2012

A Critical Review of the Mandatory Reporting Protocol

Elayne M. Tanner
Wilfrid Laurier University, elayne@drelaynetanner.com

A Critical Review of the Mandatory Reporting Protocol

by

Elayne M. Tanner

Bachelor of Arts, York University 1972

Bachelor of Social Work, York University 1987

Master of Social Work, Wilfrid Laurier University, 1992

Diploma in Social Policy, Wilfrid Laurier University, 1992

DISSERTATION

Submitted to the Faculty of Social Work

in partial fulfillment of the requirements

for the Doctor of Philosophy in Social Work

Wilfrid Laurier University

2012

Dedication

I dedicate this work to the little girl who sat in water up to her neck in the swamp for 8 days and nights with no food and never cried. That little girl epitomizes the story of survival, oppression and courage. After enduring so much loss and suffering she finally arrived in the U.S. where "the streets were paved with gold". At 16 years of age she died of pneumonia without any chance to make a mark on the world. It is my obligation to make her mark. I carry her name: Chaya—To Life.

ABSTRACT

Mandatory reporting, although originally enacted to serve the single purpose of protecting vulnerable children from abuse, has been considered for ever expanding purposes. As a policy stance, mandatory reporting is frequently considered to support those socially sanctioned behavioural standards developed to regulate social institutions such as marriage, child rearing, aging and work. Although always embracing an inherent element of protection, a careful balance must be negotiated because mandatory reporting obligations also risk compromising the very rights that are the cornerstones of the social work profession, those of autonomy, confidentiality and self-determination. This research explored the mandatory reporting protocol specifically questioning whether mandatory reporting policies can be designed to be fair and equitable. With a structuration framework and a constructivist grounded theory methodology the consequences of mandatory reporting obligations were analyzed. Individual interviews and focus groups provided a diverse range of perspectives from 50 respondents. The resultant implications and complexities form the policy analysis framework that has been developed to ensure that future mandatory reporting obligations are ethical and respectful in both their application and impact. At a time in history when personal safety and security face increased challenges, society is caught in a dilemma of balancing the need for increased community protection with the desire to honour individual human rights. Findings suggest that although simple and inexpensive to implement, without the necessary planning and resources mandatory reporting policies risk relegating vulnerable populations further into the margins.

ACKNOWLEDGMENTS

I thank my father for teaching me the stories of injustice and oppression
and I thank my mother for trying to shield me from them. I thank my
children for teaching me the meaning of life.

In the search for social justice I could have had no better beacons than those provided by my committee. First I must express my gratitude to my Chair, Dr. Marshall Fine, whose steadfast patience and ongoing guidance has kept me on course through the most difficult of times. Thank you to my committee members, Dr. Anne Westhues, Dr. Cheryl-Anne Cait and Dr. Susan Drummond each of whom provided a unique perspective to enrich my knowledge. A special thank you to my external committee member Dr. Susan Strega, whose critical feminist thinking and anti-oppressive focus kept these issues at the forefront in my work. Thank you, Dr. Strega, for taking the time out of your busy life to travel all the way from Vancouver to provide your invaluable insight at my final defense.

Thank you to my family, my friends and my children who have stood resolutely beside me along the journey and who never questioned why. Thank you to my work-mate, colleague, and friend who has been there to support me at every stage in every way possible. Without everyone's support this could not have been completed.

Lastly to those individuals who have so generously shared their time, thoughts and doubts with me, some of whom have had their voices heard far and wide, but others who have never been heard before. I thank you for sharing your invaluable contributions. It has been a privilege to learn from you. Thank you for sharing your heart. I hope that I have represented you honestly and provided you with a voice.

TABLE OF CONTENTS

ANTHEM

Ring the bells that still can ring
Forget your perfect offering
There is a crack, a crack in everything
That's how the light gets in. (L. Cohen)

CHAPTER 1: INTRODUCTION

"Policies do more than effect change in societal conditions; they also hold a people together and maintain an orderly state."(Dye, 1978 p. 315). With this statement I begin the discussion of the unstated impacts of public policy and in particular, those policies that mandate some to report the behaviours of others. As Cohen (Cohen & De Mornay, 1992) states, no matter how perfectly designed, there is always a crack of imperfection. When designing public policy, it is however, imperative that these resultant imperfections are not ignored as they affect the lives of the people they govern. Side effects must be accounted for and the efficacy of the policy measured to evaluate the comprehensive impact, ensuring that the benefits outweigh any detrimental properties. Government policies do not only impact behaviours but also affect the views and attitudes people hold toward the governing body. Dye (1978 p. 315) continues with, "for example, a government 'war on poverty' may not have any significant impact on the poor, but it reassures moral persons, the affluent as well as the poor that government 'cares' about poverty." In a neoliberal time largely based on fear and the avoidance of global disaster, it would appear that policies are often principally based on risk avoidance. As suggested by Dye, creating the impression that something is being done to protect our vulnerable populations seems almost as important as making the needed changes. The potential unintended consequences of these policy decisions,

consequences that often impact individual human rights, frequently become too arcane for consideration.

In what Bauman (1993 p. 91) refers to as an "aporia of moral proximity" society has been accused of becoming locked in an ethical dichotomy that challenges the limits of personal responsibility while traversing the "thin line between care and oppression" that he suggests sits as a trap for the unconcerned (Bauman, 1993 p. 92). In lives motivated by free markets and employment mobility, and bounded not by care and concern but rather, by societal and legal rules and expectations, it is no longer unusual for people to not interact in the lives of their community members (Alexander, 2008). Where we once would have been involved in supporting, enriching and guiding neighbours; participating in their joys and grief, we now replace these interactive traditions with social media, risk assessments and legislative protection schemes which allow for an 'arms-length' caring community. Bauman suggests that these protective enforcements are introduced primarily to inject morality into daily life in order to shield the vulnerable from the "potentially heinous impulses of free individuals" (Bauman, 1993 p. 7) while simultaneously safeguarding societal values. Terrorism and violence have injected fear into our society (Bauman, 2001; Christiano & Christman, 2009) and when personal safety and security are challenged, the dilemma of balancing the need for community protection with the constant western thrust towards individualism, increases in significance (Briskman & Noble, 1999; Mullaly, 2002). Mandatory reporting policies are one way that political pundits are negotiating this moral chasm.

Statement of the Issue

Social work frequently sits at the intersection of ethics and the law (Kalichman, 1993; Reamer, 2005; Renke, 1999). Mandatory reporting policies, those legal protocols that obligate identified individuals to report certain actions and behaviours of others, also sit at this juncture. Because these mandatory obligations encompass both ethical and legal implications they also encounter the dilemmas inherent in both. Mandatory reporting was originally enacted to serve the singular purpose of protecting vulnerable children from abuse. Since that initial intent, however, the protocol has been applied to or considered for wide-ranging and expanded purposes. Although simple and inexpensive to implement, without the appropriate forethought mandatory reporting policies risk relegating vulnerable populations further into the margins. It is this moral and ethical balance that I have chosen to explore with an ultimate design of opening the crack to let "the light get in" in order to guide future forays into the making of policies ostensibly meant to enhance societal values.

This work describes a research project that sought the thoughts and opinions of a diverse audience of respondents. Drawing upon many areas of the humanities and social sciences including the political, economic, and sociological bodies of knowledge integral in guiding social policy (Hutchinson & Lee, 2004), an attempt is made to understand how mandatory reporting obligations are perceived and whether they are an essential component in protecting and centering vulnerable populations. Deconstructing the ontological and epistemological assumptions of the mandatory reporting protocol addresses the question of whether a policy that has its roots firmly ensconced in a positivistic medical paradigm has application in current social work practice.

Standpoint of Researcher

"All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood" (United Nations [UN], 1958). This statement is Article 1 of the United Nations Universal Declaration of Human Rights. This Declaration was crafted in direct response to the experience of the Second World War, a war in which many of the people of my cultural history were decimated. My father was an uneducated and simple man but in his way he embodied and passed on the message of this Declaration. Coming from a culture that has a long history of oppression and a strong oral tradition, I am familiar with the importance of "telling the story". My father would say, "Someday I should write a book". Before his death at almost 100 years of age, we had the opportunity to record his stories. I have tried to honour his history by weaving fragments of these stories as an abbreviated ethnography into my work by way of the quotes herein that begin some sections and are further identified with his initials HT. These are true anecdotes that begin in Russia at the time of the Czar and just before the Bolshevik Revolution. They describe a family of six children caring for each other as both parents had already died. Although these are not my lived experiences they have coloured my perceptions and shaped my ethical values. These recursive patterns have travelled through time and space and help guide my future by remembering the challenges of the past. This research is about human rights, ethics and providing a voice to those who have been silenced. My history reminds me that I must always remember my position of privilege and speak for those who cannot. These stories bear witness to a common man's struggle for freedom and allow him a voice. I think he would be pleased.

Personal standpoint.

