in other ways, such as by ensuring adequate protection to such teachers.

Responses from New South Wales teachers revealed two areas where knowledge was lacking to a far greater extent than their Queensland counterparts: the extent of harm activating the reporting duty, and to whom to report. There are quite understandable reasons for the knowledge gap about the extent of harm required to activate the reporting duty, because the New South Wales legislation

⁷⁵ Mathews and Walsh, above n 42.

is counterintuitive in this respect, technically requiring the teacher to be concerned for the child's welfare, and thus not as wide as to require all reports of suspicions without further consideration. In the case of sexual abuse, this gap in knowledge is likely of little, if any practical effect, since unlike other classes of child abuse it would be hoped that suspected sexual abuse will usually arouse in the teacher feelings of concern for the child's welfare. The knowledge gap about report destination is explicable by the fact that while the legislation requires reports to the Department of Community Services, in nearly all Catholic school dioceses surveyed, policy allows reports to be made to the school principal or executive officer, and in many dioceses, if a teacher informs the principal of his or her suspicion, the principal then is obliged by policy to forward the report. In practice, these policy directives may overshadow the formal content of the legislation.

In Queensland, only about half of the teachers from each sector knew to make a report in writing. This would seem to be a fundamental part of the obligation, and this situation needs to be remedied by enhanced training or a separate professional directive. A lack of knowledge in several areas was more discernible in QNGS teachers than their QGS counterparts, especially concerning extent of harm, when to report, and protection of identity. It is difficult to know exactly why this is so, especially since QNGS teachers had received a higher average number of hours of inservice training. However, it may be surmised that QGS teachers generally had higher degrees of knowledge about these features of the legislation because training in the QGS sector is centralised and may be more consistent and accurate.

(c) Total knowledge of legislation across entire sample

Results of the three relevant sectors' total knowledge of legislation scores are skewed heavily downwards due to a sizeable proportion of the sample not being able to answer any questions about the legislation. Only 53 per cent of respondents had sufficient familiarity with the legislation to answer questions about it. This resulted in the total knowledge of legislation scores across the entire sample being very low. A more promising finding is that for those teachers who were familiar enough with the legislation to answer questions about it, levels of knowledge were relatively high regarding the basic parameters of this duty. This suggests that enhanced training of teachers should include provision of more detailed content drawing attention to and clarifying specific features of the duty. Improvement to teachers' knowledge across the sectors may also require training efforts to dismantle myths and address misunderstandings associated with reporting provisions. This requires that trainers and training designers have intimate knowledge of the duty and its component parts. The detail of training will be particularly salient when new reporting provisions are introduced, or existing provisions amended. At these times, concerted efforts should be made to inform teachers of these details. Information will have a greater chance of filtering into consciousness if it is delivered in multiple forms (such as change bulletins and training updates), repeatedly, and reinforced by school leadership.

There were some common misconceptions about the basic features of the legislative duty among those who were sufficiently familiar with it to answer questions about it, across the two Queensland sectors and the New South Wales nongovernment sector. Significant proportions of these teachers did not know of the protections afforded them regarding immunity and confidentiality, and knowledge of the penalty was almost nonexistent. Large majorities of the New South Wales teachers did not know the duty is technically only activated if the teacher suspects the child has suffered or is likely to suffer significant harm. This reflects gaps in training, but also indicates a flaw in the legislation since sexual abuse of a child will most often involve significant harm, and due to the nature of sexual abuse, it is neither intuitive nor otherwise justified to expect a teacher to assess the present or likely harm to a child before deciding to report. This flaw is now being remedied by legislative amendment. Queensland teachers lacked knowledge to significant degrees regarding the perpetrator identity, and when and how to report. These gaps in knowledge again suggest training about the central legislative features needs to be enhanced. However, the almost unanimous misunderstanding about the restriction of the legislative reporting duty to perpetrators who are school employees is understandable if training is absent or misleading, given the unsound basis for this provision.

2 Teachers' knowledge of the policy-based reporting duty

(a) Knowledge of existence of a policy-based reporting duty

Several major findings emerge from the section exploring awareness of the existence of a policy-based reporting duty. In NSWNGS, QGS, QNGS, and WAGS, rates of awareness of the existence of policy were reasonably high. It could be argued, however, that every teacher should be aware of the existence of a policy about such an important topic, and one to which teachers are known to be committed. Simple awareness that a policy exists can be achieved by measures as basic as a sector-wide email bulletin or newsletter, and reinforcement at staff meetings. Compliance with policy is impossible if a teacher is unaware of it.

There were significant findings for WANGS, where there was very low policy awareness, with less than one quarter of WANGS teachers being aware the policy existed. This lack of policy awareness is made even more important in that State, since at the time of the study, no legislative reporting duty existed. This indicates that WANGS teachers, working without a legislative framework, also were likely to be unaware of a policy-based reporting duty. One can only speculate about the effect this lack of awareness may have had on failure to detect and report child sexual abuse cases. Legislation has now been enacted, changing the context, but the findings about the low level of policy awareness remain important because the Western Australian legislation is restricted, requiring only reports of child sexual abuse. This lack of policy awareness may mean that teachers are unaware of their other policy-based reporting duties concerning other types of child abuse and neglect. It seems fair to conclude that WANGS teachers should at the very least receive information about the existence of the policy. This could be delivered in combination with their training

regarding the new legislative duty. The findings also contained a sober reminder that mere enactment of a policy-based duty to report child abuse is insufficient without ensuring that teachers know of the policy and are sufficiently familiar with it to observe its requirements. This is evident in the low levels of participation in inservice training by WANGS teachers (23.7 per cent) compared with all others (64.2 per cent to 86.7 per cent).

Overall, there were lower levels of policy awareness in nongovernment sectors compared to government sectors in Queensland and Western Australia. This variation cannot be attributed to lack of a centralised policy in the nongovernment sectors. For example, all Catholic schools in Western Australia operate under one policy, and only two separate diocesan policies apply in Queensland. In contrast, there is greater fragmentation of policy in NSWNGS where each diocese (11 in the sample) has its own policy. There, one might expect less policy awareness, yet teachers from NSWNGS held policy awareness commensurate with QGS and WAGS teachers. It may be that the training efforts differ, and this is supported by the data suggesting that far fewer WANGS teachers had undergone formal training than teachers in all other sectors. Regardless, all sectors would benefit from greater efforts to inform teachers of their policy and their obligations under it.

(b) Sufficient familiarity with the policy to answer questions about it

Results concerning teachers' familiarity with the policy are of great concern. Significant proportions of teachers who were aware of the existence of the policy did not have sufficient awareness of the content of the policy to answer questions about it. There was significantly greater familiarity in New South Wales than Queensland and Western Australia. In Western Australia, nearly all the familiarity that did exist was accounted for by government school teachers, indicating substantial gaps in teacher training in the nongovernment sector.

On one view, it might be thought that it is sufficient for a teacher to be aware of the existence of a policy, without expecting her or him to have immediate knowledge of its content. Such mere familiarity may be thought enough, so that should the situation arise where a teacher needs to resort to the policy, she or he will know it exists, consult it, and act accordingly. An expectation of mere awareness of the existence of a policy may be thought sufficient in other contexts in the education profession, and in other professions about myriad matters.

However, on another view, one may expect that educational authorities should be administering sufficient training to teachers about both the existence of the policy and its content, to facilitate knowledge of the policy and immediate compliance with it. This expectation would be justified when one considers that child protection is such an important social policy objective, with child welfare intrinsically connected to the education endeavour undertaken by schools, considering that children who are being sexually abused are in serious danger of further imminent serious harm, and that the obligation requires a report to be made immediately after a suspicion has developed. This line of reasoning is especially persuasive given that the content of the policy-based duty is quite simple, once a suspicion of sexual abuse crystallises.

Overall, the proportions of teachers participating in the study who had both awareness of the existence of the policy, and sufficient familiarity with it to be able to answer further questions, was very low. This finding is also one of the most important results of this study. Proportions were especially low in WANGS, though three other sectors – QGS, QNGS and WAGS – had similar proportions. The higher proportion in NSWNGS, which was still just over half of teachers in that sector, may be attributable to its longer tradition of legislative and policy efforts in child protection, and by the greater time spent in inservice training. Similarly, the lower proportions in Queensland and Western Australia may be the result of a shorter tradition of such initiatives. The extremely low rate in WANGS, coupled with low levels of participation in training, may indicate the need for renewed efforts to incorporate child protection into school cultures. If educational authorities are intending to take child protection seriously, and to create a culture which promotes teachers' knowledge of and compliance with policy, teachers must be supported in these endeavours. Awareness-raising does not require sophisticated pedagogy, but rather relies on effective organisational communication and authorities' promotion of the uptake of important initiatives.

(c) Knowledge of content of the policy-based reporting duty

An important finding of this study is that the levels of knowledge of the policy-based reporting duties were very high among those teachers who were aware of the policy existing, and who indicated they were sufficiently familiar with it to answer questions about it. This is encouraging because it suggests that if awareness-raising and training efforts are increased, there is no reason why teachers who currently lack that awareness and familiarity cannot quite readily acquire high levels of accurate policy knowledge.

Queensland teachers had very high levels of knowledge, equally distributed across both sectors. There was only one question frequently answered incorrectly, regarding the extent of harm. In practice, this misunderstanding may actually lead to good practical outcomes, as in cases of sexual abuse the harm will (or will likely in future) always be significant. What this question reveals is the flaw in that aspect of the policies applying in both Queensland sectors, which should be remedied as it is both theoretically and practically unsound. In addition, there was also a significant gap in knowledge about the duty to report suspicions of likely future abuse, which can easily be addressed by greater focus in training efforts on the specific content of the policy.

New South Wales teachers also had very high levels of knowledge. The clear exception was the question regarding the extent of harm required. While the technical terms of the policy only require reports where the teacher is concerned for the child's welfare, 70 per cent of teachers thought there was no such restriction. As in the flaw in the Queensland policy, this indicates a qualification in the policy that is not required in the case of suspected child sexual abuse (although it is arguably more justified in other types of child abuse: physical abuse and psychological abuse, and neglect). This feature of the policy could be amended and teachers assured in training that all reasonable suspicions of sexual abuse should be reported, without the requirement to consider any extent of

harm. It is to be hoped that this qualification in the policy has not prevented reports of sexual abuse being made on the basis that a teacher has considered the harm caused or likely to be caused as being so minimal as not to create concern for the child's welfare. This possibility can and should be avoided by amending the policy in this respect.

Like their counterparts, Western Australian teachers who were familiar enough with the policy to answer questions about it had very high levels of knowledge of the key features of the policy. The exception was the item concerning the requirement to only report suspicions of past or presently occurring abuse. Nearly all teachers believed the policy-based reporting duty also required reports of likely future abuse that had not happened yet. In practice, this may be a beneficial misconception producing reports of truly protective value before abuse has been inflicted. Alternatively, at its worst, it may be a factor in producing hypersensitive reporting of cases that do not warrant a report. Nonetheless, there would seem to be strong grounds for amending the policies in Western Australia to require reports of suspected future abuse. Not only would this harmonise policy in Western Australia with that in New South Wales and Queensland, it would more closely achieve a true measure of child protection by helping prevent abuse before it is committed, rather than responding after the event. Teachers should be trained in the types of situations which may warrant such reports.

(d) Total knowledge of policy across entire sample

For those teachers who were familiar enough with the policy to answer questions about it, levels of knowledge were quite high regarding the basic parameters of the policy-based reporting duty. This suggests that enhanced training of teachers about the specific content of the policy-based duty could readily improve levels of knowledge across the sectors. However, there were some areas of common misunderstanding, most prominently the extent of harm required to activate the duty, and whether reports were required of past and present abuse only, or also of suspected risk of future abuse that has not happened yet. Regarding the extent of harm, teachers' misunderstanding here may indicate a gap in training. Yet, it may also suggest a flaw in the policy, as sexual abuse of a child usually does cause significant harm, and it is not theoretically, legally or practically sound to expect a teacher to assess the harm to a child before deciding to report. Thus, policies that require significant harm for this class of case before the duty is enlivened should be amended. Regarding the temporal dimension, where the reporting duty does apply to suspected risk of future abuse, misunderstandings about this should be remedied through incorporating this feature into training, with examples of what type of situation may fall within this subset of cases. In contrast, in Western Australia, where the duty does not apply to these future cases but a majority of teachers thought otherwise, it is suggested that the duty should be so extended, with appropriate training and concrete examples for teachers in how to fulfil the duty in these cases.

3 Teachers' actual past reporting practice

(a) Actual past reporting practice

An important finding of this study is the frequency of never reporting among those who have suspected child sexual abuse. This study found that 145 out of 470 respondents (31.7 per cent) had at some time in their career suspected child sexual abuse, and that 33 of these 145 (20 per cent of those who had at some time suspected; and 6 per cent of the entire sample) had never reported their suspicions. This is a significant finding about a gap in child protection practice, and given that at least some of these teachers will have failed to report more than one case, it is even more important. It is possible that these failures to report occurred before the creation of legislative and policy-based reporting duties, but for methodological reasons, it was not possible to reliably measure when these failures to report occurred.⁷⁶ However, it seems reasonable to assume that at least some of these respondents had suspected child sexual abuse within the period when obligations to report existed.⁷⁷ In addition, when these failures to report are added to instances of failure to report admitted by the 25 respondents who sometimes reported but sometimes did not, then of 145 teachers who had suspected abuse, at least 58 cases of suspected abuse had not been reported, with some of these occurring in breach of either or both legislative and policy obligations. While some of these suspicions may not have been substantiated (either for sexual abuse or other abuse or neglect), it is possible that a significant number did involve circumstances of abuse, whether sexual or non-sexual, requiring intervention. The making of such reports would not only promote child protection, but would also ensure the school authority could not be liable in negligence for failure to report suspected abuse in a situation where the abuse was continuing.⁷⁸ If these findings about failure to report suspected sexual abuse are representative of teachers in these three States, and beyond, then they disclose a significant amount of cases of failure to report which need to be remedied. It would be interesting to study other States to determine whether there were similar rates of suspecting abuse and never reporting. Arguably, the group of teachers who have suspected but have never reported abuse are one of the most urgent target groups for practical action.

A small but significant proportion of teachers in the sample (5.3 per cent) had suspected cases of abuse and sometimes but not always reported. This was a much smaller proportion than found in other studies,⁷⁹ but this is likely explained by the fact this study only explored reporting of child sexual abuse (where all instances of it are very serious and should be reported), rather than all forms of abuse, where some less serious instances may be the subject of a justified

76 That is, due to the length of respondents' teaching careers, movement between jurisdictions, and memory fading over time.

77 Legislation has existed in NSW since 1987, for example, and policy has existed in Queensland since 1998.

78 Des Butler et al, 'Teachers' duties to report suspected child abuse and tortious liability' (2009) 17 *Torts Law Journal* 1.

79 Zellman, above n 52.

decision not to report. This group of reporters nevertheless would also be a prime target for encouragement to always act on suspicions by reporting them, rather than by deciding not to report.

The finding that 87 teachers (18.5 per cent) had always reported when suspecting abuse was encouraging. This suggests that concerted efforts to make teachers aware of not only the nature and indicators of child sexual abuse, but of the duties to report, can make a significant difference to the disclosure of cases of sexual abuse. While it is impossible to know how many of these teachers' reports eventuated in findings of sexual abuse and the protection of the child, it is likely that a proportion of these did, and this contribution to child protection is significant and important, not least to the children involved. A most interesting further study would be to assess the actual reports made by teachers to identify reporting outcomes, and to identify variables influencing effective reporting by teachers. Similarly, exploring the outcomes of actual reporting in practice would determine if some of this reporting practice was the result of hypersensitive fears of failure to report, producing reports of innocent cases with no reasonable basis for a report.