"For eight days we didn't eat. We hid in the swamp in water up to our necks. After eight days my brother and sister went to see if it was safe to come out and to find us some food.
My little sister was about 4 years old—she never cried" HT

A person's standpoint is shaped by their past. I was taught that freedom is a privilege conferred. As noted by Kirby, Greaves and Reid (2006, p.37) "researchers who base their work on their passions have been accused of bias and politicization, [however] many social researchers are now trained to declare such passions and 'locations'." I therefore presently declare myself and my passion. I am a person of privilege in a country of opportunity. I feel a sense of gratitude to that little girl who sat in the swamp and did not cry out and reveal their hiding spot. That little girl died a mere few years later and I carry her name. Her fortitude bought my freedom. As a white, middle-class, well educated individual, I must acknowledge this position of privilege, but as a first generation Canadian female of non-dominant, historically oppressed cultural beliefs and as a mother, I cringe at the thought of what it must be like to be afraid daily when you send your children off to school, unsure that they will return to you. The right to raise your children as you see fit and the freedom to marry the person of your choosing are Canadian values others can only aspire towards and yet due to the mandatory social policies discussed herein, both social workers and clients have relinquished elements of personal discretion and choice without any notable opposition. Adopting a historical perspective affords me the opportunity to raise the issue of mandatory reporting from an individual problem to a societal issue (Alexander, 2008). In a postmodern era that professes anti-oppressive ideals, these non-discretionary policies appear to be draconian and I challenge their relevance in a globalized society.

Professional standpoint.

> *"They knew us. My brother was a blacksmith and had built their plows.*
> *They were very good to us. One man said 'this field is mine and it is*
> *planted with potatoes. Dig all you need.' So we were able to eat" HT*

I was taught that having a skill or a profession would confer status and independence so that I would always be able to feed my children. But I was also taught that being a member of a profession brought the additional responsibility of community advocacy which led to my interest in public policy. Interest in the interplay between laws that impact social work practice and the secondary effects of these laws has been an area of focus spanning more than twenty years in my professional and academic life. As a clinician, I have consistently been impacted by the laws guiding my practice, and yet, while the stated reasoning for the law may be clear, I am professionally situated between the law and the secondary and sometimes inchoate consequences of these legislative decisions. As a social worker, I was trained to recognize the importance of a unique professional body of knowledge and the significance of professional regulation in raising the status of the social work profession, allowing the social worker to effect comprehensive change that is both cogent and accountable. The profession of social work was regulated in the province of Ontario by the Social Work and Social Service Work Act (1998), (Government of Ontario, 1998; Ontario, 2000) however, when the principles of the new act were delineated, there appeared to be a conflict between some of the stated ethical values and the directed practice standards. There appeared to be a pitting between the moral commitment to the code of ethics and some of the legal requirements of the legislation. This incongruence appeared most evident in the discussion of the wide-ranging impact of mandatory reporting obligations most notably those where mandatory reporting requires the breach of confidentiality.

After years of practice in which the values of client empowerment, autonomy, and confidentiality have been emphasized as the cornerstones of the profession (Swift & Parada, 2004), I questioned why mandatory reporting policies that appeared to compromise basic human rights were so often accepted with a lack of contest or controversy. Rights of autonomy that so many have fought for and that many have died for are readily relinquished freely and without much apparent thought. Mandatory reporting obligations are now used in a variety of contexts each of which is framed in the discourse of protection of the vulnerable; however, there has not been a comprehensive evaluation of the mandatory reporting protocol as a whole. The fragmentation of the mandatory reporting obligations by considering each mandated responsibility as a separate entity rather than an all-encompassing policy stance negates the discourse of rights and power, as it centres vulnerability. This research is a comprehensive investigation of the mandatory reporting policies that impact social work.

Ontological standpoint.

> *"In Russia a Jew was not allowed to own land, so*
> *we had to rent a field and plant it with grain." HT*

While acknowledging my position of privilege I must also honour my heritage and the oppression that those before me endured. As a child who was raised in a predominantly Jewish suburb of Toronto, I grew up fed the stories of my history. I would hear the tapestry of my father's life in Russia at the times of the pogroms against Jews and the Bolshevik uprisings. I would hear tales of emancipation fraught with trials, bravado and disappointment. I would also hear my mother's reluctance to have me know any of the stories; she was a generation away and tried valiantly to deny her

immigrant parentage, yet she could not hide the fact that she had to change her name in an effort to secure employment in Toronto where many public settings allowed "no dogs and no Jews" and employment was a luxury unavailable to many of her kind. And of course, I would re-live the biblical account at every religious observance where the oral and symbolic history would merge the past with the present. The stories of trust, loyalty, betrayal and injustice were woven into the fabric of my being and yet they were equally balanced with the importance of tolerance and justice, the lifelines that afforded survival. My cultural background determined how I lived, what I ate, who I associated with and how I would raise my children. I learned that I could not take rights and freedoms for granted and that my history shaped who I am and how I perceive. I reluctantly feel obligated to clarify this standpoint because although mandatory reporting policies do not appear to generate a great deal of attention, as they delimit personal freedoms, they have captured mine.

At a time in history when personal safety and security face increased challenges, society is caught in a dilemma of balancing the need for increased community protection with the desire to honour individual human rights. Although simple and inexpensive to implement, without the necessary funding and services sustaining them and the knowledge of how to make them relevant, mandatory reporting policies risk relegating vulnerable populations further into the margins. By stepping in to protect people against their will, we are removing their right of choice and autonomy and obligating them to live in ways that accommodate our Euro-Western values. As invasive policies are increased in the effort to quell the tides of collective insecurity, the state must guard against mandatory reporting obligations being incorporated mindlessly into

our social fabric as a poorly constructed reaction to the globalization of fear and a hegemonic application of Euro-Western values. When well designed, mandatory reporting legislation has the ability to enhance both, community life and the well-being of children and families and in fact can be an essential component of a secure social safety net.

Epistemological position.

> *"Religion? No matter what, religion is good. Ours tells us how to live our life—you must not kill; you must not lie... I would like my children to marry in the faith but if they don't, there is nothing I can do—I will love them anyway" HT*

This quote is a laconic synopsis of all that I was ever taught and incorporates the values, principles and ethics that impact all that I know. It embodies the messages of tolerance and adaptability that have shaped my epistemological stance. My epistemological position is shaped by my past. It is a feminist perspective in that I believe that knowledge is a social construction and that mine, therefore, is based on a feminine viewpoint. Being female established limits on what I was allowed to anticipate as potential life achievements as well as what I was in fact, able to do and how I did it. Now in a postmodern time which "reflects the loss of legitimacy in universal perspectives" (Irving, 1999 as cited in Hugman, 2003, p. 1025), however, my feminist perspective establishes the premise that there is no one truth and presents me with the opportunity to freely challenge all aspects of interaction.

I also adopt an anti-oppressive perspective believing that "power relations deeply shape encounters" (Razack, 1998, p. 14). I explore power relationships and power shifts, contending that vulnerability, a pivotal concept in the study of mandatory reporting obligations, is frequently the absence of power and that this demoted position

often falls to women even when it is not justified or acknowledged as such. While I maintain that most of the things that I have accomplished in life have been done in opposition to, rather than with the support of those that held power over me, I acknowledge that "there is no one right path to empowerment; there is not a right way to enact resistance against oppressive power relations...What matters is the challenging of power relations" (Chaudhry as cited in Hamdan, 2009 p. vii) and I continue to attempt to rally a charge. My perspective is further anti-oppressive in that in my 'mini-revolutions' I attempt to remove or lessen the impact of oppression while acknowledging that systemic oppression continues to exist, marginalizing anyone who cannot come to the table with a full plate of Euro-Western values and abilities.

My epistemological position is structural in that I believe that the social structures in our society create and recreate the inequities and maintain the structural inadequacies even as we profess egalitarianism. The circularity that is integral to Gidden's description of structuration and the hermeneutic of understanding that suggests that society shapes policies, and policies in return, shape society form an essential component which is so relevant to this research. The philosophy of the hermeneutic circle is used to deconstruct the language of the way people talk about mandatory reporting, reflecting Gidden's philosophy that is "more concerned with the nature of human being than with the methods used to arrive at the 'truth'" (Clark, Modgil, & Modgil, 1990 p. 145).

My epistemological position is critical; critical to the extent that it seeks human emancipation, "to liberate human beings from the circumstances that enslave them" (Horkheimer, 1982 p. 244). My research used a reflexive approach in drawing out the

views of the respondents while at the same time politicizing and deconstructing language as a way of developing knowledge and understanding. And lastly, my epistemological posturing focuses on human rights in that it considers human rights above all else. These epistemological standpoints support one another and are entwined establishing a circularity that is congruent with my research, strengthening my position and further supported by my structuration and anti-oppressive theoretical stance. These theories will be elaborated upon subsequently. With these interlocking and multifaceted perspectives, I am able to achieve a holistic view that privileges this dynamic stance and is supported by my grounded theory methodology, helping to solidly ground the emergent theory in the data (Charmaz, 2006).