Significantly, of the teachers who had ever suspected abuse, a greater rate of consistent reporting was found in New South Wales (20/27: 74.1 per cent) compared with Queensland (44/72: 61.1 per cent) and Western Australia (23/46: 50 per cent). Similarly, the lowest frequency of never reporting when suspecting abuse occurred in New South Wales (4/27: 14.8 per cent), followed by Queensland (16/72: 22.2 per cent) and Western Australia (13/46: 28.3 per cent). These findings might suggest consistent effective reporting practice is influenced by the existence of a legislative reporting duty, as this duty has existed in NSW since 1987, and no such duty has existed in Western Australia until 2009, and only an extremely limited legislative duty has existed in Queensland, since 2004. It would seem to follow that a longer institutional history of this social policy endeavour would be accompanied by a longer history of training and preparation of teachers for their role. This longer experience would also facilitate refinement of training, and the embedding of a culture of child protection in schools. It may be, therefore, that an effective combination of legislation and education produces more consistent effective reporting practice, especially when these efforts have had sufficient time to entrench a positive professional culture.

(b) Effect of known duty to report on past failure to report suspicion

Fifty-eight teachers indicated that at some point they had failed to report a suspicion of abuse. This study found that almost 80 per cent of these 58 teachers would have reported a suspicion they did not actually report, if at the time they had been aware of duties to report co-existing in both legislation and policy. Only 19 per cent indicated that their decision not to report would be undisturbed. While these findings are not especially powerful, relying on indicated retrospective action which might be inclined towards good conduct, they nevertheless suggest that effective reporting of a suspicion may be influenced by the existence of a known duty to report. If this suggestion was strengthened by other evidence, this may inform strong arguments for the development of

reporting duties and reporter training measures in areas where knowledge of mandated reporting duties and child abuse reporting is sought to be strengthened.

4 Teachers' anticipated future reporting practice

(a) Anticipated future reporting practice of entire sample

Responses to the scenarios revealed a number of interesting findings. While results from questions about future intended reporting behaviour are by their nature not compelling, these findings nevertheless suggest that across States and sectors, teachers would generally suspect and report cases where abuse was clearly indicated, and would not suspect or report cases where there was no reasonable basis justifying a suspicion or report. However, some of the results indicate areas where reporting practice, and teacher preparation, may be able to be improved.

For the Category 1 scenarios (Scenarios 1 and 4), where very clear and strong evidence existed to inform a reasonable suspicion of abuse, nearly all respondents suspected abuse (Scenario 1: 97.7 per cent and Scenario 4: 89.4 per cent). Anticipated reporting was almost unanimous (Scenario 1: 97.9 per cent) and very high (Scenario 4: 89.4 per cent). Only very low proportions of teachers would not report (1.05 per cent and 2.1 per cent). For Scenario 4, there was a higher amount of missing data about suspecting (6.8 per cent) and reporting (8.9 per cent), suggesting that these teachers were less sure about the subject matter. This is significant, because the scenario involved a direct disclosure by an eight year old girl that she was being sexually abused by her father. Direct disclosures are often the clearest evidence of abuse, and it would be sound policy to always report such a disclosure unless there are compelling reasons indicating this is not warranted.

For the Category 2 scenarios (Scenarios 2 and 5), less than half of the respondents (Scenario 2: 43.0 per cent; Scenario 5: 44.0 per cent) thought they had reasonable grounds to suspect abuse. Despite this, there were relatively high levels of anticipated reporting practice, with almost two thirds of teachers (Scenario 2: 65.7 per cent; Scenario 5: 64.7 per cent) indicating they would report. This disparity between suspicion and reporting can be explained by the relatively high proportion of respondents who were unsure whether they had reasonable grounds (Scenario 2: 28.5 per cent; Scenario 5: 28.1 per cent), with a significant number of these who would have reported despite this uncertainty. However, about one fifth of respondents (Scenario 2: 20.0 per cent; Scenario 5: 16.8 per cent) thought there were no grounds to suspect abuse, and a slightly higher proportion of just over one quarter would not make a report. Since these scenarios contained evidence of a number of factors, which taken together should have created in a knowledgeable teacher a reasonable suspicion of abuse, this indicates a need to improve training of teachers so that teachers are aware of the constellations of indicators which, cumulatively, strongly suggest sexual abuse. Clearly, this type of content is well-placed in preservice teacher education where the etiology of child sexual abuse can be explored and understood in relation to children's rights, child development, social justice and professional ethics.

For the Category 3 scenarios (Scenarios 3 and 6), where there was no or very weak evidence to warrant a reasonable suspicion of abuse and which should not have been reported, only small proportions of teachers suspected abuse, especially for Scenario 3 (2.3 per cent), with a higher proportion for Scenario 6 (15.7 per cent). For Scenario 3, only 7.5 per cent would have made a report. However, for Scenario 6, 36.6 per cent would have reported. This case involved a boy, who had just turned 6, displaying strong physical affection towards his teacher, playing occasionally with his own genitals, and at playtime sometimes showing his private parts to a girl in his class. The higher levels of unwarranted suspicion and reporting of Scenario 6 indicate that teachers may experience difficulty distinguishing between healthy, developmentally normal activity, and indicators of sexual abuse. It may be that some teachers' suspicions were aroused by the boy's exhibition of his genitals to another child, or they may have feared the other child might be affected by the boy's activity and thought it best to report.

(b) Effect on anticipated failure to report suspected sexual abuse of known reporting duty

In the Category 2 scenarios, a very small number of teachers who suspected abuse indicated they would not report their suspicion. Among those who suspected abuse, this represented a proportion of about 8 per cent. Efforts should be made to remedy this failure to report despite having a suspicion of abuse. The related finding that of these teachers, 80 per cent would have changed their decision, and therefore would have made a report, if they knew of a duty to report, is an important finding which indicates that the existence of a known reporting duty may help to overcome failure to report in a significant number of cases.

Further, of the group of 58 teachers with a history of not reporting suspected abuse, responses to the scenarios indicated that where they suspected abuse but thought they were not under a duty to report and anticipated that they would not report, that decision not to report would be changed for nearly all of them if they did know they were under a duty to report. These findings add to the evidence regarding the suggested positive influence of a known reporting duty on what might otherwise be a manifested failure to report suspected abuse.

5 Limitations

Several limitations were identified in this study. First, there was potential for sampling bias because participants were more likely to be interested and at ease with the subject matter. Even so, comparing demographic characteristics, teachers in this sample were representative of primary teachers in general. The data is not positively skewed because the results do not show a particularly positive picture of teachers' knowledge of legislation and policy. Future studies would benefit by seeking larger sample sizes, and by seeking responses from a broader range of participants, such as those from other States. Second, the study sampled only primary school teachers, meaning that results cannot be generalised to teachers in secondary schools. Third, part of this study used scenarios. In

developing the scenarios, care was taken to make them as realistic as possible. However, some would argue that scenarios can only ever approximate real life. Fourth, the study was limited by the refusal of the New South Wales Department of Education and Training to participate. Finally, this paper itself captures basic descriptive data. It does not present complex statistical analyses capable of illuminating the factors influencing teachers' knowledge, or their actual or anticipated future reporting practice. This important task will be reported in forthcoming work.

V CONCLUSION

This study found significant gaps in teachers' knowledge of their legislative and policy-based duties to report child sexual abuse. Many teachers were not sufficiently aware of the duty to answer questions about it. These gaps occurred across all sectors in the study, but were more prominent in some sectors than others. Some of the gaps in knowledge appeared in part to result from inconsistency between policy and legislation, or from problematic technical features of the legislation, which indicated potential for legislative reform. The study also found that almost one third of teachers had at some time in their career suspected sexual abuse. While many of these teachers had always reported their suspicions, significant numbers had not. However, of those who had not always reported their suspicions, nearly all indicated that if they had been aware of a duty to report the suspicion at the time, they would in fact have reported, suggesting a positive relationship between the known existence of a reporting duty and actual reporting in practice. In terms of anticipated reporting practice in hypothetical situations, this study found that most teachers suspected abuse in cases where it was indicated, and did not suspect it where it was not indicated. Related to this, most of these suspicions would have been reported. However, there were features of the hypothetical scenarios that indicated areas of uncertainty, failure to report cases that should have been reported, and unjustified reporting of cases not involving abuse.

A key implication of the findings is that teachers' training needs to be improved so that they have a working knowledge of their legislative and policy duties, and are sufficiently aware of the indicators of child sexual abuse to enable them to comply with their legal and policy duties. In the discussion, we raised the distinction between awareness-raising about the existence of legislation and policy, and more focused and specific training about the content of the legislative and policy duties. Given a positive institutional culture, awareness can be improved and reinforced by regular, effective, communication with teachers through means such as email bulletins and professional publications. More detailed training about the specific content of the duty requires sound sequencing of content (preservice and inservice), effective delivery modes (online and face-to-face), skilled personnel (including trainers with subject matter expertise and intimate knowledge of reporting legislation and policy), and time investment. Clearly, different approaches to training are likely to have different outcomes in

terms of teacher knowledge and capacity to comply with the law. School authorities may be well advised to avoid the temptation to resort to simply the most economical way of training teachers, which is unlikely to be effective. Sound design and implementation of teacher training is essential, and institutions must be properly resourced for training initiatives. Teachers' child protection training must begin in the preservice years, and universities must teach the foundational aspects for an understanding of child sexual abuse, such as its incidence and prevalence, risk and protective factors, and sequelae. This training should promote positive attitudes towards reporting child sexual abuse, and emphasise that this is not simply a bureaucratic imposition of policy, but a part of a teacher's professional and ethical role, which in turn is connected with a key governmental social policy. For inservice training, teachers must be encouraged to not only attend, but engage with the training. Finally, evaluation of the effectiveness of training should be undertaken to ensure its quality and outcomes.

APPENDIX: SCENARIOS

Teachers were asked a series of questions after each scenario: whether they had reasonable grounds for suspecting sexual abuse; whether policy required a report; whether legislation required a report; whether they would actually report; and, if they would not report, whether this decision would be changed if they knew policy or legislation required them to.

Scenario 1:

An 11 year old boy in your class is usually well behaved, completes homework consistently and performs well academically. However, he has been behaving in an out of character way for several weeks. He has been misbehaving in class, often arrives at school without having done his homework, and his grades have plummeted. During a quiet period, he tells you that for some weeks a neighbourhood acquaintance of his parents has been showing him pornography on the internet after school, and that while they looked at the pornography the man would touch the boy's private parts and his own.

Scenario 2:

A 10 year old girl in your class who is usually sociable and cheerful has gradually become withdrawn over the last term. She has twice even been in physical confrontations with classmates, which is out of character for her. At physical education ('PE') class, which she has always participated in with relish, she has become unwilling to change into her PE clothes, and has claimed to be sick. Her school work, which had always been above average, has slipped and she seems to have trouble concentrating in class. On three occasions near the end of the school day, she has cried and has told you she does not want to go home until 5pm when her Mum gets home from work – she asks to stay at school until that time and offers to help you with jobs. You know that her stepfather is unemployed and is at home all day.

Scenario 3:

A 6 year old girl in your class is picked up from school most days by her mother's live-in boyfriend, who you do not know well. You know the girl's mother and her boyfriend have been together for over a year. The girl is well behaved and consistently happy and she shows no signs of distress. Nor does she show any sign of concern about the man picking her up from school. You notice that sometimes when the man collects the girl from school, he gives her a pat on the bottom as she climbs into the car.

Scenario 4:

An 8 year old girl in your class with whom you have a good rapport tells you that her father has been touching her private parts and making her 'do things'. You do not know her parents very well, although from what you have seen, the

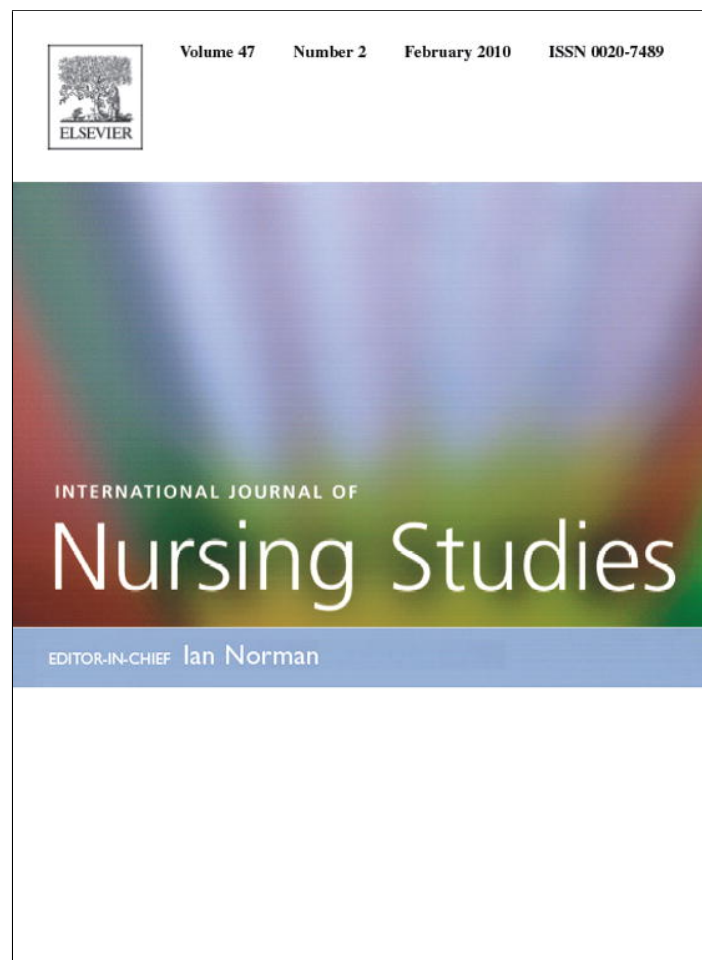
mother is passive and distant, and the father is, if anything, overprotective. They have two other daughters younger than the girl in your class. The girl has been withdrawn and sombre for the past several weeks, which is not usual for her.

Scenario 5:

A 9 year old girl in your class has become socially withdrawn and unwilling to participate in activities in class or playtime. The quality of her schoolwork has deteriorated steadily over several months. She complains regularly of stomach ache (which is unexplained) and various other aches and pains (eg, headaches) which also are unexplained. You know that her parents have divorced, and that the girl lives with her mother but stays at her father's house every Wednesday and every second weekend. During a private talk with you, she says she does not like staying with her father, and you have noticed her anxiety and fearfulness is particularly strong around the times she stays with him; on several occasions she has become extremely distressed just before being picked up by her father. She tells you that she would not go to her father's house except that her younger 5 year-old sister needs her to look after her: she says that she is the only one who can protect her.

Scenario 6:

It is early in the school year and a boy in your class has just had his 6th birthday. He is generally carefree and behaves well, and intellectually is within normal developmental progress. He has several habits which have drawn your attention. He tries to climb all over you when you are reading to the class, and several times has tried to hug you goodbye when leaving school. While sitting in his chair, he often will play with his genitals. At play time he has several times been found in hiding places showing his private parts to a girl from his class.



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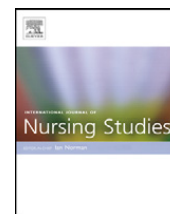
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Factors influencing child abuse and neglect recognition and reporting by nurses: A multivariate analysis

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ABSTRACT

Background: Reporting of known and suspected child abuse and neglect is a fundamental responsibility of health professionals in many countries including Australia. Nurses' duties to report child abuse and neglect are expressed in legislation, or in occupational policy documents. In this paper factors influencing nurses' compliance with mandated reporting are examined.

Objective: The purpose of this study was to examine the relationship between nurse characteristics, training, knowledge of legislative reporting duty and attitudinal factors on the reporting by nurses of different types of child abuse and neglect.

Methods: Logistic regression analyses were conducted to examine relationships between variables.

Design, setting and participants: A cross-sectional survey using the Child Abuse and Neglect Nurses' Questionnaire (CANNQ) was conducted. The respondents were 930 Registered Nurses (RNs) currently working across metropolitan, rural and remote locations throughout the state of Queensland, Australia.

Results: Nurses were confident and knowledgeable in their obligation to report physical [CPA] and sexual [CSA] abuse. They were less confident and knowledgeable about emotional abuse [CEA] and neglect [CN]. Recognition of the extent of harm to abused and neglected children was poor. Positive attitudes to mandatory reporting influenced better recognition of all forms of abuse and neglect and the likelihood of reporting CSA, CEA and CN; parenting experience influenced intention to report child sexual abuse, and CAN training predicted reporting of child neglect.

Conclusions and practice implications: Results indicate that with training, nurses are a key choice for mandating child abuse and neglect reporting. Educational preparation and training for nurses should emphasise the serious impact of child abuse and neglect on children and families to improve recognition of the extent of harm and the likelihood of reporting. From a perspective of increasing compliance with the legislative duty, particular attention needs to be paid to recognition and reporting of CEA and CN. Further research is needed to determine whether factors influencing sound reporting can be successfully modified.

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What is already known about the topic?

- Professionals working with children and families are often reluctant to make a report of child abuse or neglect.
- Few studies of registered nurses have been conducted, but previous research has uncovered that nurses are less likely to report suspected cases of emotional abuse and neglect; concerned about making a report that will not be substantiated; concerned about reprisals and fearful that reporting will not benefit the child or the family. Nurses have been found to lack professional training and skills and some do not to acknowledge its significant impact on children and adult survivors.

What this paper adds

- Analyses support that nurses' attitudes to reporting suspected or known child abuse and neglect not only influence intended reporting behaviour but also the ability to recognise the seriousness of cases of child abuse and neglect.
- Prior training and nurses' personal experience as a parent also influence likelihood to report some types of maltreatment.
- Australian nurses usually report except under certain conditions. As a professional group, nurses are a good choice of mandated professional for child abuse and neglect reporting.

1. Introduction

The incidence, sequelae and costs of child abuse and neglect (CAN) have become steadily more apparent in recent decades. Parents and caregivers are known to be perpetrators in most instances of CAN, which can range from apparently mild incidents such as minor emotional neglect, and problems with disciplining a child, to serious and criminal matters such as sexual abuse, severe physical abuse, and life-threatening neglect. Parents in 'less serious' cases may often not seek assistance from helping agencies or professionals, and those responsible for very serious cases of CAN are even less likely to disclose the events.

In an effort to respond to these problems, and faced with the challenge of discovering cases of CAN that otherwise would remain concealed, many jurisdictions across the world have imposed an obligation on members of selected occupations regularly dealing with children to report known or suspected CAN to government agencies. Nurses are one of the occupational groups usually selected to report known or suspected CAN (Mathews and Kenny, 2008) due to their ideal situation to help protect children from harm; nurses have frequent professional dealings with children, which involve their inherent opportunity to observe injuries to a child either on an isolated occasion or over a period of time, and even to gain strong evidence about the nature of those injuries (for example, if there is good reason to think they are accidental, or whether the parent's account of the injuries is unconvincing and inconsistent with the injuries).

These reporting obligations are often legislated, as is the case for example in each state, territory and province in the USA, Canada and Australia (Mathews and Kenny, 2008), where nurses are made "mandated reporters" of CAN. In addition, even where there is not a legislative duty to report, as occurs in the United Kingdom and New Zealand, the obligation to report CAN may be placed in occupational policy documents. The mere presence of a reporting duty in legislation does not correlate with the breadth of that duty: legislation in some jurisdictions, for example, only require reports of sexual abuse and physical abuse, and nearly all only require the reporting of cases of abuse of a relatively high degree of severity (Mathews and Kenny, 2008). Thus, a policy-based reporting duty may be broader than one in legislation.

A recent survey of 161 countries found that of 72 responding, 49 had either legislation or policy requiring reports of suspected CAN (Daro, 2007), demonstrating how widespread this social policy measure has become. In Ireland, no legislation requires reporting of CAN, although policy requires reports of CAN by professionals including nurses (Department of Health and Children, 2004), and Irish legislation protects those who report CAN in good faith from civil liability (Protection For Persons Reporting Child Abuse Act 1998). In the United Kingdom, in which none of its three legal systems (England and Wales, Northern Ireland, and Scotland) legislatively require any occupational group to report CAN, nurses appear to be under policy-based obligations to report CAN (Royal College of Nursing, 2007; Nursing and Midwifery Council, 2008; HM Government, 2006; Scottish Executive, 2000). The Royal College of Nursing's 2007 *Child Protection – Every Nurse's Responsibility* policy document provides a clear statement of nurses' duty to report CAN. In Scotland, the *Protecting Children – A Shared Responsibility: Guidance on Inter-Agency Co-operation* policy (Scottish Executive, 2000) also states clearly that 'Where professionals suspect child abuse or neglect they should consult with senior staff or designated child protection officers in their own agency, or contact the social work service, the police or the Reporter directly for advice. Any person who believes or suspects that a child is being abused, or is at risk, should tell the social work service, the police or the Reporter about their concerns'.

Nurses continue to view child protection as a narrow surveillance role that conflicts with their primary role of supporting vulnerable families (Crisp and Green Lister, 2004). Crisp and Lister interviewed almost 100 nurses in Scotland individually and in groups. They found a lack of consensus among practice nurses about their role in child protection, reflecting the diversity and ambiguity of policies and guidelines set out for them as previously discussed. Similar results have been published for specific groups of nurses in advanced practice roles such as public health nurses in the Republic of Ireland (Hanafin, 1998), and accident and emergency nurses in Wales (Joughin, 2003). Despite the Lord Laming Report (2003) of the inquiry into the death of Victoria Climbié finding that the child's death was the result of gross failure of the system to protect the child, nurses still do not have a specific child protection remit. At the same time, the Laming Report

claimed that the legislative framework for child protection in the UK was essentially sound and that it was organisational malaise, that the system was underfunded and lacked evidence for best practice that led to the death of this child (Laming). In response to recommendations from the Laming report, partnership models between health and social work have commenced and evaluation of their utility reported (Whiting et al., 2008).

The success of the UK approach has not been examined extensively by research. In Northern Ireland, a study of 139 nurses found that only 44% stated they knew the mechanisms for reporting child physical abuse (and even this does not measure actual knowledge but perceived knowledge), and that there was a widely held desire for more training about reporting (Lazenbatt and Freeman, 2006). A smaller study of nurses in England found poor levels of knowledge of policy (Fagan, 1998). At the very least, this approach would seem to involve much duplication of policy development and training, which as well as creating a considerable amount of work may lead to inconsistent policies and uneven quality of training for nurses. This may not be conducive to influencing sound levels of knowledge of the reporting policy by nurses and good reporting practice. As will be seen, nurses' knowledge of the duty is a key factor influencing the success of reporting systems.

Questions remain about how well nurses comply with legislative and policy-based reporting obligations, and of what factors influence optimal reporting behaviour. Answers to these questions are important because they offer ways to enhance child protection by ensuring as few cases as possible of CAN are not reported when they should be (i.e. reducing failure to report); and concomitantly that instances of false positives are reduced to the greatest extent possible (i.e. reducing the reporting of innocent cases that do not involve CAN). Previous research conducted with nurses in Australia (Nayda, 2002, 2004; Land and Barclay, 2008), and Taiwan (Feng and Levine, 2005; Lee et al., 2007) indicates that even where nurses are required by legislation to report suspected child abuse and neglect, actual compliance with reporting legislation is compromised by a range of individual and contextual factors. Such barriers and facilitators to compliance with mandatory reporting are elaborated in the following literature review. These findings, taken together with those from studies of other professional groups mandated to report CAN, demonstrate the need for appropriate responses not only from individual professionals, but also from their employing authorities.

The recent introduction of a legislative reporting duty in Queensland, Australia, presented the opportunity to test several hypotheses about personal characteristics, training, knowledge and attitudinal variables that might influence nurses' reporting of CAN under an imposed duty. Nurses were for the first time required to report knowledge or reasonable suspicion that a child had suffered, was suffering, or is likely to suffer, *harm* – which was defined as “any detrimental effect on the child's physical, psychological or emotional wellbeing (a) that is of a significant nature; and (b) that has been caused by (i) physical, psychological or emotional abuse or neglect; or

(ii) sexual abuse or exploitation”. Therefore, this duty to report extended to all forms of CAN: physical abuse (CPA), psychological/emotional abuse (CEA), sexual abuse (CSA) and neglect (CN).

Descriptive findings from this large cross-sectional study are published elsewhere (Mathews et al., 2008). In the paper herein, data were analysed in depth to examine the unique and combined effects of CAN training, personal characteristics, and attitudes to reporting on recognising the seriousness of vignette cases as well as on nurses' likelihood to report them. This paper provides research evidence needed to inform clinical training strategies for the subset of nurses at risk of non-compliance with a duty to report, whether that duty is located in legislation or occupational policy. It also aims to assist with developing guidelines for future child protection training and practice that meets legislative requirements and/or professional policy-based reporting obligations of nurses.

2. Method

2.1. Design

The CANNQ was used to conduct a cross-sectional survey of registered nurses working with children and families throughout the state of Queensland, Australia.

2.2. Participants

Respondents were 930 Registered Nurses (RNs) currently working in clinical settings throughout Queensland, Australia. Permission to conduct research was granted from the Queensland University of Technology Human Research Ethics Committee and permission to approach nursing staff to participate in the study was provided by 22 out of 38 eligible Queensland Health hospital and health service districts. Information sheets with questionnaires were distributed to all RNs working with children and families in each of the 22 participating health service districts. Completed questionnaires were returned to the university in reply-paid envelopes with return rates per hospital ranging from 9.5% to 100% ($M = 42\%$). Higher return rates were not associated with demographic measures, training in child abuse, or child abuse reporting experience.

Participating hospital and health service districts represented the range of inner metropolitan, outer metropolitan, rural and remote locations and spanned public and private services employing full-time, part-time, and casual nurses. Specific settings in which the nurses worked included acute paediatric, child health, school health, maternity, and adult emergency. Approximation of the socio-demographic profile of respondents to the AIHW nursing and midwifery labour force data 2005 (AIHW, 2008a,b) strengthens generalisability of the study findings. Notably, purposive sampling was used to include nurses in most contact with children and families. For example, the study sample mean age of 40.77 years ($S.D. = 10.52$) was younger than average (46.5 years). Only 5% of the study sample was men (6.5% in Queensland). Less than half (49.7%) of Queensland's nurses and even fewer midwives

(37.6%) work full-time accounting for the low proportion (43.9%) of full-time employed respondents. At the same time, emergency, and child and family nurses in Queensland have the highest proportion of nurses with relevant postgraduate qualifications. This is reflected in the higher than average (47.4% compared with 42.9%) number of nurses with postgraduate qualifications in the sample. According to AIHW data Queensland's nursing workforce is evenly distributed across regions, however a higher proportion of nurses from rural and remote areas responded (56.2% compared with 42.3%) than from metropolitan areas. This may be due to the higher proportion of nurses working full-time in these areas throughout the state.

2.3. Instrument

The Child Abuse Report Intention Scale (CARIS) (Feng and Levine, 2005) was adapted for use in this self-report cross-sectional survey. The CARIS was designed for Taiwanese nurses to measure factors influencing CAN reporting. Permission to adapt the CARIS was obtained from the authors and care was taken to contextualise the questionnaire to reflect the specific legislative obligations for RNs in Queensland (for example, *Queensland Health Act, 2005*: ss 76KC and 76K) and to broaden the scope of the instrument to collect nuanced data about nurses training and knowledge. The resulting questionnaire, the *Child Abuse and Neglect – Nurses Questionnaire (CANNQ)*, comprised eight sections as outlined in Table 1.

An important adaptation of the CARIS (Feng and Levine, 2005) was the construction of eight vignettes drawn from previous research to test applied knowledge of CAN and the reporting duty. Each vignette presented an example of a hypothetical case that, for a Queensland RN, should activate the duty to report. Based on the information provided, a 10-point Likert-type scale measured perceived seriousness of the case, propensity to label the case as abuse or neglect, tendency to report the case, and knowledge of whether the legislation required a report for the case.

2.4. Data management procedures and analyses

Data were analysed using SPSS 16.0 and SAS 6.12. All observations for which there were missing data for any

variable were removed from the analysis. Training, parent status, parent role, geographical location, years of work experience and attitudes to reporting were considered in multivariable logistic and linear regression models to determine their independent influences on (a) likelihood to report vignette cases and (b) perceived extent of harm (seriousness) of acts or omissions in vignette cases.

3. Results

3.1. Sample

Demographic, training and work experience profiles of the participants did not vary according to participation rates across hospital and health service districts. The majority of respondents were female (95%), aged 20–74 years ($M = 40.77$, $S.D. = 10.52$), over two-thirds married or defacto (69%) or with children (67%). Less than half (43.9%) worked in a full-time capacity. The sample had between 0.08 and 47 years of nursing experience ($M = 17.12$, $S.D. = 10.84$), and since graduating many had completed postgraduate nursing qualifications consisting of certificate (27.8%), diploma (14.1%), and masters degree (5.5%).

Specific training was mandatory for nurses following enactment of the new legislation. Online self-directed learning modules in child abuse and neglect reporting were also made available to nurses. Some districts provided face-to-face training through designated Child Protection Liaison Officers employed by the state health authority. More than half of the respondents had received training specifically related to child abuse and neglect (58.3%). Nurses working in rural and remote hospital and health service districts were significantly more likely to have had specific training in child abuse and neglect compared with nurses working in metropolitan settings ($p < .01$).

3.2. Reporting practice

Nurses, when acting on their professional duty to report cases of suspected or known child abuse and neglect had reported from 0 to 60 cases. Almost half of the responding nurses (42.6%) had reported either suspected or known cases of child abuse or neglect during the course of their career as a nurse whereas almost a quarter (21.1%) had not

Table 1

Contents of the Child Abuse and Neglect – Nurses Questionnaire (CANNQ) as adapted from the Child Abuse Reporting Intention Scale (CARIS).

Variables	Detail	Items	Mode
Section A: Demographic information	Sex, age, marital status, parent status, role, education level	6	Categorical/continuous
Section B: Job details	Area of specialisation, practice level, geographical location	7	Categorical
Section C: Experience	Working and child abuse reporting experience	5	Categorical/continuous/open-ended
Section D: Attitudes to reporting	Fear of reprisal, faith in department, organisational barriers to reporting, child and family's best interests, roles and responsibilities of nurses in reporting	11	Interval scales
Section E: Work environment	Organisational and colleague support for reporting	3	Categorical
Section F: Education/training	Training experience and exposure, confidence to report	7	Categorical/continuous/open-ended
Section G: Knowledge of the law	Knowledge of legal reporting duty	12	Categorical
Section H: Intended reporting according to vignettes	How serious is this case, does it constitute abuse, would you make a report, would you be required to report by law, impact on child, impact on family, give reason for failing to report ^a	56	Categorical/continuous/open-ended

^a Eight vignettes presenting two cases each of sexual abuse, physical abuse, psychological/emotional abuse, and neglect; each vignette with seven items.

Table 2Knowledge of duty and intention to report ($N = 930$).

Variables	Description	<i>N</i>	<i>M</i>	S.D.	% correct
Sexual Abuse (CSA)	Recognises seriousness of abuse	916	18.26	2.27	
	Recognises this constitutes abuse	889			96.1
	Would report the abuse	888			92.9
	Recognises requirement to report	907			79.6
Physical Abuse (CPA)	Recognises seriousness of abuse	920	18.73	1.60	
	Recognises this constitutes abuse	892			91.9
	Would report the abuse	895			88.7
	Recognises requirement to report	911			77.8
Emotional Abuse (CEA)	Recognises seriousness of abuse	905	16.12	3.07	
	Recognises this constitutes abuse	863			87.7
	Would report the abuse	817			68.2
	Recognises requirement to report	879			55.3
Neglect (CN)	Recognises seriousness of abuse	905	18.58	1.85	
	Recognises this constitutes abuse	885			94.7
	Would report the abuse	869			89.3
	Recognises requirement to report	883			81.1

reported when they did suspect. Notably, 26.6% of nurses who had reported either suspected or known cases of child abuse or neglect during the course of their career as a nurse had also made the decision not to report suspected or known child abuse or neglect cases.

Items measuring knowledge of where to report, how to report, and how soon to report were answered correctly by 88.4%, 90.4%, and 72.4%, respectively. Although Queensland nurses' identities as reporters of child abuse and neglect are protected from disclosure, almost one-third (31.7%) of nurses did not know that they were legally protected from being sued and held liable for defamation from making a report in good faith under the legislation. Over a quarter (28.6%) of the sample was not aware that identity as a reporter is protected and that protection extends against being held liable for criminal conduct (27.2%) as well as for damages (28.8%).