In putting social justice at the heart of my work I feel justified in drawing on these many interrelated ways of knowing, maintaining that in a globalized world that draws its inhabitants and its resources from worldwide markets we must also draw our understanding of society from diverse sources. Giddens speaks of the need for "a new set of policies for promoting social justice...[in light of]...factors such as increased life expectancy, with its consequences for pensions and social care, or extended life choices for women..." (Giddens, Diamond, Liddle, 2006 p. 1). These criteria are also those impacted by the mandatory reporting policies that shape this research. Giddens further suggests that old policies can be revised and new policies written "so that the values of the welfare state can be fulfilled in a manner appropriate to today's world— with the aim of tackling structural inequalities in the interests of the least advantaged" (Giddens, Diamond, Liddle, 2006 p. 2). In his beautiful 'Letter from a Birmingham Jail', Martin Luther King wrote "I am cognizant of the interrelatedness of all communities and

states...Injustice anywhere is a threat to justice everywhere" (King, Martin Luther, Jr., 1964 p. 64) . Even though mandatory reporting obligations are often innocuous and thus rarely are seen as significant challenges to human rights, the accompanying negative repercussions that impact issues of confidentiality and empowerment slowly erode the rights of those least able to endure the loss and raise concerns that this erosion of liberties will continue.

This research questions whether mandatory reporting policies are symptomatic of today's postmodern ethical stance and if they fulfill our social mandate in an appropriate manner.   As a barometer of societal values do mandatory reporting obligations have a place as a tool in building strong and inclusive communities or are they just another means of policing the already oppressed?

Background and rationale.

It has been noted that, "the Canadian literature on mandatory reporting is not large," (Renke, 1999, p. 92) and as such, there is a notable dearth in knowledge of the mandatory reporting protocol. As previously stated, mandatory reporting policies are legal protocols that obligate identified individuals to report certain actions and behaviours of others but because of its many applications mandatory reporting is an elusive concept and difficult to define. Before continuing to discuss this topic therefore, an attempt to further delineate the mandatory reporting protocol will be made in order to clarify any confusion regarding the full extent of its meaning. While a comprehensive definition for the mandatory reporting protocol is obscure, the following definitions, each

addressing a specific application, provide some insight and clarity to the topic while simultaneously giving a glimpse into the source of the misunderstanding.

In the realm of child welfare in the province of Ontario, mandatory reporting is an obligation that "require[s] professionals to report in any situation where they have 'reasonable grounds to suspect' any situation where a child may be in need of protection." (Bala, 1999 p. 22; Bessner, 1999-2000). More specifically "[m]andatory reporting is a legal requirement placed on certain individuals to report to the appropriate authority any situation where there is a reasonable cause to suspect that a child may be abused or maltreated" (Bell & Tooman, 1994 p. 339).

In the sphere of adult protection the mandatory obligation states, "[e]very person who has information indicating that 'an adult is in need of protection' must report that information to the Minister" (Government of Nova Scotia, 2004). In several jurisdictions outside Canada "[m]andatory reporting laws were enacted to protect victims of women abuse and to move the onus of reporting from the women affected to health care professionals" (Ferris, Strike, Deslate, & Dykeman, 2001 p. 102). These applications indicate the broad scope of purpose and meaning, but since each definition has limitations and does not cover all applications of the mandatory reporting protocol I, borrowing from the other definitions, describe mandatory reporting as: *a legal protocol in which a defined category of individuals is given the obligation to report, to an identified appropriate authority, certain specified actions and behaviours*. This covers all potentialities as mandatory obligations must always define who has the reporting obligation; clarify what behaviours must be reported; delineate the criteria included in

these behaviours to make them reportable; and specify who the report must be submitted to and the time frame in which the report must be made.

While mandatory reporting is being used more widely and for more idiosyncratic purposes, increasing levels of concerns are left in its wake. Mandatory reporting has been seen as compromising individual rights and freedoms, most particularly those of confidentiality and self-determination (Appelbaum, 1999; Bala, 1999; Delaronde, King, Bendel, & Reece, 2000; Ferris et al., 2001; Finkelhor & Zellman, 1991; Hyman, 1997; Kalichman, 2005b; Levine & Doueck, 1995; Renke, 1999). Some have expressed this concern by noting that although mandatory reporting obligations appear to have increased the reporting of specific behaviours, there is no certainty that there has been a concurrent increase in protection of the vulnerable (Bell & Tooman, 1994; Delaronde et al., 2000; Kalichman & Brosig, 1992; Kalichman, 2005b; Trocmé et al., 2001). Others express more concern in the secondary unanticipated negative repercussions that result from reporting (Appelbaum, 1999; Bala, 1999; Berlin, Malin, & Dean, 1991; Delaronde et al., 2000; Ferris et al., 2001; Finkelhor & Zellman, 1991; Levine & Doueck, 1995; Renke, 1999; Sullivan & Hagen, 2005). Melton (2005, p. 12), speaking of the mandatory reporting of child abuse, questioned the consequences of what he unequivocally referred to as a "policy without reason".

As a policy stance mandatory reporting is frequently considered to be a support for socially sanctioned behavioural standards developed to regulate social institutions such as marriage, child rearing, aging and work. Social institutions when viewed through a lens of diversity, however, are often defined as reflections of an individual's personal and cultural viewpoints (Hamdan, 2009; Walker, 2008) further confounding the

interpretation of the mandatory obligations. Making it mandatory to obligate certain individuals to report specific concerns has been considered an adjunct in managing potential incidents of elder abuse, domestic violence, school-yard bullying, and sexual relations between a professional and former client to name a few. Although always embracing an inherent element of protection, a careful balance must be negotiated because mandatory reporting obligations also always risk compromising rights of autonomy, confidentiality and self-determination for both the reported and the reporter (Bala, 1999; Levine & Doueck, 1995).

Our society generally accepts duty-to-report legislation regarding children, even while acknowledging that it imposes "a legally recognized limitation on the constitutional rights of parents in order to protect the welfare of children" (Bala & Cruickshank as cited in Walters, 1995, p. 164). We accept these parameters as acknowledgement that parents' interests may not always be congruent with the best interests of their children (Parton, 2006; Walters, 1995). Many agree that a compromise of rights may also be defensible in exigent situations involving the protection of the dependent or incapacitated adult (Bergeron & Gray, 2003; Gordon, 2001; Strom-Gottfried, 2003; Wei & Herbers, 2004).

Our society seems less committed to mandatory obligations, however, in situations where the implicated parties are neither dependent nor incapacitated and do not want their situation reported "because the[se] victims are presumed to be competent, independent adults" (Ferris et al., 2001, p. 102). Contemporary Canadian society has deemed an adult's individual rights to be sacrosanct and has enshrined this perspective through the *Canadian Charter of Rights and Freedoms* (1982), (Canada.

Dept. of the Secretary of State, 1987). In situations where it becomes mandatory to report a competent adult, however, the privileges of autonomy and confidentiality as well as rights to liberty and security of person may be challenged. The profession of social work is based on principles of client empowerment, autonomy, and confidentiality which are emphasized as professional cornerstones, yet mandatory reporting obligations raise the question of whether these values in a litigious, fear based environment have become compromised into moral inanition.

As an interdependent society, the state has a legitimate interest in the well being of vulnerable individuals whether temporarily vulnerable for reasons such as lack of health or lack of knowledge or vulnerable by definition as a result of their status, capacity, age, state of wellness or other factors. Mandatory reporting obligations reflect the North American ethical posture and are applied unilaterally with no recognition of cultural or demographic variances. Yet a pragmatic approach insists that policies implemented to assist these vulnerable populations are evaluated, not by "a single version of the truth, nor even a single position. It [pragmatism] asks you to judge a theory by its consequences, by the way it lives in the minds of those who embrace it" (Brendel, 2009 p. xv). In a democratic country "that has become decidedly urban and increasingly non-white" (Walker, 2008 p. 11) we must question who is privileged to define society's moral stance. The globalization of Euro-Western middle class values without considering the consequences to those it impacts may confirm the fear that the forces of globalization, left unfettered, "will increase inequalities and diminish life-chances for the low skilled and disadvantaged" (Giddens, Diamond, Liddle, 2006 p. 2).

Indicative of research on the impact of mandatory reporting obligations, and referring specifically to child protection cases, it is noted that "investigation often seems to occur for its own sake, without any realistic hope of meaningful treatment" (Melton, 2005 p. 13). Historically, in an attempt to quickly and inexpensively intervene in oppressive situations, mandatory reporting policies have been hurriedly implemented often leaving the impression that the issue has been addressed and no further efforts need be directed to the problem. While there is little argument that mandatory reporting laws are implemented with good intentions (Ferris et al., 2001; Melton, 2005), resultant implications to client well-being, as well as ethical concerns raised by mandatory reporting policies, argue against general application of the mandatory reporting protocol (Hyman, 1997). And yet mandatory reporting obligations are being considered and implemented as an apparent panacea with little if any public discussion, whenever the need arises to maintain an illusion that societal values are being safeguarded. Although the intent is clearly for the public benefit, caution must be taken to account for the unintended secondary consequences.