3.3. Recognition of duty and intention to report

Table 2 displays summary descriptive results for responses to the eight vignettes. Scores for each item related to both vignettes for each type of abuse CSA, CPA, CEA, and CN were combined. This provided an overall score for each item for each form of abuse. Means and standard deviations for participants' perceptions of the extent of harm (seriousness) were similar (within ± 0.50 standard deviation) for CSA, CPA, and CN vignettes, whereas the means were lower for CEA vignettes. A high proportion of nurses recognised, correctly, that each vignette case met the legal definition of child abuse or neglect. Notably however, fewer nurses correctly recognised this for vignettes featuring CEA compared with other forms of abuse. Although most nurses responded favourably that they would report the cases in the vignettes, noticeably fewer would report the cases featuring examples of CEA compared with other forms of child abuse.

Intention to report the vignette cases was high. Differences in intention to report were found between the forms of reportable abuse. The majority of nurses

recognised the legal obligation to report physical, sexual abuse and neglect whereas only two-thirds recognised the same duty for CEA. Importantly, knowledge of the extent of harm to the child required by legislation to report a case of child abuse or neglect was poor. Most nurses (80.9–89.1%) incorrectly answered that they were legally required to report abuse and neglect even when they think the harm to the child is insignificant or there is no harm at all. An additional 6.4–7.1% were unsure.

3.4. Relationship between training and child abuse and neglect reporting

Formal training had been taken by 58.3% of nurses and 71.3% had seen the video produced to raise awareness and provide information on the then newly introduced legislation. Having completed child protection training improved the level at which nurses felt prepared to report cases in practice [$F(1,814) = 206.64, p < .001$]. Nurses with specific child protection training were more likely to have reported suspected cases [$\chi^2(df = 2, n = 792) = 54.93, p < .001$]. No relationship was found between training and attitudes towards reporting child abuse and neglect ($p > .05$).

3.5. Likelihood to report child abuse and neglect

Training, parent status, parent role, geographical location, years of work experience and attitudes to reporting were considered in binary logistic regression to test whether the likelihood of nurses to report cases could be explained by these variables. The likelihood of nurses to report according to the recently enacted legislation was high with the exception of the CEA cases (vignettes 5 and 6). Such skewed distribution presents a number of options for analysis, each having strengths and limitations. To reduce bias in the application of regression the eight vignettes were reduced to four by combining scores for each of two vignettes per type. If a nurse said she/he would report both sexual abuse cases presented in

Table 3

Multiple logistic regression analysis summary for likelihood to report vignette cases with demographic and attitude variables.

	Sexual Abuse (CSA) ($r^2 = .07$)			Physical Abuse (CPA) ($r^2 = .027$)			Emotional Abuse (CEA) ($r^2 = .11$)			Neglect (CN) ($r^2 = .07$)		
	OR	95% CI	Wald	OR	95% CI	Wald	OR	95% CI	Wald	OR	95% CI	Wald
Training	.611	.336–1.11	2.61	.753	.472–1.20	1.42	.750	.534–1.05	2.77	.558	.344–.906	5.56*
Parent status	2.55	.864–7.55	2.87	.537	.247–1.16	2.45	1.03	.577–1.86	.015	1.06	.449–2.53	.021
Parent role	.359	.152–.850	5.43*	1.12	.576–2.21	.123	1.07	.661–1.74	.081	1.06	.521–2.15	.025
Workplace												
Metropolitan	2.39	.528–10.8	1.28	1.47	.540–4.03	.575	2.17	1.04–4.53	4.30*	2.11	.703–6.34	1.77
Outer metro	.828	.109–6.26	.034	1.58	.487–5.13	.580	.804	.325–1.99	.223	.619	.129–2.96	.361
Rural	2.19	.494–9.76	1.06	1.12	.417–3.04	.055	1.20	.583–2.49	.256	1.44	.480–4.34	.429
Age	.959	.904–1.01	1.99	1.03	.996–1.08	3.17	.986	.954–1.01	.750	.972	.924–1.02	1.27
Years work experience	1.01	.959–1.06	.101	.974	.940–1.01	2.05	1.01	.982–1.04	.531	1.02	.977–1.06	.835
Attitudes to reporting	1.07	1.02–1.13	8.45**	1.02	.99–1.07	2.14	1.09	1.06–1.12	35.26***	1.06	1.02–1.10	9.19**

OR: odds ratio; CI: confidence interval.

* $p < .05$.** $p < .01$.*** $p < .001$.

vignettes 1 and 2, for example, then the score was 0. If the nurse said “no” to one or both vignettes, then the code was 1. Thus a binary outcome was created identifying those who said they would not report. Multivariate relationships were then examined using binary logistic regression. Results are presented in Table 3 for each CSA, CPA, CEM, and CN.

After adjustment for all variables included in the model, training in child abuse and neglect reporting was associated with higher likelihood to report the CN cases alone. Having a parent role explained higher likelihood to report CSA and metropolitan work experience explained higher likelihood to report CEA. Insufficient power was available to break the 11-item attitude scale for likelihood to report data and, therefore, the full attitude scale was used. Negative attitudes yielded high scores; conversely positive attitudes yielded low scores. Attitudes to reporting remained a strong influence upon the likelihood to report CSA, CEA, and CN such that positive attitudes to reporting explained likelihood to correctly report.

3.6. Perceived extent of harm (seriousness) from child abuse and neglect

Likewise training, parent status, parent role, geographical location, years of work experience and attitudes to reporting were considered in linear regression to test whether score for extent of harm can be explained by these variables. Mean scores for the extent of harm or seriousness of the individual cases were very high with participants scoring between 7.90 and 9.87 on a scale from 1 (this situation is not at all serious) to 10 (this situation is extremely serious) for each vignette. Responses to the eight vignettes were thus reduced to four scales by combining scores for each of two vignettes per type for the measure extent of harm or seriousness for each CSA, CPA, CEA, and CN. Results from the linear regression in which training, demographic, and attitude variables were tested to determine influence on recognising extent of harm or seriousness are presented in Table 4.

No relationship was found between training and perceiving the seriousness or extent of harm of any form

Table 4

Linear regression analysis summary for perceived extent of harm (seriousness) with demographic and attitude variables.

	Sexual Abuse (CSA) ($r^2 = .06$)			Physical Abuse (CPA) ($r^2 = .016$)			Emotional Abuse (CEA) ($r^2 = .059$)			Neglect (CN) ($r^2 = .056$)		
	β	β_z	t	β	β_z	t	β	β_z	t	β	β_z	t
Training	-.014	-.003	-.084	.052	.016	.456	-.204	-.033	-.958	-.018	-.005	-.134
Parent status	-.236	-.049	-.845	-.263	-.079	-1.33	-.760	-.119	-2.06*	-.037	-.009	-.162
Parent role	-.602	-.131	-2.644**	-.311	-.098	-1.92	-.722	-.120	-2.40*	-.090	-.024	-.482
Workplace	-.007	-.003	-.087	.019	.012	.349	.099	.033	.953	.016	.009	.244
Age	.020	.093	1.323	.011	.070	.981	.066	.231	3.31**	.036	.201	2.86**
Years work experience	.004	.019	.314	-.004	-.025	-.406	-.012	-.043	-.698	-.001	-.008	-.137
Attitudes to reporting	-.089	-.221	-6.48***	-.040	-.143	-4.107***	-.101	-.191	-5.58***	-.053	-.162	-4.71***

* $p < .05$.** $p < .01$.*** $p < .001$.

of abuse or neglect. Nurses with a parenting role were more likely to recognise the seriousness of CSA and CEA. Nurses' age influenced recognition of the seriousness of CEA and CN such that more mature aged nurses correctly rated vignette cases as more serious. Notably, positive attitudes towards reporting child abuse and neglect explained recognition of the extent of harm for CSA, CPA, CEA, and CN such that nurses with more positive attitudes to reporting all forms of abuse and neglect were also significantly more likely to recognise the extent of harm (seriousness) to children.

4. Discussion

The aim of this study was to extend the previous descriptive analysis (Mathews et al., 2008) to examine the influence of personal characteristics, training, knowledge and attitudinal variables on nurses' reporting of CAN. First, prior reporting practice was examined. Almost half of the nurses indicated that they had reported suspected or known child abuse or neglect during their professional career. Around a fifth (21.1%) had not reported a case they suspected either before or after the legislation was enacted and over a quarter of the respondents had reported some but not all cases where there was suspicion or knowledge of child abuse. This reflects findings of previous, similar research conducted in Taiwan. For example, Feng and Levine's (2005) study of over 1000 Taiwanese nurses found an almost identical 21% of nurses had failed to report at least one suspected case of CAN. Lee et al. (2007) reported a higher proportion (43.4%) of Taiwanese nurses who had suspected but not reported cases of child abuse and neglect.

With respect to knowledge, a large majority of nurses perceived they were legally bound to report CAN even when they considered harm to the child was insignificant or non-existent. This is not consistent with the legislation. Nurses' accurate and timely reporting as mandatory reporters is crucial to well-functioning child protection systems. Nurses in this sample clearly overestimated the extent of this feature of their legal obligation placing them at risk of over reporting cases. Enhancements to training should be implemented, immediately, to address this misconception.

In a study of Taiwanese nurses, Feng and Levine (2005) used vignettes representing both severe and mild cases of CAN allowing respondents to examine the relationship between reporting practice and extent of harm or seriousness of abuse. Feng and Levine found that nurses' likelihood to report CAN varied by the type of abuse. Specifically, nurses were more likely to report hypothetical cases of CSA and CPA compared to cases of CEA and CN. Further, they were also more likely to recognise them as meeting legal definitions of child abuse and neglect, deem them to be serious cases of abuse or neglect, and recognise their legal obligation to report them. Likewise, a New Zealand study of educators, general practitioners, and mental health professionals' attitudes and accuracy of reporting child abuse and neglect revealed positive attitudes to reporting (Rodriguez, 2002). For each professional group, respondents were least accurate for CN

scenarios and most accurate for alleged CSA indicating that CN would be least likely to be identified and reported of all forms of child abuse and neglect.

The findings with respect to training are also illuminating. Although nurses indicated that the training they had received made them feel well prepared for their professional role and for the responsibility of reporting child abuse and neglect, and training influenced their likelihood to report CN, recent training had no influence on nurses' perceptions of the extent of harm or seriousness of abuse and neglect. Nevertheless, it is encouraging that training explained the likelihood to report CN cases. Following a review of the literature Alvarez et al. (2004) concluded that although CN represents the highest proportion of reported forms of abuse, it is one of the most difficult forms to identify. They recommended that training programs delivered to assist professionals with reporting procedures should be developed to be consistent with definitions of CN used by the state laws. It appears that the training undertaken by respondents in this study was tailored to be consistent with the legislation.

The vignette findings revealed that the majority of nurses would report the hypothetical cases even when they did not accurately gauge the extent of harm (seriousness) of the cases. This adds further weight to the need for review of training components relating to the law's requirements for reporting in terms of extent of harm. Further, with respect to CEA cases, as these were an exception to the findings above, nurses did recognise the seriousness of these cases but thought they would not be required by law to report these types of cases to child protection authorities. Relevant components of nurses training, therefore, should be revisited for clarity and special emphasis should be placed on exemplars for both extent of harm, and reportable types of maltreatment. Attention to the pedagogical features of training and the use, at least in part, of case study approaches or problem-based learning is warranted (Alvarez et al., 2004).

5. Limitations

The current study used a cross-sectional design soon after a state-wide education and training campaign that sought to inform nurses of the newly enacted legislation giving them a legal mandate to report child abuse and neglect. The stability of these findings over time therefore needs to be tested in future research to provide training guidelines and dose response. The study also relied on self-selected nurses providing self-reports of attitudes and reporting practice.

The measurement of intention to report was somewhat limited, as it was based on just eight scenarios which may not have captured sufficient variety in incidents typically encountered by nurses. Future research should incorporate reporting data from child reporting authorities responsible for processing these reports to determine actual rather than anticipated reporting practice using vignettes.

Care was taken to include health service districts representative of metropolitan and rural areas across Queensland, the site of the state-wide survey. A representative sample of nurses working with children and

families was drawn from this effort. However, the extent to which the results are generalisable to other jurisdictions is unknown given the wide variation in content and enactment of Australian mandatory reporting laws for nurses (Mathews et al., 2006).

6. Conclusion

Australian nurses usually report except under certain conditions that would be best ameliorated by training. Registered nurses in this study had good knowledge of the duty to report and their attitudes to reporting were positive. The likelihood of them recognising and reporting appropriate cases was high. At the same time, the results showed that variation does occur in the likelihood of reporting a case of child abuse or neglect and that reporting child abuse and neglect practice by nurses is influenced by a complex pattern of individual reporter characteristics, case characteristics, and attitudes towards reporting.

The finding that poor attitudes to mandated reporting of child abuse and neglect influence the ability to recognise the seriousness of cases is consistent with other studies where poor attitudes are associated with poor reporting practice. Taken together, these findings indicate that the ability to discern the extent of harm to the child and thus to report is influenced by negative attitudes such as not having faith in child protection services, perceiving a number of individual and organisational barriers to reporting and not believing that a report will benefit the child or the family. Future training needs to target the serious impact of child abuse and neglect on children and families, and focus on improving attitudes to the nurses' role and responsibility to report. Particular attention should be paid to CEA and CN so that early intervention and prevention services can be targeted and mobilised in response to accurate reporting.

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Conflict of interest

There is no actual or potential conflict of interest for authors of this manuscript that could inappropriately influence or be perceived to influence this work.

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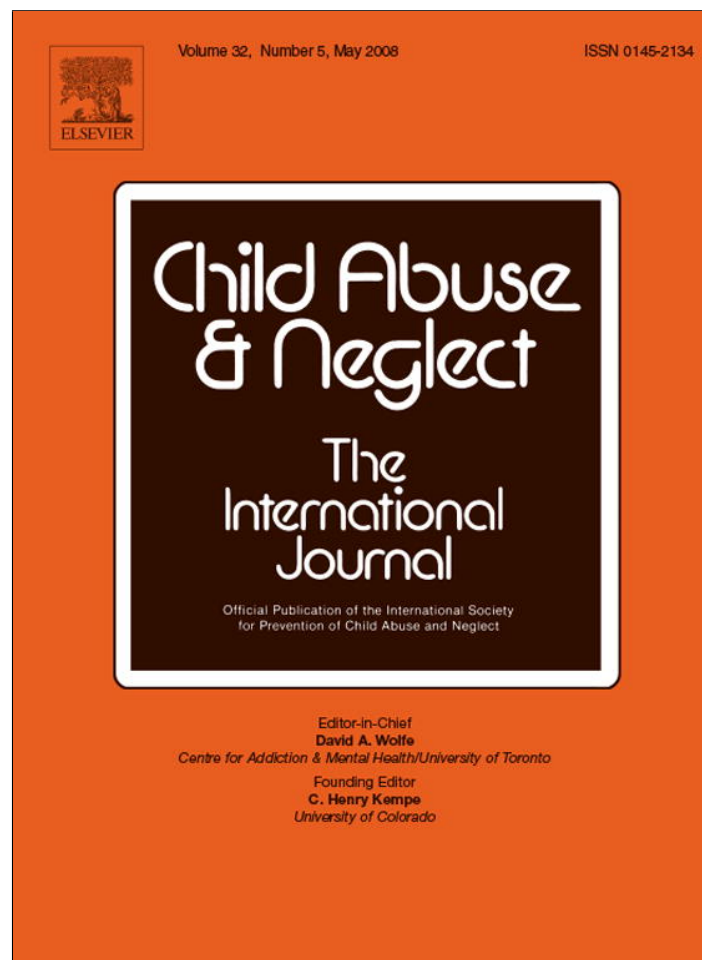
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Child Abuse & Neglect



Commentary

Mandated reporting is still a policy with reason: Empirical evidence and philosophical grounds[☆]Ben Mathews^{a,*}, Donald C. Bross^b^a School of Law, Queensland University of Technology, GPO Box 2434, Brisbane, QLD 4001, Australia^b Henry Kempe National Center for the Prevention and Treatment of Child Abuse and Neglect, 1825 Marion Street, Denver, CO 80218, USA

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Introduction

A major criticism of mandated reporting laws is that they produce many unsubstantiated reports, increasing workload for child protective services, wasting resources, and reducing the quality of service given to known deserving children and families (Ainsworth, 2002). Some critics go further: Melton (2005) claimed mandated reporting is now “a policy without reason”. Melton stated “the primary problem is no longer case-finding” (2005, p. 10), and argued that “common sense and empirical research” show mandated reporting is “a bankrupt policy” (2005, p. 15). Further, Melton proposed that jurisdictions with these laws should revise their systems “to facilitate voluntary assistance to children and families—to create or sustain the norms of caring that prevent harm to children” (2005, p. 15), and urged countries without a US-type system to adopt another model. However, we argue 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 authorities and helping agencies. We accept that mandated reporting schemes are imperfect. But, using child safety as the primary concern, and drawing on evidence from several nations, we argue that a child protection system needs a form of case identification beyond voluntary help-seeking; that mandated reporting produces a large number of substantiated reports and to sacrifice this compromises child protection; that the most serious problems in systems having mandated reporting appear to lie not with the reports, but with responses; and that the economic and social justice advantages of mandated reporting far outweigh any disadvantages.

The need for a system of referrals by professionals of suspected abuse and neglect

Without a system where people outside abused or neglected children's families bring the children's circumstances to the attention of authorities, many and perhaps most cases will remain hidden. While in some cases a child may disclose abuse to

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an adult who then reports it, children are rarely the direct source of their own referral, accounting for 0.5% of substantiated reports in the USA in 2004 (US Department of Health & Human Services, 2006, p. 20), and 2% of substantiated reports in Canada (excluding Quebec) in 2003 (Trocmé et al., 2005, p. 876). Parents, who inflict most abuse and neglect, do not usually seek assistance. In the USA in 2004, only 0.1% of substantiated reports were made by alleged perpetrators and a further 4% by nonperpetrating parents (US Department of Health & Human Services, 2006, p. 20); in Canada (excluding Quebec) in 2003, parents made 11% of all substantiated referrals (Trocmé et al., 2005, p. 86).

A society with mandated reporting will have more cases of abuse and neglect brought to the attention of authorities than will a society with no such system. Others agree with this (e.g., Besharov, 2005), and jurisdictions that have introduced the laws are known to experience a sharp rise in substantiated (and unsubstantiated) referrals. Besharov (1985, p. 545) declared “there is no dispute that the great bulk of reports now received . . . would not have been made but for the passage of mandatory reporting laws and the media campaigns that accompanied them.” Based on National Incidence Study figures, Besharov (2005, p. 287) estimated that due to increased reporting and investigation and treatment services, annual child deaths in the USA have fallen from 3000–5000 to about 1100. While not conclusive, partly due to definitional differences, recent substantiation rates of abuse and neglect per 1000 children in jurisdictions with mandated reporting compared to those without it arguably indicate the superiority of mandated reporting in revealing deserving cases. In England in 2005/06, and in Western Australia in 2004/05, two jurisdictions without mandatory reporting, the rates were 2.4 (Department for Education & Skills, 2006); and 2.3 (Australian Institute of Health & Welfare, 2006, p. 21). In contrast, where mandatory reporting exists (Mathews & Kenny, 2008), the USA (2004), Canada (2003) and Australian jurisdictions (2004/05) recorded rates of 11.9 (US Department of Health & Human Services, 2006, p. 23), 13.89 (Trocmé et al., 2005, p. 35), and a range from 5.5 to 14.1 (Australian Institute of Health & Welfare, 2006, p. 21).

Numbers and proportions of substantiated reports made by mandated reporters

Professionals who are mandated reporters contribute a large majority of substantiated referrals, accounting for 67.3% of substantiated cases in the USA in 2004 (US Department of Health & Human Services, 2006, p. 10), and 75% of all substantiated cases in Canada in 2003 (Trocmé et al., 2005). Australian data does not show this proportion, but use of other data (Australian Institute of Health & Welfare, 2006, p. 57) and analysis yields an estimate of 58.01%. As well, significant proportions of these referrals are substantiated. Excluding referrals screened out, in the USA, professionals' referrals were substantiated at a rate of 35.12% (US Department of Health & Human Services, 2006, Tables 2–5), and in Canada, 53% were substantiated, with a further 12% suspected (Trocmé et al., 2005, p. 88).

This is not to claim mandated reporting even approaches a perfect system of case-finding. Even with it, many cases evade the attention of authorities. Professionals who come into contact with abused and neglected children will not report a significant proportion of cases, for reasons including lack of confidence in CPS and fear of misdiagnosis (e.g., Flaherty, Jones, & Sege, 2004; Flaherty et al., 2006; Kenny, 2004). A large proportion of cases known to professionals will be officially unrecognized and therefore ignored (e.g., Sedlak & Broadhurst, 1996), and many “unsubstantiated” cases will be abusive or neglectful but will lack sufficient evidence to substantiate. As well, there remains a large reservoir of cases which will not become known to any authority figure (Sedlak & Broadhurst, 1996). Case-finding remains a massive challenge.

The current success of mandated reporters in disclosing cases can be enhanced, and problems with reporting can be reduced. The substantiation rate of all referrals including those screened out is low in the USA (15.92%) and Australia (18.25%), but as a proportion of all investigated referrals increases in the USA to 25.7% (with another 3% indicated), in Australia to 51.63%, and in Canada to 49% (with another 12% suspected). As well, a good argument can be made that substantiation rates alone should not be used to claim the failure of mandated reporting, because, for example, many unsubstantiated cases do receive services (Drake & Jonson-Reid, 2007). Even so, many agree that legislation, reporter training and public education should more clearly define what should and should not be reported. The concept of “reasonable suspicion” may be more plainly conveyed (Besharov, 2005). Mandated reporters should receive thorough training (Flaherty et al., 2004; Kenny, 2001, 2004). Methods of intake, screening and assessment may be refined, and personnel can become more skilled (Finkelhor, 2005; Sedlak & Broadhurst, 1996).

Evidence of the sources of referral of substantiated cases undermines Melton's thesis. Enhancing voluntary help-seeking by parents in communities that provide family support would be welcome, as would more widely delivered primary prevention programs. Yet, there is insufficient evidence in experience or science to justify leaving child protection to voluntary help-seeking by parents alone; even more so where the abuser is committing criminal acts or is affected by drugs (Sedlak & Broadhurst, 1996). Our communities simply do not have the features Melton urges, and until they do it will be premature to jettison mandated reporting as a strategy of case identification. To forgo the proven outcomes of mandated reporting would sacrifice the disclosure of many and probably most cases. Melton (2005) admits that a possible consequence of abandoning mandated reporting would be the knowing acceptance of severe maltreatment of some children who would have come to the attention of authorities. This would be an unacceptable price to pay for an unproven alternative strategy, and the incidence of this consequence might be greater than expected.

Efforts to increase voluntary assistance-seeking and community care can coexist with ongoing enhancement of mandated reporting. Indeed, a society having sound mandated reporting is compatible with, and arguably should be part of, the community Melton envisions. Are mandated reporters not “adults [who] watch out for children” and who, if the system was to respond effectively, play a vital role in enabling the provision of “easily available and nonstigmatizing help to their families”;

and is a system of mandated reporting not an element of a method of “Help – and if necessary, monitoring and control – [which] ought to be built into primary community settings . . . that improves the everyday quality of life for children and families” (Melton, 2005, pp. 15–16)?

The most significant problems are not with mandated reporting, but with responses

Mandated reporting produces more referrals, a proportion of which are not substantiated, which requires resources to screen, assess and investigate, and this may distract overburdened personnel from known cases. However, this is not an argument against mandated reporting, but against insufficient resourcing, and, perhaps, ineffective reporter training and practice, less than optimum screening, and vague reporting laws. Drake and Jonson-Reid (2007) have argued strongly against Melton's claims about the adverse consequences of mandated reporting (2005, p. 14), but even to the extent those claims are valid, they do not strike at its core aim of case disclosure. Rather, the claims strike at undesirable features of response methods after referrals, which are not flaws in mandated reporting, but challenges in administration of child protection systems post-referral.

There are problems of inadequate resources (Finkelhor, 2005), and still developing methods of screening (Besharov, 2005) and assessment. However, the major policy-based problem may be that CPS departments appear to be seen by critics, professionals and citizens alike (Melton, 2005) as a coercive, punitive investigation process which does not guarantee services, rather than one offering sensitive assessment and helpful services. There is weighty evidence against this claim (e.g., Drake & Jonson-Reid, 2007; Finkelhor, 2005; Fryer, Bross, Krugman, Benson, & Baird, 1990), but, even to the extent that it is true, it is incorrect to blame mandated reporting for these faults. The claim that “mandated reporting has transformed public child welfare agencies into investigative bodies with diminished involvement in the provision of social services” (Melton, 2005, p. 14), incorrectly identifies the cause. Mandated reporting is separate from the responses of child protective agencies. The task of these agencies is to develop sound policy and culture and to respond appropriately after both referral and substantiation. If CPS is perceived as hostile, this is a challenge of public administration requiring improvement of assessment methods and service delivery, and the building of community confidence in the system.

Similarly, inadequate service provision (Administration on Children & Families, 2003; Melton, 2005) must be remedied. Data indicates that many substantiated cases receive no services (US Department of Health & Human Services, 2006, p. 82). Again, to the extent that this is inadequate – Drake and Jonson-Reid (2007) point out that many cases do not require services – this problem flows from inadequate resourcing and unsound policy and practice post-report, not from mandated reporting. As well, Drake and Jonson-Reid (2007) point out that in the USA, more services flow to unsubstantiated than substantiated cases. Melton (2005) observed that some states focus more on assessment than investigation, at least in cases unlikely to involve court orders. This approach may be preferable to one prioritizing investigation only, but it still needs case identification, which experience suggests is best achieved by mandated reporting.

Characterizing all involuntary social services as “punitive” is inaccurate. Numerous studies suggest clients do not generally feel dissatisfied (Drake & Jonson-Reid, 2007). Limited studies suggest only a small number of cases in jurisdictions with mandatory reporting result in criminal prosecution (Tjaden & Thoennes, 1992). Compared to those who accept voluntary plans, children and their families who participate in court-ordered treatment may be more likely to complete treatment with signs of success and might be more likely to remain intact as families (Irueste-Montes & Montes, 1988; MacMahon, 1997; Wolfe, Aragona, Kaufman, & Sandler, 1980). Abandoning mandated reporting would force a choice of one branch of a false dichotomy of voluntary services opposed to those which would result from mandated reporting. Public health and mental health recognize the whole ecology of their social situations and incorporate voluntary and involuntary approaches to prevention and intervention. A full array of such measures is also the best commitment to abuse and neglect.

Mandated reporting enables economic and social benefits far outweighing disadvantages

Abuse and neglect causes sufficient economic and social cost to justify, if not demand, government responses. Without proof that a voluntary approach alone will reduce these costs, a type of mandated reporting appears necessary. Consider the health consequences. Extreme cases result in death: in the USA in 2004 there were an estimated 1490 fatalities (US Department of Health & Human Services, 2006). The costs of nonfatal abuse and neglect to health and life chances are well-established, and can extend over the lifespan (e.g., Boney-McCoy & Finkelhor, 1995; Briere & Elliott, 2003; Fergusson & Mullen, 1999; Hildyard & Wolfe, 2002; Horwitz, Widom, McLaughlin, & White, 2001; MacMillan et al., 2001; Nelson et al., 2002; Perry, 2002; Spataro, Mullen, Burgess, Wells, & Moss, 2004). Recent annual data in three nations of substantiated cases show large numbers of children are affected: 872,000 in the USA (US Department of Health & Human Services, 2006, p. 39); 85,237 in Canada (Trocmé et al., 2005, p. 35); and 34,046 in Australia (Australian Institute of Health & Welfare, 2006, p. 55).

Calculating precise economic costs is not possible, and there is not yet a reliable body of evidence about the costs, or the cost-effectiveness of prevention and intervention programs. Yet, studies do indicate substantial economic costs (e.g., Caldwell, 1992; US Department of Health & Human Services, 2001), and suggest ongoing efforts to improve prevention, case-finding and intervention are fiscally imperative. Recent estimates in the USA and Australia of the annual total cost of abuse

and neglect place it at \$US94 billion (Fromm, 2001) and \$A4.9 billion (Kids First Foundation, 2003); comparable estimates accounting for population difference.

Similarly, it is impossible to draw precise conclusions about the success and cost-effectiveness of interventions. Reviews have disclosed little research into the impact of interventions (Finkelhor & Berliner, 1995; Oates & Bross, 1995), and there is a lack of randomized trial data (Chaffin, 2004). Some studies have found underwhelming results (e.g., Duggan et al., 2004). Yet, there is evidence of the success of service provision (Aos, Lieb, Mayfield, Miller, & Pennucci, 2004; Caldwell, 1992; DePanfilis & Zuravin, 2002). Moreover, there is an impressive body of primary prevention work, including randomized trials, about the positive effects of home visitation, especially when delivered to selected population subgroups. Olds et al. (1997) showed that nurse home visits in the first 2 years of life reduced reports of abuse and neglect by mothers over a 15-year period, especially for women who were unmarried and from low socioeconomic households. Olds' work has also shown enhanced early childhood health (e.g., Olds, Henderson, Kitzman, & Cole, 1995) and positive effects on maternal life course and child academic and behavioral outcomes (Olds et al., 2004). These outcomes do not extend to all children and mothers at risk, unfortunately, since enrolling is voluntary (5–25% of the mothers refuse the service, and these women are known to be at higher risk: D. Olds, personal communication to Donald Bross, March 2, 2007).

There are few economic evaluation studies of interventions comparing the economic burden of injury to the cost of programs designed to reduce that burden (Corso & Lutzker, 2006, p. 731). So, there are not definite answers to questions such as whether home visit programs are cost-effective compared to other programs. Yet Corso and Lutzker (2006) identified four such studies showing substantial benefits. As well, there is strong evidence that investing in the early years, especially for disadvantaged children, is economically productive (Karoly, Kilburn, & Cannon, 2005; Knudsen, Heckman, Cameron, & Shonkoff, 2006; Schweinhart et al., 2005; Shonkoff & Phillips, 2000). The family environment is a critical predictor of early cognitive and noncognitive ability, and gaps in these skills emerge by age 4–6 (Carneiro & Heckman, 2003). Environments that do not develop these skills place children at a disadvantage which may never be restored. Economic return from early intervention is very high compared with later attempts to redress imbalances resulting from deficient family environments (Heckman, 2006).

Social justice and individual rights

A liberal society must not ignore wrongs committed by adults against children. Abolishing mandated reporting would undermine children's rights to safety and increase their vulnerability to harm. A more robust method (such as mandated reporting) of disclosing these injustices is required than relying on voluntary help-seeking and still-unformed communities of care. Several principles from jurisprudence and political philosophy support this argument.

Melton's theory of psychological jurisprudence assumes law should promote human welfare, state community norms and values, and establish structures creating social behavior consistent with those values (Melton, 1992, p. 384). People's subjective experiences are the unit of analysis. Law must treat people with respect and dignity, listen to their lived experience, protect aspects of personal, family, and community life that maintain dignity, and "foster egalitarian treatment of those in situations of disadvantage" (Melton, 1992, p. 385). To do this, lawmakers must examine social reality and ask if legal decisions are having their intended effects, to inform policy creation.

An experiential approach to rights (Dershowitz, 2004) identifies rights through our experience of wrongs we wish to avoid, rather than from a utopian vision. This approach seeks to persuade others that based on experiences, "people should conclude that entrenching certain rights into positive law will, in the long run, produce a less unjust society" (Dershowitz, 2004, pp. 115–116). This aim is similar to that promoted by Rorty (1999, p. xxix): "What matters for pragmatists is devising ways of diminishing human suffering and increasing human equality, increasing the ability of all human children to start life with an equal chance of happiness."