CHAPTER 2: LITERATURE REVIEW

Introduction

This chapter establishes the foundational knowledge for understanding the mandatory reporting protocol. Situating the topic in a historical and political context allows an understanding of the development of Canadian social policies over time and helps to clarify the thinking and intent of policies designed to protect and limit risk. From a historical perspective the patterning that social policy has followed has enabled policies to be established with little critical review also becomes evident. This chapter will explore the historical development of: child protection regulations, the social work profession, social welfare programs and the emergence of the battered-child syndrome, noting how they each build on prior knowledge. The chapter then delineates the theoretical standpoints that shape and guide the analysis of this research. Lastly, this chapter describes existing uses of the mandatory reporting protocol explaining the intricacies of each obligation and drawing out some of the inherent dilemmas that are integral to the policy.

Social and Political Context of Mandatory Reporting

Alexander (2008), when referring to addiction notes that adopting a historical perspective allows issues to be seen, not as individual problems but rather, as societal issues. This same premise recognizes that mandatory reporting is better understood from a historical awareness of the social and political climate of the time that this policy was first implemented. The history of social policy development is indicative of the underlying assumptions and ideological perspectives of a society throughout this

development period (Yelaja, 1978) and as such, provides insight into the intentions and implications of the specific policy stance. In fully understanding the implications of a social policy, it is essential to maintain a critical perspective and question who benefited from a particular course of action at the moment of this change, noting any resultant shifts in power structure (Finkel, 2007; Parton, 2006). Historically, the social work profession and the development of social policy have played an integral role in defining the rights of vulnerable populations. Mandatory reporting, first implemented as a venue for protecting children, has also been implicated in this process through child welfare policies which define how and when governmental power should be used to alter the relationships between parents and children. These policies cannot be fully understood in isolation, however, and therefore attention will be focused on significant milestones in the social and political attitudes towards Canadian women and families (Wharf, 1998).

A key assumption of social policy is that "the government has a responsibility to meet the needs of less fortunate members of society" (Yelaja, 1978, p. 3), yet defining "less fortunate" can at times be difficult. This was evident when as early as the 1600s Canadian social policy had established a philosophy of deserving and undeserving poor (Finkel, 2007; Macintyre as cited in Wharf, 1998). Women who were widowed or abandoned were amongst the deserving poor and they and their children could be provided for. Unwed mothers, however, were seen as sinners and thus undeserving, refused financial support and forced to relinquish their children (Finkel, 2007). Since a significant percentage of those receiving charitable alms were women and their children, the perception that women were needy, vulnerable, and child-like while their children were a mere commodity (Finkel, 2007; Kalichman, 2005a) was easily sustained. This

perception was upheld for many subsequent generations and Canadian social security policy and programs today still have vestiges of roots extending back to this era (Guest, 1980).

The advent of the Industrial Revolution, some two hundred years later, resulted in an improved life expectancy for both men and women, a lower infant mortality rate, and machinery that made many workers redundant. These factors all contributed to an increase in the number of able-bodied but unemployed workers. Poor laws were instituted, which forced the destitute to accept any employment offered at any pay or risk the horror of the poorhouse (Guest, 1980). The poorhouse exerted a disciplinary function on the labour force further justifying its existence (Guest, 1980). This ensured the rich industrialists a steady supply of cheap labour while simultaneously allowing their wives the opportunity to participate in public life through the establishment of charitable organizations (Finkel, 2007). These charitable activities further delineated the rich from the poor. The deserving-undeserving dichotomy not only persisted but was expanded to suggest that in this time of plentiful employment opportunity the unemployed poor were the authors of their own fate and only the rich were entitled to personal autonomy.

The emergence of child protection regulations.

> *"When I came to Canada my sister wanted me to go to school. I didn't know much, but when other kids ran home to do homework, I had to earn my room and board. I would run with stacks of vests on my shoulder delivering them across town...and if I didn't run, I would get in trouble." HT*

By the mid 1800s, however, public attitude towards both children and the poor was changing. Until this time, the Western world had shown no interest in, and had no

policies for child protection (Kalichman, 2005a). The latter half of the nineteenth century continued to see extensive poverty and, out of necessity, workhouses were established across the country. In order to reduce the number of people seeking employment, respectable married women were discouraged from working outside the home and legislation negated the possibility for children under twelve to be employed. To keep these now unemployed children off the streets, the 1870s saw mandatory state-supported education for children below the age of twelve established in all provinces other than Quebec (Finkel, 2007). Until this time, there was little recognition that children had special needs and vulnerabilities (Bala, 1999). Shifting public perception and understanding of children's needs for the necessities of life were challenging the view that parents were solely responsible for their children and reformers began advocating for better childhood conditions (Bala, 1999), while concurrently, there was an increasing recognition that childhood influences might impact future adult behaviour. Significantly, *An Act Respecting Industrial Schools*, 1874, is recognized as the first Canadian attempt to define child neglect (Yelaja, 1978). This act, along with the 1888 *Act for the Protection and Reformation of Neglected Children* and the 1891 development of the first Canadian Children's Aid Society, firmly established the government's role in the care and well-being of Canadian children at risk (Guest, 1980; Kalichman, 2005a).

With the acknowledgement that children needed special care, and that childhood was "a distinct and formative stage of life" (Bala, 1999, p.123), state welfare programs that assisted both mothers and children were established. The concept of *parens patriae*, integral to any discussion of child legislation, gave the court, via child welfare agents, the right to intervene in the lives of children and families and remove children

from their homes in their best interest. First used in the U.K. in the 1760s (Wharf, 1998), this principle informed child welfare legislation regarding cruelty to children and treatment of juvenile delinquents in Ontario in the late 1890s, and became integral to the construction of child welfare thinking (Macintyre as cited in Wharf, 1998). The true intent of some of these programs was still suspect nonetheless. The New York Society for the Prevention of Cruelty to Children, for example, was founded after the 1874 case of the extreme abuse and subsequent removal to safety of "Mary Ellen" came to light. As important as this case was, however, the juvenile courts were apparently not so interested in protecting children as in keeping poor, vagrant children off the streets (National Association of Counsel for Children) and "controlling the poor" (Nelson, 1984, p. 9).

In Canada, the gendered and moral judging continued to be evident as government assistance was not available to those women who either had never married or had, for any reason, left their husband. Although the reasoning behind the eventual provision of assistance to mothers is debatable and there are varying opinions of whether this support was intended to address the mothers' lack of funds or their lack of knowledge of infant and child care, day care opportunities began to be offered, allowing mothers who were supporting children the opportunity to work outside the home (Bala, 1999; Finkel, 2007; Nelson, 1984).

Even though programming specific to children's needs was developing, in maintaining an historical perspective it is necessary to recognize that into the 19th century, at least in parts of Europe, infanticide was sometimes perceived as warranted. The traditional family still held the father as patriarch with women and children as

subordinates (Macintyre as cited in Wharf, 1998). Children were the property of their parents, and parents were justified in destroying that property until the child reached the "right to live" age of seven, after which children were understood as miniature adults. In this same time period, illegitimacy was often viewed as illegal and, therefore, the killing of illegitimate children was also sanctioned (Krugman & Leventhal, 2005, National Association of Counsel for Children). Much more recently, in Western societies until at least the 1980s, it was not uncommon to let newborn infants with "lethal anomalies" (i.e. lethal only because of the decision to not treat), starve to death in hospitals (Koogler, Wilfond, & Friedman Ross, 2003) and so although Ambroise Tardieu, a French forensic physician had given a detailed description of child abuse in the 1860s (Labbé , 2005; Roche, Fortin, Labbé , Brown, & Chadwick, 2005), society was not open to his findings and his work went largely unheeded. Women and their children remained the property of men who could care for or dispose of them as they saw fit (Krugman & Leventhal, 2005; Melichercik as cited in Yelaja, 1978). In North America, rather than acknowledging child abuse, infant mortality and maternal health continued to receive the greater focus (Kalichman, 2005a; Levine & Doueck, 1995) and government continued to adopt a minimalist role in the lives of the population.

The emergence of the social work profession.

During the same era in history, recognized professions were taking their place as the arbiters of knowledge and expertise. Established in 1869 as a self-regulating body for professional physicians, the College of Physicians and Surgeons of Ontario consisted predominately of males who presented themselves as not only experts in the science of healing but also as best able to recognize societal infirmity (Finkel,

23

2007). Women, frequently the beneficiaries of this medical care, were still largely subservient to their husbands and perceived as weaker both physically and mentally. It was in this hierarchical and competitive climate that social work began to emerge as a profession.