In 1690, John Locke held that parental power extended only to govern children for their own "help, instruction, and preservation" (Locke, 2003, p. 176); it did not extend to life or death or the child's liberties. Parental guardianship was conditional on being appropriately exercised, and so could be forfeited (pp. 126–127). In 1859, John Stuart Mill demanded the protection of children from external injury (Mill, 1998, p. 14), and identified the family sphere as the most important domain requiring state control to prevent abuse of power (1998, p. 116). Mill saw the link between a distorted sense of liberty as parents, and State neglect to secure children's safety (1998, p. 116).

A just society must include measures to address the vulnerability of children to abuse and neglect. Notions of parental liberty should not be unduly privileged over children's rights to personal security. That history and custom has left adults' treatment of children untended is no reason to still devalue children's liberty. An approach informed by psychological jurisprudence would surely conclude it is more realistic to expect abused and neglected children's experience to come to light with mandated reporting than without it. Engaging with children's subjective experience might suggest that, if given a say, those who are abused would prefer to be assisted than not. Mandated reporting better protects children's interests of dignity and egalitarian treatment, and enhances parents' interests if effective responses occur. Without proven alternatives in place, abandoning mandated reporting would ignore children's subjective experience, and sacrifice many children's rights to dignity and security. Similarly, an experiential approach suggests that a child's right to safety is worth protecting, in the interests of individuals, families and a just society.

Conclusion

The principle that motivated mandated reporting originally is even more apposite today. True, the first laws were intended for an imagined several hundred cases of physical abuse. Yet, the purpose of those laws, then as now, was to bring cases of severe abuse to the attention of authorities because otherwise they would have remained hidden. We now know that the number of cases is greater, the costs are extensive, and that action taken early in life can be highly beneficial. The question of whether a system of mandated reporting is required is related to a wider question of whether and how to bring cases to light. The nature and efficacy of the system that responds to reports are critical but separate challenges. Even with a good system of mandated reporting, many children's experience will go undetected. Without it, and without a proven alternative, many thousands more children will be left to suffer, incurring even more health and economic costs.

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Queensland nurses' attitudes towards and knowledge of the legislative duty to report child abuse and neglect: Results of a State-wide survey

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In 2005, legislation commenced requiring Queensland nurses to make reports of suspected child abuse and neglect to government child protection authorities. This development further harmonised Australian mandatory reporting laws and their application to the nursing profession, although inconsistencies still exist between States and Territories. As indicated by research published in 2006, little is known about nurses and the reporting of child abuse and neglect. The legislative change in Queensland provided a new opportunity to study nurses' attitudes to reporting, knowledge of the legal reporting duty, and reporting practice, all of which provides much-needed evidence about the reporting of child abuse and neglect, and about the laws themselves. This article describes results from a State-wide survey of Queensland nurses. Findings have implications for law reform, nursing practice, and nurses' training in child abuse and neglect reporting.

INTRODUCTION

In Queensland on 31 August 2005, legislation commenced which for the first time required registered nurses to report suspected child abuse and neglect.¹ The effect of the legislative provisions was to require registered nurses to report to the Department of Child Safety an awareness or a reasonable suspicion that a child had been, or was likely to be, physically abused, sexually abused or exploited, psychologically or emotionally abused, or neglected, where the harm caused or likely to be caused to the child was of a significant detrimental effect. This enactment made Queensland's mandatory reporting legislation as applied to nurses largely similar to the nurses' reporting laws in the other States and Territories, although there remain some differences throughout the country.²

Mandatory reporting laws are intended to work as a case identification and early intervention system for cases of child abuse and neglect, without which most cases would remain undisclosed. Recent annual data, eg, indicate that mandated reporters were responsible for uncovering the large majority of substantiated cases in the United States (67%), Canada (75%) and Australia (58%).³ The

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¹ The *Health Act 1937* (Qld) was amended by the *Child Safety Legislation Amendment Act (No 2) 2004* (Act No 36 of 2004), the relevant parts of which commenced on 31 August 2005 (SL 2005 No 62). The *Health Act 1937* was then amended and the relevant provisions are now in the *Public Health Act 2005* (Qld), Ch 5, Pt 3, Div 5 (ss 158, 191-196).

² See Mathews B, Walsh K and Fraser J, "Mandatory Reporting by Nurses of Child Abuse and Neglect" (2006) 13 JLM 505; see also Mathews B and Kenny M, "Mandatory Reporting Legislation in the USA, Canada and Australia: A Cross-jurisdictional Review of Key Features, Differences and Issues" (2008) 13 (1) *Child Maltreatment* 50.

³ See Mathews B and Bross D, "Mandated Reporting is Still a Policy with Reason: Empirical Evidence and Philosophical Grounds" (2008) 32(5) *Child Abuse and Neglect* 511.



disclosure of such cases enables child protection, and the provision of support and intervention services to children and families, which holds the potential to improve health, development and wellbeing with longer-term benefits, including saving downstream costs to children and society.

Despite the potential for prevention and early intervention, there is little empirical research into nurses' reporting practice under mandatory reporting laws, or into contextual factors influencing their reporting practice.⁴ There is little evidence about nurses' compliance with the legal duty, their knowledge of specific features of the legal duty, their attitudes towards reporting, the extent of their training in detecting and reporting child abuse and neglect, and their confidence in detecting and reporting child abuse and neglect. Further, there is a dearth of published data providing details about nurses' specific reporting practice and reporting outcomes. For example, the Australian Institute of Health and Welfare, which collates State and Territory child protection statistics, does not publish the percentage of notifications from nurses that result in substantiated and unsubstantiated reports, nor even the raw numbers of reports made by nurses. Rather, data for Australian nurses are subsumed under the categories of "hospital/health centre staff" and "other health personnel".⁵ This is significant because it means that researchers, policy-makers, and indeed nurses themselves do not have an accurate picture of their reporting practice or the factors associated with effective reporting practice in different jurisdictions.

However, while not generalisable due to small sample size, Australian research has indicated that:⁶

- nurses were less likely to report suspected cases of emotional abuse and neglect;⁷
- even where they identified a child as unsafe, nurses were reluctant to identify the situation as one of possible child abuse due to concerns that they might be wrong, and due to concerns about the possible negative consequences for themselves and the child's family if child abuse was mentioned;⁸ and
- some nurses denied the existence or significance of child abuse.⁹

As well, research has found that a major factor influencing reporting practice was nurses' concerns about the consequences of reporting, especially for the child's family, with these concerns caused by doubts about the effectiveness of child welfare system interventions.¹⁰ Concerns about the effectiveness of agency interventions sometimes caused failure to report suspected cases.¹¹

Evidence from overseas jurisdictions is also scant, but a 2005 study found that while 14% of nurses had made a report, a significant proportion (21%) admitted failure to report a suspected case of child abuse or neglect.¹² Common reasons for failure to report were uncertainty about the evidence,

⁴ Mathews, Walsh and Fraser, n 2.

⁵ Australian Institute of Health and Welfare, *Child Protection Australia 2005-06* (AIHW, Canberra, 2007).

⁶ Nayda R, "Registered Nurses' Communication about Abused Children: Rules, Responsibilities and Resistance" (2004) 13(3) *Child Abuse Review* 188.

⁷ Partly due to perceptions that this type of abuse was simply a common feature of society, largely influenced by the parents' own unsatisfactory childhood experiences; nurses thought interventions by government agencies in these types of cases may not be useful; and poor parenting skills and depressed socioeconomic circumstances produced some child neglect, motivating reluctance to report it.

⁸ Nayda, n 6 at 191.

⁹ Nayda, n 6 at 189.

¹⁰ Nayda R, "Influences on Registered Nurses' Decision-making in Cases of Suspected Child Abuse" (2002) 11(3) *Child Abuse Review* 168 at 172, 174-176.

¹¹ Nayda, n 10 at 176.

¹² Feng J and Levine M, "Factors Associated with Nurses' Intention to Report Child Abuse: A National Survey of Taiwanese Nurses" (2005) 29 *Child Abuse and Neglect* 783 at 789. This study was conducted by the development of a survey instrument (Child Abuse Report Intention Scale) with scales measuring the major variables (attitude, knowledge, subjective norms, perceived behavioural control) and eight vignettes to measure intended reporting behaviour. See also Feng J and Wu Y, "Nurses' Intention to Report Child Abuse in Taiwan: A Test of the Theory of Planned Behavior" (2005) 28 *Research in Nursing and Health* 337.



and lack of faith in legal authorities. The overwhelming majority had not received any education about child abuse; and most thought their education and in-service training was inadequate. Most nurses had insufficient knowledge of the content of the reporting duty. Studies of other professionals' reporting practice indicate that the fear of negative consequences of making a report, along with lack of awareness and misinterpretation of the reporting law, are common reasons for failure to report.¹³ Overseas studies of nurse reporting where the laws do not exist have shown that a reason for not reporting was fear of being sued if the report turned out to be unsubstantiated.¹⁴ Studies have also shown that nurses require adequate training to be aware of the scope of the duty to report, and that without good training many nurses have poor knowledge of the reporting duty and of the legal protection offered to them when making a report.¹⁵ This small body of evidence suggests that certain factors tend to promote or impede effective reporting practice.

The broad aim of this study was to identify factors predicting effective, legally compelled reporting by registered nurses of child abuse and neglect.¹⁶ This article reports on some important elements of this study:

- nurses' past reporting of child abuse and neglect;
- their attitudes towards reporting;
- their knowledge of the legislative duty to report; and
- their interpretations of and anticipated responses to a number of scenarios concerning abuse and neglect.

The study was conducted shortly after the enactment of Queensland's mandatory reporting legislation for nurses. This article presents findings in the form of baseline descriptive statistics. Presenting the data and analysis in this way provides valuable insights into the reception of the law, uptake of training, attitudes and knowledge of the law, and potential for future practical effectiveness. Findings may inform the refinement of training about reporting, enlighten post-report practices adopted by child protection agencies and inform legislative and policy reform. They may also indicate fruitful avenues of further research.

METHOD

This study employed a cross-sectional survey design, capturing nurses' responses to a questionnaire at one point in time, providing a descriptive and statistical snapshot of their reporting practice and factors related to their reporting practice. Since there was no existing survey instrument about the topic which was relevant to Queensland, the authors developed a new instrument: the Child Abuse and Neglect – Nurses Questionnaire (CANNQ). Development of this instrument was informed by previous empirical research, most notably a custom-made survey instrument used in a study conducted with Taiwanese nurses.¹⁷ The CANNQ in its final form contained eight sections:

- demographic information;
- job details;
- work experience;
- attitudes about reporting;
- work environment;
- education and training about child abuse and neglect;

¹³ Alvarez K, Kenny M, Donohue B and Carpin K, "Why are Professionals Failing to Initiate Mandated Reports of Child Maltreatment, and Are There Any Empirically Based Training Programs to Assist Professionals in the Training Process?" (2004) 9 *Aggression and Violent Behavior* 563.

¹⁴ "Healthcare Staff are Failing to Report Child Abuse Suspicions" (2004) 27 (7) *Practice Nurse* 4.

¹⁵ Fagan D, "Child Abuse and Neglect: The Knowledge and Practice of the A & E Nurse" (1998) 6 *Accident and Emergency Nursing* 30; Reiniger A, Robinson E and McHugh M, "Mandated Training of Professionals: A Means for Improving Reporting of Suspected Child Abuse" (1995) 19(1) *Child Abuse and Neglect* 63. On the importance of training, see also Lamond D, "The Impact of Mandatory Reporting Legislation on Reporting Behaviour" (1989) 13 *Child Abuse and Neglect* 471.

¹⁶ In a forthcoming article, the authors report on this broad aim, using multivariate analyses to identify associations between factors tending to produce different types of reporting behaviour.

¹⁷ Feng and Levine, n 12.



- knowledge of the legislative duty; and
- scenarios.

The final section, containing eight scenarios, presented two situations each of sexual abuse, physical abuse, psychological abuse and neglect. Each scenario was designed to possess sufficient features to enable a nurse who was reasonably knowledgeable about the legal duty and about the indicators of abuse and neglect to report the case with justifiable cause. Respondents were asked questions about each scenario, including whether or not the situation was abusive, whether the legislation required a report, and whether, in fact, they would report the case.

Ethical clearance for the research was gained from the Queensland University of Technology's Human Research Ethics Committee.¹⁸ Approval to conduct the research with nurses was sought from 38 separate Queensland Department of Health districts/services (each having their own committees). Twenty-two of these districts approved the research, resulting in the participation of 22 hospitals and 18 Community Health Centres, Primary Health Care Centres and Multi-Purpose Health Services. The CANNQ was reviewed by an international expert in child abuse and neglect for realism, relevance and clarity, and feedback was incorporated in a further revision of the instrument. The CANNQ was then piloted with a convenience sample of 33 community child health nurses employed in pharmacies throughout Queensland, with a mean of 26.1 (SD = 7.0) years working as a registered nurse. Following this, minor changes were made to formatting and response scales to improve validity and clarity, and some details in the scenarios were revised to enhance clarity and realism for nursing practice.

Participating hospitals were posted packages of printed questionnaires and a contact person at each hospital was nominated to distribute these to individual nurses and collect the completed questionnaires for return to the researchers. Individual nurses were provided with an information sheet concerning the research explaining the aim of the study, and informing them that their participation was voluntary and anonymous. Completion and return of the questionnaire indicated their consent to participate in the research. As well, the information sheet advised participants that they could withdraw from the study at any time prior to submitting their questionnaire, that their responses were confidential, and that they could access free counselling on a university telephone number should they experience distress from participating. Data were analysed using SPSS 14.0.

RESULTS

Nurses returned 930 completed questionnaires, representing a return rate ranging from 9.5% to 100% across the 22 hospitals (M = 36.6%).¹⁹ Geographically, respondents were from metropolitan (34.1%), outer metropolitan (8.8%), rural/regional (50.4%) and remote areas (6.7%) of Queensland, representing these different areas proportionately to the population. The majority of respondents (94.6%) were female, with full-time (43.8%) and part-time (49.5%) employment reflecting overall workforce profile. Most (92.7%) of these respondents had experience working with children "at the coalface" (53.1% were level 1 practice nurses and 30.7% were clinical nurses), ensuring that the overwhelming majority of responses were from nurses familiar with child and youth health practice. Respondents had a mean age of 40, and a mean post-registration experience of 17.12 years. Nurses indicated they had received different types of training about their duty to report, with only 12.4% receiving no training at all.²⁰

Past reporting practices

In terms of background, nurses' past reporting practices were measured by asking if they had ever in their career reported a case of suspected abuse or neglect. Almost half (42.6%) of respondents had

¹⁸ University Human Research Ethics Committee Reference No 0600000109.

¹⁹ This is an acceptable return rate, providing a representative profile of nurses across the State: Australian Institute of Health and Welfare, *Nursing and Midwifery Labour Force 2003* (AIHW, Canberra, 2005).

²⁰ 111 respondents had received no training. To examine the effects of training on knowledge, attitudes and reporting, forthcoming work will compare the responses of nurses with no training with those of nurses who had received some training and those who had received more frequent training.



reported, with the mean number of reports per nurse being between one and two reports ($m = 1.5$, $sd = 3.63$). Nurses were also asked if they had ever in their career *not* reported a case of suspected abuse or neglect. Approximately one fifth (21.1%) of respondents had not reported. Nurses' written comments detailed some of the reasons for not reporting despite having a suspicion, which included a perceived lack of evidence, lack of faith in government agencies to respond appropriately, another person having made a report already, and not being sure how to report.

Attitudes towards reporting

Attitudes towards reporting child abuse and neglect were measured, with eleven items presented as statements requiring responses on a five-point likert-type scale; 1 indicated strong disagreement with the statement and 5 indicated strong agreement. Results are presented in Table 1 with attitudes attracting the strongest agreement presented in descending order.