Wanting to be able to vie with the unequivocal scientific perspective of medicine, yet trying to preserve their status as those best able to address societal ills, social workers insisted that they proffered a body of knowledge that reached beyond mere charitable endeavours. Yet, while women figured prominently in carrying out the daily activities of the social work profession, it was men who administered the agencies. By suggesting that these women needed no skill to perform their work, male administrators justified the inadequate wages they paid women (Finkel, 2007), maintaining the female subservient position. In an effort to raise the status of the profession to one more equitable with that of physicians, the University of Toronto School of Social Work was founded in 1914 (Finkel, 2007; Graham & Al-Krenawi, 2000).

Gender biases continued to be prevalent in social work, however, with men holding positions of status and the women performing social casework positions that were seen as less pertinent. Professionally, social work had by this time forfeited most remnants of latent religious attitudes as it attempted to ground itself in the scientific paradigm of successful outcome measurements prevalent in medicine. Helping to affirm social work's position, the Canadian Association of Social Workers (CASW) was established in 1927.

The emergence of social welfare programs.

> *"All day I worked in the garment shop and at night I would go home and*
> *work on my own machine. They took advantage of me but I had to do it. I*
> *had to work. I had to make a living for my family." HT*

The time period between the First World War and the Depression was a period of great social change with the government accepting an increasing role in providing income security to a wider range of needs. In spite of a more tolerant climate, unwed mothers were still seen as social transgressors, and although some social reformers advocated for children to be placed in orphanages, others recognized the need to avoid family break-up and encouraged the state to acknowledge its moral obligation to care for both mothers and children. Even when benefits were forthcoming, recipients found themselves forced to live a transparent lifestyle that allowed the state to monitor their perceived level of morality. Notably, however, unwed mothers were now able to keep their children and receive financial support from the government (Bala, 1999). Clearly evident in governmental policies of the time were gender biases, hegemonic posturing, and judgmental attitudes. Yet, many policies from that era formed the fledglings of today's governmental social programming and are still in evidence at this time (Melichercik as cited in Yelaja, 1978).

At the time of the Depression, when need was so extreme, social work may have firmly secured its position in Canada. Dissension between social work camps developed as they debated whether the true calling of the profession was to change the individual or change the environment. The Canadian Association of Social Workers adopted the first of these perspectives and attempted to help individuals adapt to their inadequate environments. Yet while adopting a more benevolent perspective regarding the need to

protect all children, the largely male-driven profession was reluctant to allow social work to be seen as either confrontational or critical of the capitalistic donors and governments that supported their causes (Finkel, 2007).

With the Depression, however, the need for social welfare programs became more evident and the door was opened for increased governmental involvement in the lives of the public. The beginning of World War II found Prime Minister Mackenzie King's Liberal government in a difficult position. In 1939, wanting to avoid both a return to Depression conditions or a post-war recession, King was reluctant to commit to needed yet expensive social programs but was aware that the mere existence of unemployment insurance would not be sufficient to keep the economy strong (Finkel, 2007; McQuaig, 2001).

British economist J. M. Keynes had become a prominent figure in government economic direction. He was a strong advocate of addressing market imbalances and maximizing governmental involvement when necessary, by "using debt to finance state expenditures and reinvigorate the economy" (Finkel, 2007, p. 128; McQuaig, 2001). The Marsh Report on Social Security for Canada of 1943 was reflective of Keynes' stance and recommended a comprehensive social security system and employment policy to boost people out of poverty and establish a social minimum standard of living (Guest, 1980; Teeple, 2000). Both the government and the public were reluctant to wholeheartedly adopt the expansive Keynesian philosophy for many reasons, including the fact that it was seen as putting too much power into the hands of the Federal government. Ironically, although comprehensive in scope, the Marsh Report was in part designed to make it possible for the male income earner to support the family while the

woman was able to stay home and care for the family. Therefore, daycares, training programs for women, or any other programs that would promote gender equity and allow both parents to work outside the home, were not endorsed (Finkel, 2007).

While most of the policy changes considered in the post-war period were seen as too radical and too expensive and did not materialize (Guest, 1980), Canada's first universal benefit, family allowance, designed to supplement the family wage, was endorsed. Seen not so much as a way to help families as a device to gain votes and support public purchasing power and, as such, strengthen government, family allowances further encouraged mothers to stay home to raise their children without the need for outside employment. Concurrently, childcare subsidies were decreased also with the intent of keeping mothers home with their children.

Although the war ended, recession was averted, and mothers received their first "baby bonus" payments in 1945 (Finkel, 2007; Yelaja, 1978), gendered programming did not cease and the role of women and children was not significantly altered. Mothers were still not seen as the childcare experts. Rather, male professional psychologists became the moral voice of the Canadian government encouraging "good" mothers to stay home and raise their children to be physically and morally healthy, thus both defining the parameters of normal parenting behaviour as well as reinforcing the existent capitalistic and patriarchical social structures (Finkel, 2007).

Even though there was limited change during the 1940s, the period from 1950 to 1980 became referred to as the Keynesian welfare state (Finkel, 2007) and Canadians, having been introduced in theory to a comprehensive social security system in the extensive discussions of the preceding decade (Guest, 1980) began to look to the

government for further support. The Canadian public was now able to appreciate the fact that there were beneficial social security programs that did not stigmatize the user. In these prosperous times, determined not to return to the destitution of the Depression, Canadians supported the exploration and implementation of further comprehensive social security programs.

In Canada, the 1960s were "an era of economic growth, high public expectations, and government expansiveness" (Tuohy, 1999, p.117). Under Prime Ministers Lester B. Pearson and Pierre E. Trudeau, great strides were made in universal programming, providing security in a wide range of areas. Strongly influenced by American policies, Canadian social policy often looked to the United States for direction. The deinstitutionalization trend, which began with the enactment of the American Community Mental Health Services Acts of 1963 and 1965 (Cowles, 2003), signified the movement of shifting responsibility for individual mental and psychological well-being from the state back to family and community.

The terms "public policy" and "policy analysis" began to be used more frequently as the "government began to try to solve problems in a host of areas" (Pal, 2001, p. 24). The Western world, trying to regain what it perceived as the predictability and confidence of the earlier elusive positivist perspective, "held out the hope that with enough data and analysis, policy problems could be solved largely in technical terms" (Pal, 2001, p. 4) and a sense of control could be reestablished. This was a time of civil rights awareness and political activism and the belief that there was a solution for every problem.

In this "civil libertarian social climate of the 1960s" (Kalichman, 2005a, p. 13) the time was ripe for the discovery of child abuse (Bala, 1999; Labbé, 2005). "Children's rights, coming …on the tail of black and feminist struggles for rights" continued to challenge paternalistic attitudes (Sullivan, 1992, p. 3). Public attitudes had shifted from victim blaming to a growing recognition that although the individual was entitled to increased governmental protection, "the importance of civil rights" that afforded individuals the right to restrict state interference in their lives had to be acknowledged (Bala, 1999, p. 124).

By the mid 1970s neo-liberalism was a definite influence on the world's conservative policies and referred to by a number of epithets such as the New Right, Thatcherism, and Reaganism. The neo-liberal perspective supported such key policies as deregulation of business, privatization of nationalized industries, user-fees, and increasing the global market (Parton, 2006; Teeple, 2000) and with this began the dismantling of the welfare state. Although focused on securing and safeguarding their personal rights in strong neo-liberal fashion, individuals looked to the welfare state to assure and protect these rights, resulting in a resounding clash of values. Caring communities, eager to hand over the responsibility of protecting the vulnerable to government sanctioned professionals best able to meet the needs of this population, simultaneously and zealously declared their right to be free from government interference. Social problems became commodified and marketed by professionals in an effort "to develop regulatory mechanisms in which they themselves play central roles in the 'resolution' of social problems," (Sullivan, 1992, p. 5) firmly establishing their own professional power and economic status.

With the public looking to the government to solve private problems, the Western world was prepared to acknowledge that child abuse was a significant problem that could no longer be ensconced in the secrecy of the family but would best be addressed by publicly funded experts, because "we pay tax so that someone else will worry and intervene on our behalf with the 'strangers' and their children who live next door" (Sullivan, 1992, p. 5). Now the professionals were ready to listen.

For most of the period from 1968 to 1984, Trudeau served as Prime Minister of Canada. In 1982 he negotiated the Canadian Constitution, which included the *Canadian Charter of Rights and Freedoms* (Canada. Dept. of the Secretary of State, 1987). This document assisted in raising the collective conscience to the topic of human rights and opened the door for challenges to the bureaucratic and paternalistic systems (Armitage as cited in Wharf & McKenzie, 2004). The election of Conservative Prime Minister Brian Mulroney in 1984, however, reflected the developing international conservative political climate that was dominated by Prime Minister Margaret Thatcher of England from 1979 to 1990 and Ronald Reagan, President of the United States from 1981 to 1989. During this same time frame Canada became involved in the Free Trade agreement with the United States, and the North American Free Trade Agreement (NAFTA) with the United States and Mexico. The government was now interested in international trade and the economy rather than the human rights of the individual. This attitude subsequently led to a reduction in government programming and the shifting of responsibility back to the disadvantaged (Wharf & McKenzie, 2004). In Ontario, the election of Mike Harris as Premier from 1995 to 2002 and his Common Sense Revolution, which immediately cut social assistance benefits by twenty-two percent and subsequently cut services to all

sectors of the Ontario population, provided the final keystone in this historical perspective of the foundational underpinning of the birth and development of the mandatory reporting protocol. Mandatory reporting originated in this environment where social constructs aligned women with children in subservient and vulnerable positions. At this time in history, neo-liberal commitment to public policy was being used to control the populace, obligating them to reassume responsibility for their inadequacies. Found in the interstices of professionalization and power at a time when government was shifting the burden of social welfare back to the individual, it was here that mandatory reporting was first used as a governmental tool.