TABLE 1 Nurses' attitudes towards reporting child abuse and neglect

Statement	Respondents	Mean	Standard deviation
I lack faith in the Department of Child Safety to respond appropriately when reports are made	919	2.85	1.12
If I was uncertain about the evidence I would not report a case of child abuse	916	2.55	0.98
I fear reprisals from reporting child abuse	922	2.09	1.03
I fear litigation and/or legal liability from reporting child abuse	913	2.06	0.94
Workload pressures are likely to deter me from reporting child abuse	919	2.06	0.93
Lack of support from the hospital is likely to deter me from reporting child abuse	921	2.00	0.92
I think the responsibility to report should rest with other professionals (eg doctors, social workers), not nurses	923	1.78	0.87
I think child abuse cases can be handled without involving the Department of Child Safety	921	1.69	0.70
I should not be required to report child abuse	922	1.60	0.73
I don't think it is in the family's best interests to report child abuse	922	1.49	0.64
I don't think it is in the child's best interests to report child abuse	921	1.41	0.63

Knowledge of the legislative duty to report

Knowledge of the legislative duty to report, including familiarity with key elements of the reporting duty and understanding of legal protections conferred on reporters, was measured in several questions.



Content of the reporting duty

Nurses were asked whether they were required by legislation to report each of the forms of child abuse and neglect, and were given answer options of "yes", "no" or "unsure".²¹ The correct answers were that nurses are required to report each form of abuse and neglect. Table 2 presents the results of this question, highlighting percentages of correct responses and showing a slightly lower proportion of correct responses in relation to knowledge of the reporting duty for psychological or emotional abuse.

TABLE 2 Knowledge of reporting duty for each form of child abuse and neglect

Question	Respondents	Percentage of respondents answering correctly
Are nurses in Queensland required to report child physical abuse?	925	97.1%
Are nurses in Queensland required to report child sexual abuse?	916	95.5%
Are nurses in Queensland required to report child neglect?	922	95.0%
Are nurses in Queensland required to report child psychological or emotional abuse?	920	87.1%

Nurses were asked what extent of knowledge or suspicion was required to activate the reporting duty. They were given answer options of:

- actual knowledge only;
- reasonable suspicion even if without actual knowledge; or
- unsure.

The correct answer was that nurses are required to report reasonable suspicions of child abuse or neglect. Table 3 presents the results of this question in the form of percentages of correct responses. Over 90% of nurses responded accurately for every form of child abuse and neglect. Nurses were most knowledgeable about the extent of knowledge required for physical abuse and sexual abuse, and were notably less knowledgeable about the extent of knowledge required for psychological/emotional abuse and neglect.

TABLE 3 Knowledge of the extent of knowledge or suspicion required to activate reporting duty

Question	Respondents	Percentage of respondents answering correctly
How much knowledge of the abuse do you need to have before you are required by legislation to report a case of child physical abuse?	895	94.4%

²¹ When asked a further question about the scope of the reporting duty, respondents showed a good understanding of that as well. For each type of abuse and neglect, between 87.9 and 89.5% of respondents accurately stated that the reporting duty applied to cases of abuse that had already happened and to cases of abuse that were reasonably suspected to occur in future (alternative answers were having to report only cases of past abuse/neglect; having to report only suspected cases of future abuse; and not being sure).



TABLE 3 *continued*

Question	Respondents	Percentage of respondents answering correctly
How much knowledge of the abuse do you need to have before you are required by legislation to report a case of child sexual abuse?	886	93.5%
How much knowledge of the abuse do you need to have before you are required by legislation to report a case of child psychological or emotional abuse?	811	91.2%
How much knowledge of the abuse do you need to have before you are required by legislation to report a case of child neglect?	876	90.3%

Nurses were asked about the extent of harm to the child which had to be suspected by the nurse to activate the reporting duty. Answer options were:

- the duty to report only applies to cases where I think the harm being caused is significant;
- the duty to report applies even when I think the harm to the child is insignificant or there is no harm at all; or
- unsure.

According to the exact terms of the legislation, the correct answer in each case was that nurses are required to report only if the suspected harm is significant. Table 4 displays these results. Knowledge levels are uniformly low with only between 4% and 12% responding correctly. Here, respondents showed considerable misunderstanding of the precise content of the duty with differences across the forms of child abuse and neglect and a substantially lower threshold recorded for child sexual abuse.

TABLE 4 Knowledge of the extent of harm required to activate reporting duty

Question	Respondents	Percentage of respondents answering correctly
How much harm to the child needs to have occurred before you are required by legislation report a case of child neglect?	876	12.0%
How much harm to the child needs to have occurred before you are required by legislation report a case of child psychological or emotional abuse?	808	10.6%
How much harm to the child needs to have occurred before you are required by legislation report a case of child physical abuse?	892	8.0%
How much harm to the child needs to have occurred before you are required by legislation report a case of child sexual abuse?	884	4.3%

Nurses were asked about the temporal dimension to reporting harm: that is, if the reporting duty required reports only of past or current child abuse or neglect, or if legislation also required reports of suspected risk of future maltreatment. Answer options were:

- I need to report only abuse that I think has already happened;



- I need to report only if I think it is likely to occur in future;
- I need to report both if I think it has already happened and in cases where I think it has not happened yet but it is likely to occur in future; or
- unsure.

Table 5 presents these results, showing that almost 90% of respondents provided accurate responses for all forms of child abuse and neglect.

TABLE 5 Knowledge of temporal dimensions to reporting duty

Question	Respondents	Percentage of respondents answering correctly
Are you required by legislation to report a case of child physical abuse only when it has already happened, or also when you think it has not yet happened but is likely to occur in future?	894	89.5%
Are you required by legislation to report a case of child psychological or emotional abuse only when it has already happened, or also when you think it has not yet happened but is likely to occur in future?	809	89.4%
Are you required by legislation to report a case of child neglect only when it has already happened, or also when you think it has not yet happened but is likely to occur in future?	876	89.4%
Are you required by legislation to report a case of child sexual abuse only when it has already happened, or also when you think it has not yet happened but is likely to occur in future?	886	87.9%

Knowledge of legal protection conferred on reporters

Respondents were asked a series of questions about whether their identity as a reporter was protected, and whether they could be legally liable in various ways for making a report that turned out not to be substantiated. These questions were presented as statements with answer options of true, false and unsure. The correct answers were that nurses' identities as reporters are protected from disclosure, and that where a report is made in good faith that turns out not to be substantiated, the reporter cannot be sued and held liable for damages, defamation or criminal conduct. Table 6 provides an overview of these results indicating lower knowledge levels for legal protection in allegations of defamation.

TABLE 6 Knowledge of legal protection conferred on reporters

Statement	Respondents	Percentage of respondents answering correctly
If I make a report in good faith which is not substantiated, I can be sued and held liable for criminal conduct	917	72.8
If I make a report in good faith, my identity as the reporter is protected from disclosure	922	71.4



TABLE 6 *continued*

Statement	Respondents	Percentage of respondents answering correctly
If I make a report in good faith which is not substantiated, I can be sued and held liable for damages	921	71.2
If I make a report in good faith which is not substantiated, I can be sued and held liable for defamation	920	68.3

Responses to child abuse and neglect scenarios

Respondents were presented with eight brief scenarios comprising two situations each of sexual abuse, physical abuse, psychological abuse and neglect. These scenarios were designed to measure nurses' intended reporting behaviour and their application of knowledge of the legislative duty to report. Regarding each scenario, respondents were asked a series of questions, including whether or not the situation was abusive, whether the legislation required a report, and whether they would report the case. Each scenario contained sufficient information to enable a nurse who was reasonably knowledgeable about the legal duty and about the indicators of child abuse and neglect to report the case with justifiable cause. The tables below display results for each scenario expressed as a percentage of nurses responding positively to each of three key questions for sexual abuse (Tables 7 and 8), physical abuse (Tables 9 and 10), psychological/emotional abuse (Tables 11 and 12) and neglect (Tables 13 and 14).

TABLE 7 Scenario 1: Past incident of sexual abuse

Scenario 1: Past incident of sexual abuse (intercourse) by stepfather; disclosure by now 16-year-old girl; no obvious signs of harm	Respondents saying yes	Percentage
Does the incident constitute abuse?	904	98.3
Would you report this case?	901	96.6
Do you think you are required by the legislation to report this?	910	85.8

TABLE 8 Scenario 2: Presently occurring sexual abuse

Scenario 2: Presently occurring sexual abuse: exposure of 13-year-old-boy by father to pornographic films involving sexual violence; no obvious signs of harm	Respondents saying yes	Percentage
Do these incidents constitute abuse?	905	97.2
Would you report this case?	904	95.4
Do you think you are required by the legislation to report this?	917	87.5



TABLE 9 Scenario 3: Physical abuse

Scenario 3: Physical abuse: 19-month-old with old healing rib fractures and facial bruises and swelling – disclosure by mother that father hits child	Respondents saying yes	Percentage
Do these incidents and facts indicate abuse?	921	100
Would you report this case?	916	99.8
Do you think you are required by the legislation to report this?	919	98.4

TABLE 10 Scenario 4: Possible future physical abuse

Scenario 4: Possible future physical abuse: mother badly beaten by husband has three year old living with them	Respondents saying yes	Percentage
Does the situation indicate child abuse is likely to occur in future?	894	91.9
Would you report this case?	902	88.9
Do you think you are required by the legislation to report this?	914	77.9

TABLE 11 Scenario 5: Psychological/emotional abuse

Scenario 5: Psychological/emotional abuse: 13-year-old with signs of depressions and anxiety discloses he is ridiculed, criticised by parents for poor school performance	Respondents saying yes	Percentage
Do these incidents and facts indicate abuse?	886	92.0
Would you report this case?	856	75.5
Do you think you are required by the legislation to report this?	900	62.3

TABLE 12 Scenario 6: Psychological/emotional abuse

Scenario 6: Psychological/emotional abuse: six-year-old boy says father has told him he's worthless and this is how father always talks to him but boy says it's ok	Respondents saying yes	Percentage
Do these incidents and facts indicate abuse?	883	91.3
Would you report this case?	847	74.6
Do you think you are required by the legislation to report this?	890	61.8



TABLE 13 Scenario 7: Neglect

Scenario 7: Neglect: nine-year-old left at home regularly after dark by parents who are often out until midnight; child starts a small fire in the house	Respondents saying yes	Percentage
Do these incidents and facts indicate neglect?	905	99.6
Would you report this case?	895	97.3
Do you think you are required by the legislation to report this?	899	91.3

TABLE 14 Scenario 8: Neglect

Scenario 8: Neglect: 10-month-old boy ill, not eating, crying, ignored by parents; finally brought to hospital seriously dehydrated	Respondents saying yes	Percentage
Do these incidents and facts indicate neglect?	890	94.9
Would you report this case?	883	90.7
Do you think you are required by the legislation to report this?	890	85.5

DISCUSSION

This study explored nurses' past child abuse and neglect reporting practices, their attitudes towards reporting, their knowledge of the legislative duty to report, and their anticipated reporting practice. The study was conducted at a time when nurses in Queensland had recently been made subject to new mandatory reporting legislation. Research findings confirm that nurses had positive attitudes towards the reporting of child abuse and neglect, and were generally very knowledgeable about the reporting duty. However, the results indicate there are aspects of nurses' knowledge and even attitudes that may be enhanced through training.

Past reporting practices

Nurses had both reported child abuse and neglect, and had chosen at times not to report. Over their careers, a substantial proportion of registered nurses (42.6%) had reported on average between one and two cases of child maltreatment. Approximately one-fifth (21.1%) disclosed failure to report, with the real incidence possibly being higher. Even though most of these failures to report would have occurred before the introduction of the legislative reporting duty, the proportion is significant from a child protection point of view because it represents missed opportunities to intervene to protect the child and assist the family. This result is also significant because, whether or not a legislative reporting duty exists, failure to report suspected abuse may expose hospitals and health systems to liability at common law in negligence for future harm suffered by a child, thus creating potential liability to pay financial compensation. The proportion of respondents admitting to failure to report a suspected case of abuse or neglect (21.1%) is virtually identical to that found in Feng and Levine's study of Taiwanese nurses (21%) who were also studied after the introduction of a new law.²² This proportion, therefore, may provide a baseline figure against which future incidence can be measured. One would expect that over time, as reporting is officially subsumed into nurses' roles, there will be a lower incidence of failure to report.

²² Feng and Levine, n 12. The most common reason given was uncertainty about having sufficient evidence to report.



Attitudes towards reporting

Respondents strongly supported the view that it was in the child's and the family's best interests to make a report, thus recognising the potential of reports to produce positive outcomes (Table 1). They supported the professional obligation to report child abuse and neglect, and, in contrast to some other studies conducted overseas, rejected the view that reporting should not be their job.²³ These positive attitudes support the extension of the reporting duty to nurses at a practical and professional level and indicate that civil disobedience is likely to be low. As a result, the case-finding goal of mandatory reporting legislation is not likely to be actively impeded by this group of reporters. These findings about the views of professionals who work with abused and neglected children also represent a challenge to scholars who oppose mandatory reporting laws.²⁴

Responses also indicated, however, that nurses had significant levels of fear of reprisals, and of litigation, as a result of reporting. These findings, which have been produced in some other studies,²⁵ are important because such fears may produce failure to report. The negative attitude regarding potential litigation, combined with nurses' answers to the knowledge-related questions about litigation and liability, indicate that training should be modified to inform and reassure nurses that they cannot be held liable for making a report in good faith, even if it is not substantiated. Nurses' fear of reprisals is more difficult to respond to because some nurses may in fact be at risk of reprisals in their daily work (especially those in small communities, for example). If so, workplaces including hospitals and health centres may require enhanced safety measures for the personal protection of nurses, particularly those where reprisals may be more likely. As well, nurses may need further reassurance about their safety, and reassurance about the protection of their identity as the reporter. Further qualitative research is required to ascertain the specific risks associated with nurses' involvement in child protection cases.

The two statements to which respondents had the most negative attitudes were those regarding faith in child protection authorities to respond appropriately to a report, and uncertainty about the evidence and its influence on a decision not to report. These results confirm the findings of other research.²⁶ Regarding their faith in authorities to respond, the finding suggests that child protection authorities need to reassure nurses about the nature and quality of its different responses (including the fact that many reports will not be investigated but that this does not mean they are not useful and necessary), and that nurses should be apprised of what happens after their report in each case. Regarding nurses' uncertainty about the evidence of abuse, the finding suggests that nurses need to be reassured that certainty about the evidence is not required to activate the duty to report – only reasonable suspicion is needed – but at the same time, reports should not be made unless the suspicion is reasonable and the suspected harm is significant. Nurses should also be informed that under the Queensland legislation they are permitted to consult with a knowledgeable colleague about their suspicion before deciding to make a report,²⁷ and should be encouraged to do so if they have doubts about the quality of their suspicion or about whether they should report or not. These points could be emphasised in future training.

²³ See eg Kenny M, "Child Abuse Reporting: Teachers' Perceived Deterrents" (2001) 25 *Child Abuse and Neglect* 81; Kenny M, "Teachers' Attitudes Toward and Knowledge of Child Maltreatment" (2004) 28 *Child Abuse and Neglect* 1311.

²⁴ See eg Ainsworth F, "Mandatory Reporting of Child Abuse and Neglect: Does It Really Make a Difference?" (2002) 7 *Child and Family Social Work* 57; Ainsworth F and Hansen P, "Five Tumultuous Years in Australian Child Protection: Little Progress" (2006) 11(1) *Child and Family Social Work* 33; Melton G, "Mandated Reporting: A Policy Without Reason" (2005) 29(1) *Child Abuse and Neglect* 9.

²⁵ See eg the 2004 study of 431 nurses in Northern Ireland: "Healthcare Staff are Failing to Report Child Abuse Suspicions" (2004) 27(7) *Practice Nurse* 4; Abrahams N, Casey K and Daro D, "Teachers' Knowledge, Attitudes and Beliefs About Child Abuse and Prevention" (1992) 16(2) *Child Abuse and Neglect* 229; Kenny M, "Compliance with Mandated Child Abuse Reporting: Comparing Physicians and Teachers" (2001) 34 (1) *Journal of Offender Rehabilitation* 9; see also Alvarez et al, n 13.

²⁶ See eg Zellman G, "Child Abuse Reporting and Failure to Report Among Mandated Reporters" (1990) 5 *Journal of Interpersonal Violence* 3; Kenny, n 23; Flaherty E, Sege R, Price L, Christoffel K, Norton D and O'Connor K, "Paediatrician Characteristics Associated With Child Abuse Identification and Reporting: Results From a National Survey of Paediatricians" (2006) 11(4) *Child Maltreatment* 361; see also Alvarez et al, n 13.