The battered-child syndrome.

One hundred years after Tardieu, in 1962, in what has become known as a landmark article (Bala, 1983-1985; Kalichman, 2005a; Levine & Doueck, 1995; Nelson, 1984), Kempe made first usage of the term "battered-child" and outlined the descriptive criteria of the battered-child syndrome. His article is compelling in its description of the battered child's body "tell[ing] a story the child is too young or too frightened to tell" (Kempe, Silverman, Steele, Droegemueller, & Silver, 1985). Kempe provides a shocking description of the batterer as, although possibly well educated and financially secure, more likely of low intelligence; psychopathic; alcoholic; self-centered; with qualities of poor aggression control, sexual promiscuity, and an unstable marriage. Kempe notes that "psychiatric knowledge pertaining to the problem of the battered child is meager and the literature on the subject is almost nonexistent" (Kempe et al., 1985, p.144) yet he questions the lack of physician reports. He challenges the profession wondering if "the arousal of the physician's

antipathy…is so great that it is easier for the physician to deny the possibility of such attack than to have to deal with the excessive anger which surges up in him when he realizes the truth of the situation" (Kempe et al., 1985, p. 146). Most importantly, however, Kempe in his conclusion implores the physician to unequivocally "report possible willful [*sic*] trauma to the police department or any special children's protective service that operates in his community" (Kempe et al., 1985, p. 153) and details the information that should be included in the report. With this article Kemp

raised the topic of child abuse to an issue of discussion. At this point, however, it is important to distinguish the fact that although Kemp called for child protection, he was speaking only to the medical community of physicians and although he made the plea, the reporting of child abuse was not yet mandatory.

Although as noted, this was not the first description of child abuse, it is widely credited as the pivotal research defining child abuse and suggesting that the ultimate responsibility to ensure the well-being of a child may lie in the hands of someone other than the parent or parent surrogate. The advent of the X-ray and the skill of radiologists supported the allegations of child battering and gave further credence to Kempe's allegations (Levine & Doueck, 1995). Thus the child abuse movement was largely founded on the basis of an eight-page article that presents as neither well referenced nor supported by literature or studies.

Kempe appears to have engaged in unsubstantiated rhetoric regarding such diverse areas as causes of abuse, characteristics of abusers, and reasons for lack of physician involvement. Ironically, not very long before Kempe's revolutionary article, society was willing to accept the views of well known and influential psychiatrists such

as Dr. Lauretta Bender, Dr. Karl Menninger and Dr. Alfred Kinsey who, in the 1940s and even until the mid 1950s professed views that "in today's context would cast [them] in with pedophiles" (Sullivan, 1992, p. 31) as they declared that children exposed to sexual experiences with adults are minimally affected and may develop even more charming personalities (Sullivan, 1992). Even David Finkelhor (1979), still today a highly respected name in the field of child welfare, suggested that although there was widespread consensus that sex between adults and children was wrong, since that fact could not be empirically established, it would be more compelling to use the ethical position of a child's inability to give informed consent. Yet, supported by the fact that with the aid of scientific technology child abuse was being identified by emergency room physicians and backed with the societal reification of empirical data, society was apparently ready for this assault on child abuse.

Although there had been "absolutely no articles on child abuse…published before 1962" (Nelson, 1984, p. ix), the first child abuse legislation was enacted in the mid-1960s. "Facing no opposition, state legislatures passed child abuse reporting laws with dizzying speed" (Nelson, 1984, p. 3) and every state, with Canada following suit, had child abuse legislation by 1967 with the "emphasis on identification and investigation" (Antler, 1981 as cited in Levine & Doueck, 1995).The speed of enactment, and widely divergent rhetoric, is indicative of the extent that Kempe's article was sensationalized and the radical shift in thinking that occurred at this time. The legislations identified abuse and delineated actions that were to be taken to respond to child maltreatment but there were still no mandatory reporting regulations.

Because child abuse was conceptualized as an illness or syndrome it became "something which professionals, particularly doctors, were seen as the experts in" (Parton, 2006, p. 29) and because of the previously existing reporting of infectious diseases, mandatory reporting began as a somewhat familiar format to the medical community. As such, it was easily accepted and implemented by them to conscript emergency room doctors into assuming a protective role with children. This shaped the future direction of both public attitude and treatment.

Kempe's article became crucial, therefore, not only for its call to action to physicians, but also for two significant theoretical observations about child abuse that subsequently informed child welfare practice. The first of these was the belief that those who abused children were themselves abused as children, and the second was that child abuse crossed all social strata and was not a problem of just the poor (Nelson, 1984; Parton, 2006; Sullivan, 1992). Medicalization of this problem allowed Kempe and his colleagues to portray child abuse as a medical malady that could only be responded to by the medical profession. The term "battered-baby syndrome", rather than "physical abuse" was chosen in order to "appeal to as wide an audience as possible…[with] no hint of legal, social or deviancy problems to compromise this essentially medical problem" (Parton, 2006, p. 29). Because child abuse was socially constructed as an illness of the abuser, rather than an illness of society, it became easily established into a society that valued individual rights and minimal government interference into private lives.

This historically was a time that held the belief that with enough hard work and support every personal failing could be overcome. By medicalizing child abuse, the

problem became compartmentalized and viewed as a private family issue that, at its extreme, justified consequential legal and medical intrusion. Although the battered-baby was a mere victim of the illness best identified and dealt with by the medical system, the abusive families were in fact themselves viewed as deviant and in need of punitive measures. While it was noted that this deviance crossed all social strata, poor and marginalized families attracted the labels of "abuse" and "neglect" while affluent families had "accidents" (Nelson, 1984; Newberger & Bourne, 1978). As suggested by Nelson (1984), within a medicalized social construction of child abuse societal inequities never can be challenged and as a result, the social and economic antecedents to abuse remained unaddressed. Consequently, medical and legal professional power grew concomitantly with the increase in public concern regarding child abuse (Newberger & Bourne, 1978; Nelson, as cited in Sullivan, 1992).

As the only option for dealing with the perpetrators of abuse, the medical profession not only established its own power "located within and dependent on the market forces which drive the practice of the helping professions in the United States," (Sullivan, 1992, p. 5) but also, because of the legal dependency on medical identification, united physicians and the law, further reinforcing the status of the physician. Sullivan (p. 5) aptly suggests that our tendency to "invite professionals to frame and solve our social problems in official commissions and enquiries [can be compared to] the Evans and Stoddart (1990) metaphor of inviting the petroleum industry to design our furnaces."

With their focus on identifying abuse and punishing the perpetrators, not only were medical and legal professionals not vested in reducing the occurrence of abuse,

ameliorating the effects of abuse was not managed. Looking at child abuse through a medical-model lens has, therefore, allowed the medical profession, supported by the law, to define child abuse and to establish the parameters, the treatment, and the control of both, the abuse and the abusers as well as establishing what Foucault (1977a) refers to as the normalizing gaze. As judges of normality, those of privilege are able to establish societal standards of normal and deviant attitudes and behaviours, further allowing these dominant groups to enjoy their privilege while simultaneously oppressing subordinate groups (Mullaly, 2002).

The medical model has in this way, not allowed the latitude to address the sociological impacts that contribute to child abuse. When regarded solely through a medical lens, only scientific evidence such as that provided by medical and radiological testing provides enough empirical data to satisfy the criteria of abuse. This in turn continues to provide a consistent professional and economic benefit through such avenues as public recognition and research grants to the identifying physicians (Nelson, 1984) and further curtails any opportunity for abuse to be dealt with as a socio-economic issue in need of the restructuring of social resources. The social institutions supporting the disproportionate distribution of these resources, do not even surface as issues to be considered in public policy debates. The significance of this reverberates throughout the history of the mandatory reporting protocol and established both, the template for all future applications of this policy and the ethical question of how to implement mandatory obligations while negotiating the difficult task of balancing rights and responsibilities.