²⁷ *Public Health Act 2005* (Qld), s 191. No other Australian jurisdiction has a similar provision.



Knowledge of the legislative duty to report

Content of the reporting duty

Respondents showed a very accurate knowledge of the duty to report sexual abuse, physical abuse, and neglect, and a lower but still impressive knowledge of the duty to report psychological or emotional abuse (Table 2). In the temporal domain, respondents understood that the duty to report applied not only to suspected cases of child abuse or neglect that had already happened, but also to cases that they suspected were likely to happen in future even if nothing had happened yet (Table 5). Although the extent of this knowledge was very high, it did not match the level of their knowledge of the duty to report suspected past or presently-occurring abuse and neglect. This gap in knowledge could be addressed via training, but to prevent overreporting it will be necessary to stress that the duty to report future suspected cases (as with the duty to report suspected cases of present or past abuse) is only enlivened if the reporter considers that the harm likely to be caused to the child will be "significant".

When asked what extent of knowledge or suspicion was required to activate the reporting duty, respondents were also very knowledgeable (Table 3). Over 90% of nurses responded accurately that the reporting duty was activated when having either actual knowledge or reasonable suspicion of abuse or neglect. Again, nurses were most knowledgeable about the extent of knowledge required for physical abuse and sexual abuse, and were less knowledgeable about the extent of knowledge required for psychological or emotional abuse, and neglect. This gap in knowledge could be addressed through training, which should be sufficiently nuanced and detailed to respond to the challenges of a context having the slippery concept of "reasonable suspicion" at its core.²⁸ Interpreting and applying this concept in clinical contexts is also inherently difficult because the signs and indicators of each type of abuse, and neglect, can be entirely consistent with innocent explanations. Training systems therefore should also recognise and accommodate these difficulties.

Possibly the most significant finding was that respondents showed an almost universal misunderstanding of the precise content of the legislative duty concerning the extent of harm that, technically, is required to activate the reporting duty (Table 4). The legislation in Queensland requires that suspected abuse or neglect must be reported only if the harm thought to have been caused to the child or likely to be suffered by the child is "significant". Very few respondents (4.3%-12.0%) answered this question correctly, for each abuse type, and for neglect. Only 6.4%-7.1% answered that they were unsure; instead, the vast majority (80.9%-89.1%) answered incorrectly that suspected abuse and neglect must be reported even if the suspected harm was insignificant or absent.

This finding shows that most nurses believe they are required by the legislation to report suspected abuse and neglect even when the suspected harm is insignificant or non-existent. In practice, this may translate to a tendency for nurses to overreport; that is, to report cases of insignificant or trivial harm. If this practical result ensued, the object of this element of the legislation would be defeated; that is, reports would be made not only of significant harm but of trivial "harm". Such overreporting could cause problems, including resource wastage and diversion of resources from deserving cases. If the object of the legislation is to be secured, this gap in knowledge can easily be remedied in revised training. However, it should be noted that in practice there will continue to be some reports of suspected significant harm which do not, in fact, turn out to be significant. These reports will remain justified provided there were sufficient grounds for the development of the suspicion.

It is interesting to note that the findings indicate that in practice, the possible effect of overreporting noted above due to non-recognition of the significant harm requirement may be

²⁸ See generally Flaherty E, "Does the Wording of the Mandate to Report Suspected Child Abuse Serve as Another Barrier to Child Abuse Reporting?" (2006) 30 *Child Abuse and Neglect* 341; Levi B, Brown G and Erb C, "Reasonable Suspicion: A Pilot Study of Pediatric Residents" (2006) 30 *Child Abuse and Neglect* 345; Levi B and Loeben G, "Index of Suspicion: Feeling Not Believing" (2004) 25 *Theoretical Medicine* 277; Swain P, "What is 'Belief on Reasonable Grounds'?" (1998) 23(5) *Alt LJ* 230; Deisz R, Doueck H and George N, "Reasonable Cause: A Qualitative Study of Mandated Reporting" (1996) 20(4) *Child Abuse and Neglect* 275.



diminished for psychological abuse. The reason for this possibility is that when faced with the scenarios about psychological abuse, a higher number of respondents indicated that even though they thought abuse was indicated, they did not think the legislation required a report and they would not, in fact, report it (Tables 11 and 12).

Is the finding about non-recognition of the significant harm requirement relevant for reform of law, policy or practice?

A number of points can be made here. First, the legislation in Queensland and Victoria includes this technical limit of significant harm to activate the reporting duty for *all* the forms of abuse and neglect required by their respective statutes to be reported. In contrast, other Australian States and Territories, and numerous overseas jurisdictions, require reports of some types of abuse without imposing such a qualification.²⁹ Most clearly, eg, in all but three jurisdictions in the United States and Canada, and in five out of seven jurisdictions in Australia, *any* suspected sexual abuse must be reported without the reporter considering whether the harm caused is significant or not. This reflects the seriousness with which sexual abuse is perceived by legislatures, the overwhelming likelihood that harm will be caused by this type of abuse, and the probability that the relevant acts are criminal. In this respect, the legislation in Queensland and Victoria differs markedly by requiring reports of suspected sexual abuse only if the harm caused or likely to be caused is perceived by the nurse as "significant". This requirement should simply be omitted from the legislation in these two States to unify the existing laws in Australian jurisdictions, and to avoid any possibility that a reporter fails to report suspected sexual abuse, with legal justification, because of a possibly idiosyncratic or otherwise mistaken interpretation of there being less than significant harm occasioned by this type of abuse.

Secondly, where the other types of abuse and neglect are required to be reported, Australian jurisdictions typically require the suspected harm to be "significant", or use analogous terms to indicate that the legislation aims to encourage reports only of cases of abuse and neglect beyond the trivial, and this approach is also adopted in comparable overseas jurisdictions.³⁰ This is particularly the case for neglect, and for psychological abuse. For physical abuse, most Australian jurisdictions also require the perceived harm to be significant, but New South Wales and the Australian Capital Territory (and some overseas jurisdictions) do not impose such a qualification and require reports of all suspected physical abuse. The present findings indicate that nurses in Queensland generally did not distinguish between significant and insignificant harm when understanding the trigger for their reporting duty. It would be interesting to conduct research with other occupational reporting groups, and in other States and Territories, to determine if nurses and other reporting groups also operate under this misapprehension, and to compare these understandings with government statistics about those groups' actual reporting practice and the outcomes of those reports. Such information might improve our understanding of the sources and causes of reports that by most measures should not have been made. That understanding could then inform training and other reforms to reduce the incidence of clearly unnecessary reports.

Thirdly, it is interesting to conjecture that this finding may also indicate the practical futility of the law imposing this qualification of "significant harm", especially (or at least) for cases of suspected sexual and physical abuse where any suspicion of such abuse may be reasonably viewed as either already involving significant harm (or risk of it), or involving the potential for future abuse of that type to occur and cause significant harm.³¹ That is, when confronted even with apparently "trivial" suspected physical abuse, eg, nurses' practical reporting experience may be that it is too difficult to make such finegrained discriminatory judgments about whether the child has suffered or is likely to suffer significant harm. Rather, the typical nurse might have a desire to protect the child and comply

²⁹ Mathews and Kenny, n 2.

³⁰ Mathews and Kenny, n 2.

³¹ On the theoretical (let alone the practical) difficulties involved in defining harm as "significant", see eg Swain P, "The Significance of 'Significant' – When is Intervention Justified under Child Abuse Reporting Laws?" (2000) 14 *Australian Family Law Journal* 26.



with the legislative duty, and so will choose the safest option and make the report, leaving further assessment and decisions to child protection authorities. Further research could evaluate this possibility.

Knowledge of legal protection conferred on reporters

Responses to questions about the legal protections conferred on reporters also revealed knowledge deficits, including a significant underappreciation of the protections given to nurses when they make a report in good faith (Table 6). Approximately one-third of the respondents did not know of their immunity from legal liability if a report made in good faith was not substantiated, and nearly the same proportion did not know their identity as the reporter was protected from disclosure. These misunderstandings are significant because they may produce failure to report, and should (and could easily) be remedied by clearer information provided in training. Nurses deserve to be fully aware of their secure legal position when making a report in good faith on reasonable grounds even if that report is not substantiated. In further analyses the issue of whether more highly trained nurses were more likely to have clearer understandings of their legal protections as reporters should be explored.

Responses to child abuse and neglect scenarios

Interpretation of whether the acts or incidents constituted abuse or neglect

In all scenarios, very high proportions of respondents (91.3%-100%) accurately characterised the acts or omissions as abuse or neglect (Tables 7-14). Respondents thus showed a very high level of skill at applying knowledge of indicators of different types of abuse and neglect to situations featuring recognised characteristics of these different types of situations.

Anticipated reporting

Anticipated or intended reporting of these situations was very high for both sexual abuse scenarios (96.6% and 95.4%: Tables 7 and 8); almost universal for the existing physical abuse scenario (99.8%: Table 9), and high but slightly lower for the possible future physical abuse scenario (88.9%: Table 10); and was very high for both neglect scenarios (97.3% and 90.7%: Tables 13 and 14). In contrast, anticipated reporting of the psychological abuse scenarios was significantly lower (75.5% and 74.6%: Tables 11 and 12) despite the respondents usually characterising the situation as abusive. As suggested above, a possible explanation for this is the perception of less, if any, harm to the child in these scenarios. Another possible reason for this result is lack of faith in child protection authorities to respond to these types of cases. These responses to the psychological abuse scenarios, together with the lower knowledge about the duty to report psychological abuse, and the generally lower response rates to questions about psychological abuse – there were approximately 10% fewer responses to questions about psychological abuse than for the other abuse types: see Tables 3, 4 and 5 – indicate that training may be enhanced regarding this type of abuse and the reporting duty.

Interpretation of whether the legislation required a report to be made

Most nurses showed a very sound applied understanding of whether the legislation required a report to be made about the abusive and neglectful situations (Tables 7-14). Both neglect scenarios produced very high positive responses (85.5%-91.3%: Tables 13 and 14); the results for the sexual abuse scenarios were similar (85.8%-87.5%: Tables 7 and 8); and the current physical abuse scenario was higher still (98.4%: Table 9). It can be observed, though, that apart from the current physical abuse scenario (Table 9), there was generally about a 10% lower positive response to whether the legislation required a report even when the respondents thought the acts were abusive and indicated they would report the case. For example, in the neglect scenarios (Tables 13 and 14), 99.6% and 94.9% of respondents respectively thought the acts were neglectful, and 97.3% and 90.7% respectively would have reported the case. However, only 91.3% and 85.5% respectively thought the legislation required a report. The difference between the perception of acts as abusive or neglectful and intended reporting behaviour, and the understanding of whether the legislation requires a report to be made, is a matter that merits further research. Such research may yield insights into failure to report, overreporting, and desirable refinements to legislative drafting and training of reporters.

One outstanding finding was that, compared to all other scenarios, the two psychological abuse cases (Tables 11 and 12) had significantly lower proportions of respondents indicating a report was



required by the legislation (62.3% and 61.8%). One explanation for this is that those respondents characterising these situations as abusive either thought psychological abuse did not have to be reported at all, or that the level of harm was not significant enough to warrant a report. One of these scenarios (Table 11) involved a 13-year-old boy with clear signs of depression and anxiety and this case could be expected to have been reported more often. The other case (Table 12) could justifiably have been reported but it also could reasonably have not been reported on the basis that a knowledgeable nurse may reasonably not have thought the harm to the boy was significant.

Another interesting finding was that the scenario involving likely future physical abuse (Table 10) produced a lower positive response (77.9%), even though this was still relatively high. This is justifiable as the context of potential future abuse can reasonably be expected to produce a lower rate of positive answers, since the temporal dimension adds another layer of uncertainty to what is already an uncertain context. In most such scenarios, reporters are unlikely to be as certain of their suspicions when abuse of the child has not occurred yet. In addition, while this scenario contained evidence of the man's violence towards his wife, there was no direct evidence of his propensity to be violent towards either the child mentioned in the scenario, or any other child. If the government desires reports of likely future abuse of a child by nurses in contexts such as this, nurses need to be trained so they develop an awareness that intrafamilial violence correlates strongly with child abuse, and they need specific knowledge to recognise in some cases the possibility of significant harm being caused simply by exposure to domestic violence.

Finally, it can also be observed that the responses to the scenario involving a case of past sexual abuse (Table 7) showed a marked difference between intended reporting behaviour and whether respondents thought the legislation required a report. Particularly since it involved sexual abuse, this result was unexpected. Difference in intended reporting (96.6% of respondents indicated they would report the case) and opinion of whether a report was required by the legislation (85.8%) may be explained by some qualitative comments suggesting that some respondents thought that since the girl may have been 16 years old at the time of the intercourse, the sexual activity may have been legal. If held, this opinion is factually incorrect because as a matter of law, the girl's stepfather would still have committed the criminal offence of incest; this offence is committed by a man having sexual intercourse with a biological daughter or a stepdaughter.³² As well, incest in such a case is committed by the stepfather even if "consent" is present, as the Crown does not have to prove lack of consent to prove this offence. Therefore, the girl's possible age of 16 at the time of the incident is irrelevant. A crime had been committed and the abuse should have been reported. If this or any other misunderstandings exist about the circumstances under which children are able to consent to sexual relations, they should be remedied in training.

Limitations

While important, timely, and having a large and representative sample, this study is subject to the following limitations. First, the survey was conducted immediately following a Statewide education and training program, which was conducted soon after enactment of the legislation. The results of the study do not provide insights into longer-term follow up of reporting behaviour. Further research is therefore needed to determine the stability of education and training programs, and of knowledge, attitudes and anticipated reporting behaviour. Secondly, it is true that scenarios have been used extensively in child abuse and neglect research as a tool for accessing and anticipating professional practice. Nevertheless, data gathered about nurses' anticipated reporting practice through responses to hypothetical scenarios are not as persuasive as extensive data on their actual past reporting practice and failure to report.³³ Quantitative and qualitative research into actual reporting practice, and into the outcomes of those reports, would be invaluable. Finally, small but noteworthy differences in the

³² *Criminal Code Act 1899* (Qld), s 222(5); *R v D* [2003] QCA 455 at [9]; *R v BAY* (2005) 157 A Crim R 309; [2005] QCA 427 at [38].

³³ See eg Crenshaw W, Crenshaw L and Lichtenberg J, "When Educators Confront Child Abuse: An Analysis of the Decision to Report" (1995) 19 *Child Abuse and Neglect* 1095.



proportion of nurses who were able to correctly respond to the questions provide little evidence for what mediates reporting behaviour of the various forms of abuse and neglect.

CONCLUSION

Descriptive findings from this large study of registered nurses in Queensland are highly encouraging. They indicate generally very good levels of knowledge of the reporting duty, positive attitudes towards the responsibility to report, and commendable anticipated reporting behaviour. As well, responses suggest a relatively low incidence of failure to report suspected abuse even before the legislative reporting duty was introduced, which, taken together with the responses to the questionnaire, suggest sound future reporting behaviour and low levels of failure to report suspected cases of abuse and neglect. Nevertheless, this research has yielded insights about how the training of nurses may be enhanced in three key areas. First, nurses need to know that technically, they are only required to report suspected abuse and neglect where the suspected extent of harm is significant. Secondly, all nurses must be trained so that they feel secure in the knowledge that when they make a report in good faith, they receive legal protection from liability and from disclosure of their identity. Thirdly, training regarding the detection and reporting of psychological abuse may need more attention. As well, key findings from the investigation into nurses' attitudes show that the extension of the legislative reporting duty corresponds to nurses' sense of professional duty and perceptions of children's rights to protection, and suggest that child protection authorities need to do more to respond in appropriate ways to reports, and to ensure that nurses know that appropriate responses are and will be made. In terms of law reform, findings suggest that, at least for the reporting of sexual abuse, the requirement of significant harm to activate the reporting duty be omitted from Queensland's legislation. This would align Queensland's law with those existing throughout most of the rest of the country, and would avoid the possibility that some cases of suspected sexual abuse are not reported when they should be.