Because child abuse was first identified by a physician child abuse sequelae were viewed through a medical model frame of reference. This resulted in child abuse being viewed as an illness which could be cured by the proper response rather than a symptom of a larger issue. The full extent of the consequences resulting from the discovery of child abuse by a medical doctor working in a hospital setting can never be firmly established however, as indicated, child abuse constructed as a medical issue left little room for exploration of systemic factors that impact the issue. As a result, social and environmental issues of inequality, poor education, insufficient food, lack of social services or housing, and oppression, conditions frequently identified as the antecedents to abuse, went unheeded and these individuals became marginalized, not essential and 'othered' (Mullaly, 2002).

The physicians who identified child abuse tended to be doctors, predominantly white and male, who held power in hospitals as well as the respect of society, and those who were identified tended to be the poor working-class families, often headed by women, and children who subsequently lost their rights. As noted, women were frequently seen as an extension of their children and subservient and vulnerable to the male populace. In a system facing a neo-liberal movement, this child protection protocol was relatively simple and inexpensive and maintained hegemonic control over the poor, all factors which "conspired to limit the growth of resistance and alternatives" (Teeple, 2000, p. 4) and again continued to avoid facing a comprehensive analysis. The reasons leading to the widespread recognition of child abuse and the subsequent rapid response to this issue, add many layers to the understanding of the mandatory reporting protocol

yet it is rarely exposed or considered in the research. This foundational understanding, however, informs the further trajectory of the mandatory reporting protocol.

Theoretical Standpoints

My work is largely informed by the two viewpoints of structuration theory and anti-oppressive theory. The first, structuration, because of its ability to speak to positions of pluralism is able to incorporate both sociological and political perspectives as well as micro and macro viewpoints. While structuration does focus on dichotomies of systems, it does not focus on the individual actor but rather on social practices and how they are perpetuated. The second, critical, anti-oppressive theory adopts postmodern perspective and provides an opportunity to explore oppression. By allowing space to accommodate multiple understandings of oppression this theory attends to the individual player in power relationships and as such, fills the gaps left by structuration theory.

In this way, structuration theory allows the latitude to integrate the rule bound legal aspect of both legislation and codes of ethics while simultaneously endorsing the commitment to equality and multiple truths contained in a postmodern, or "radical modernity" perspective as preferred by Giddens (1993). As a social theory, structuration encompasses an interdisciplinary stance that allows for the historic, economic and philosophical views that I believe are necessary requirements in conceptualizing policy issues while also addressing the secondary, unanticipated consequences inherent in policy changes. Anti-oppressive theory incorporates many voices in its postmodern view. Because of its recognition of power imbalances it is able also to reveal hidden

oppressions. Anti-oppressive theory provides the latitude that allows for the analysis of power relations and of systemic oppressions with the goal of increasing empowerment and reducing oppression. Together theories of structuration and critical anti-oppression provide the arena in which to deconstruct the recursive practices that have been implicated in systemic structures. They shall each be reviewed separately.

Structuration Theory

> *"I would like to go back and see the house I lived in.*
> *It seems to me in my mind that I left it and everything*
> *stands still. The way I left it—that's how it is...but I know*
> *everything changes and it is all different."* HT

Structuration theory is an action theory that looks at "social practices ordered across space and time" (Giddens, 1984, p. 2). It considers how behaviours change each time they are repeated. Some of the concepts in Giddens' structuration theory that are especially relevant to my work will benefit from a brief clarification of terminology. The first of these are the recursive social practices, which are those patterned behaviours or routines that we mindlessly engage in as part of "the routinised character of social life" (Giddens, 1993, p. 9). Next is the relationship between meaningful communication, power, and morality, the "three 'ingredients' involved in the enactment of a social practice" (Giddens, 1993, p. 9). The third area to clarify is the importance of rules in providing structure to social practices by organizing these practices in such a way that the rules structure action. Next is the insight that if action is to have any impact, the actor must have enough resources, defined as that which "make the exercise of power possible" (Giddens, 1993, p. 11) and which include capital resources and authority, both of which are essential to have the necessary power to effect change. Finally, in order to effect this change, there is a need for the

"agents, those who are able to effect change" (Giddens, 1993, p. 11) to have the appropriate resources to allow them agency.

"Social practices involve actions which 'make a difference' to the world in some way, no matter how small" (Giddens, 1993, p. 11). Language, because of the human ability to abstract, shapes and organizes the social practices while rules, by patterning behaviour, structure the action of the social practices. Agents in turn, are required to carry out the rules. Resources of capital and/or authority when sufficient, allow the agent to have an impact and 'make a difference'. This enables the action to have meaning.

Power, an axial concept in Giddens structuration theory, is centered in his analysis of modernity (Giddens, 1993, p. 11). This circular logic is reflective of structuration theory's reflexive nature that incorporates the double hermeneutic, integral to Giddens' thinking. The double hermeneutic recognizes that as the process of social theory formulation seeks to understand and interpret the social world, the resultant "concepts that are interwoven with them, enter into the very constitution of that world; they become part of the world they are seeking to describe" (Giddens, 1993, p. 2). In this way the theories shape the world they depict. This circularity ameliorates structuration theory's comprehensiveness and holistic perspective and enhances its suitability to reflect a social work perspective.

Rules and resources are both necessary to structure social practices while structure and action are conjoined in a process that Giddens refers to as patterning social practices. He credits what he calls the duality of structure with enabling the patterning of social practices across time and space. He explains the duality of

structure as, in simplified terms, the result of completing behaviour in the way anticipated by the rules so that it is comprehended in its full intent by another who then responds with the anticipated action. This anticipated action response then contributes not only through the action, but by the reproduction of the entire behaviour, to the patterning of the behaviour. Giddens (1993) credits the rules and patterned behaviours or routines as providing a sense of predictability, security, and safety needed to maintain an ontological security, thus making the world manageable.

Critical to this understanding and to my purposes is the concept of the duality of structure producing, not only the reproduced pattern but also resulting in "unintended outcomes of social practices" (Giddens, 1993, p. 13) or those unaccounted for and unanticipated results. Giddens' use of language and the meanings he attributes to concepts is indicative of the significance that he ascribes to the production of meaningful communication and, yet again, the circularity, while affording clarification, can also make it difficult to grasp the interwoven concepts in their entirety.

Critical Anti-Oppressive Theory

*"A Jew—he didn't ask. As long as it was a Jew he ordered
his men to kill them. He killed Jews." HT*

I come from a culture of oppression and it was this history that has led me to an interest in how oppressive practices are sustained. A postmodern perspective which provides an opportunity to explore oppression also informs the second theory that I draw upon (Hick, Fook, & Pozzuto, 2005). Critical, anti-oppressive theory, with its multiple understandings fills the gaps left by structuration theory's limited discussion of oppressive practices and further promotes an understanding of the linkage between the

personal and the political. As Mullaly (2002, p. x) notes, "Oppression is systemic and is produced and reproduced in everyday social practices and processes in ways that serve the dominant group." Mere social reform will not accomplish the necessary change, but rather, a transformation of oppressive rules, processes, and practices is required--a changing of the patterns. This transformative agenda is compatible with Giddens' views of structuration and the importance of recursive social practices and further supports the use of both critical and structuration theories in conjunction with one another.

Critical theory is an umbrella concept encompassing many theories that work to address social injustices and oppressions. "An analysis of power relations and a recognition of systemic oppressions" (Brown & Strega, 2005 p. 10) has the potential to lead to empowerment and challenge the hegemonic beliefs that support relations of dominance and subordination. Radical and anti-oppressive critical theories informed by postmodern thought allow the struggles of power and control inherent in oppression to be challenged. While structuration theory as postulated by Giddens (1993 p.20) allows the ability to incorporate the historical aspect of "social relations across time and space," the many voices of anti-oppressive theory allow the ability to acknowledge the duality and paradoxes as well as the objective and subjective perspectives inherent in the convergence of law and social work, two disciplines that actively engage in mandatory reporting.

"Man was born free and he is everywhere in chains....How can this be made legitimate?" (Jean-Jacques Rousseau cited in Christiano & Christman, 2009 p. 1). As another aspect of critical theories it is useful to consider some of the engendered political, philosophical debates. Discussions of mandatory reporting obligations

generate philosophical and ethical perspectives integral to an analysis of state driven social policies. Always present in the discussion of social policies that impact some at the apparent cost of the others is the need to balance the primacy between the individual and society. Any conflict in values that exists in this area can be justified within professional bodies as it is in the Ontario College of Social Workers and Social Service Workers by noting that they are "a regulatory body whose primary duty is to serve and protect the public interest" (Ontario College of Social Workers and Social Service Workers., 2000 website www.ocswssw.org). In what is referred to as the liberal paradigm (Christiano & Christman, 2009 p. 5) the term liberalism is explained as the "justification of social and political power that sees such power as legitimate only if it is based on popular sovereignty, the rule of law, and the protection of basic rights and liberties of individuals." This creates a dichotomy within political institutions in that in order to be just, rules must be supported by the populace and yet they also must remain neutral to all various moral and value frameworks. This leads to some pertinent debates resonating from the liberal paradigm.

The first of these debates is the need for state neutrality. Gaus (as cited in Christiano & Christman, 2009) argues that the coercion of any person without sufficient justification is morally wrong no matter whether the coercion is by another person or the state. In order to have sufficient justification, the free and equal person being coerced would have to agree that the coercion was justified. Gaus then declares that justification is rarely if ever attainable given the great disparity in views of citizens. He calls for state neutrality so that policies are just and provide benefits of freedom and equality, applied equally to all and not privileging any. However, while he calls for neutrality to provide

policies that are representative of the people and not of the moral posturing of the politicians, others suggest that the state should promote actions of value designed to add quality to the lives of citizens, even if the value is not readily grasped. The suggestion here is that the state, acting in the role of a parent, has a better understanding of what is in the public's best interests.

The next debate relevant to this discussion is one of distributive justice. The pertinent question here is how opportunity or happiness or other intrinsically good things should be distributed. Many join this discourse suggesting that inequalities of wealth or opportunity are morally indefensible. Rawls, a name frequently associated with the concept of distributive justice (Christiano & Christman, 2009) describes two central principles. The first is that each person should have the maximum amount of autonomy possible so that everyone attains an equal basic level of liberty. The second principal states that inequality of opportunity in the form of wealth and power are only justifiable if they work for the betterment of those who are in the least advantaged positions.

A third quandary relates to whether people should in fact all be treated equally. Some argue that all should begin on equal grounds but because of needs should be treated differently while at the same time everyone should be afforded "equality of well-being." Others insist that not all people "are owed equal concern and respect" (Christiano & Christman, 2009 p. 5) justifying unequal treatment by stating that parents do not treat their children as equal to other people's children nor do citizens treat foreigners as equals (Kekes as cited in Christiano & Christman, 2009 p. 179). While a full exploration is beyond the scope of this paper, each of these ethical dilemmas is considered as it becomes relevant to the interview discussions.

Establishing a Foundation

This research began by seeking views of a group of Ontario individuals regarding the relevance and impact of mandatory reporting applications in their professional and personal lives. A comprehensive grasp of these relevant applications of the mandatory reporting protocol that presently exist in this province is therefore a necessary component to this project in order to establish a solid underpinning from which to advance. While discussing the applications, it is not sufficient to attempt a superficial analysis that addresses the mere intent of the policies and does not grapple with the outcomes. I will therefore describe the mandatory reporting obligations that presently exist or are being contemplated in Ontario for social workers, and some of the related and complex outcomes and consequences.

Critical Examination of Mandatory Reporting Obligations

Mandatory Reporting of Child Abuse

"He snitched that my sister had sent clothes from the States. I was just a child but we were afraid if my brother went with them, he would be killed and if my sisters went back with them, they would be raped so I went. The clothes were hidden in the ground. They made me dig until I found them" HT

A life of what we may identify as hardship bordering on abuse may be part of the normative experience for many disadvantaged children. When evaluating the effectiveness of the mandatory reporting policy concept, a broad assessment and understanding of the underlying motivation and reasoning for this protocol is needed (Wharf & McKenzie, 2004). A grasp of the dynamics of the original application can provide this clarification. As noted, Kempe and his colleagues were the first to bring

mass attention to the mandatory reporting concept. The publication in 1962 of Kempe's "The Battered-Child Syndrome" (Kempe et al., 1985) became a highly influential document and resulted in the enactment of mandatory reporting laws in all American states by 1967, making these "the most rapidly adopted pieces of legislation in United States history" (ten Bensel as cited in Renke, 1999, p. 93). All of Canada quickly followed suit with Ontario leading the way by adopting mandatory reporting legislation in 1965. Mandatory reporting appeared as a simple and efficient method of aligning professionals to a unitary goal. Initially, in response to physicians' awareness that some parents were abusive and children were being injured (Bala, 1999; Melton, 2005), mandatory reporting was implemented and seen as a way to mandate physicians to bring this abuse to the attention of the child welfare authorities.

Although child abuse had been recognized for many years previously, 1962 is the year credited with the discovery of the battered-baby syndrome; but as Nelson queries, "What happened in 1962 to make abuse newsworthy? What transformed a condition into a social problem, and a social problem into a policy issue?" (Nelson, 1984 p.ix). In order to understand the relevance of these events, Nelson (1984) reminds us that it is necessary to question how and why certain matters become a part of the public agenda and subsequently part of our collective moral conscience. It is this agenda setting that shapes the future narrative of the discourse of an issue, and it is the normalizing gaze of those who first define an issue that will delineate the way it is subsequently perceived. So it was with child abuse.

During the agenda-setting process, the issue of child abuse was "vigorously portrayed as a noncontroversial issue" for which there was no disagreement as to

46

preferential response (Nelson, 1984, p. 4). In this time of economic prosperity as well as major medical advances, the medical profession was highly respected and paediatricians were further esteemed. Because these physicians were the ones identifying child abuse, the corollary was that no further discussion was needed with the result that child abuse became accepted as a valence issue—one that does not generate a great disparity in reaction and is not perceived as controversial (Bala, 1999; Nelson, 1984).

Organizational theorists suggest that organizations are more likely to make innovative changes when their environment, including "market conditions, technological changes, clientele needs and demands and the labor [sic] market" are in flux (Mohr, 1969, p. 112). An environment in flux aptly depicts the conditions in which child abuse was "discovered". Vast and progressive changes were occurring across the North American continent during this time period. These changes ranged from political activism to the technological advances of the space race. In Canada, universal programming, and a shifting of responsibility for individual mental health from the government back to the community was on the public agenda in the 1960s. In the same manner that physicians gained increased stature when they were able to identify a new disease, condition or syndrome, legislators "quickly learned the value of claiming an issue in which to develop expertise and on which to build name-recognition" (Nelson, 1984, p. 83). With child abuse perceived as a noncontroversial and popular issue, a law that mandated the reporting of child abuse met these criteria of claiming an issue for enhanced status.

With expanded mass media sources such as television and magazines, and even academic journals sensationalizing the topic, stories of child abuse, even though largely ignored for years, were quickly elevated to the status of a social issue in both Canada and the United States (Nelson, 1984). As a result, child abuse became a widespread concern across a diverse audience and, as such, entered the public agenda. A simple and inexpensive method of approaching the problem, such as that offered by mandatory reporting provided a welcome response. The legislators could be perceived to be doing 'good' and the public was placated seeing that the issue was being dealt with.

Yet, just as mandatory reporting of suspected child abuse "has turned out not to be a simple matter, especially not for mental health professionals" (Appelbaum, 1999, p. 27), because of its vagueness and multiple applications, clarifying the mandatory reporting protocol has not been an easy task for similar reasons. As noted, in the 1960s when mandatory reporting was first applied in Canada, child abuse had not previously been acknowledged nor recognized (Bala, 1999; Bell & Tooman, 1994; Renke, 1999) but as the recognition dawned, the realization that child abuse could be a far more prevalent and ongoing problem than previously understood may have engendered an exaggerated response, increasing pressure to find a way in which to prevent child abuse. Kemp had reached the conclusion that child abuse affected only a few hundred children who were subjected to seriously disturbed parents (Melton, 2005). When professionals later grasped the magnitude and effects of abuse against children this served as a catalyst for a move toward enhanced child protection in North America (Bessner, 1999-2000) in the 1960s and 1970s.

The Ontario *Children's Protection Act of 1893* was repealed in 1954 and replaced with the *Child Welfare Act* which, after major revisions in 1965, changed the focus from neglected children to that of children in need of protection and more relevant to this discussion, initiated the first reporting requirement "to encourage the communication of information of cases of child abuse and neglect" (Chertkow, 1979, p. 624). Although this act was written so that everyone who had knowledge of child abuse was required to report this information to a Children's Aid Society or a Crown attorney, there was no penalty for failing to comply with this obligation.

In 1977 a government paper, *The Children's Act: A Consultation Paper* (Ontario Ministry of Community and Social Services, 1982), recommended that all professionals acting in their professional capacity should be mandated to report child abuse and obligated to meet this requirement by a fine of no more than $1000.00. This recommendation was, however, not implemented at that time. Efforts to prevent unjustified interference by mandated reports was a primary theme of this Consultation Paper (Bala, 1983-1985), yet although some believed that mandatory reporting should be limited to medical professionals as they had the greatest likelihood of coming into contact with an abused child, the decision remained that any professional was capable of identifying abuse (Chertkow, 1979).

Acting upon the recommendations of this Consultation Paper, major revisions occurred to again alter the *Child Welfare Act* and it was reintroduced in 1978 where it remained in effect until the *Child and Family Services Act* (1984) was proclaimed. In the *Child and Family Services Act*, the duty to report was again identified, but although this obligation was imposed upon everyone, there was now specific mention of the

additional responsibility of health care professionals, teachers, and other professionals who worked closely with children. There was, however, still no penalty for failing to report.

In 1999, changes were made to the *Child and Family Services Act* and mandatory reporting was included. When mandatory reporting obligations were added to the child welfare legislation the result was what Bala referred to as "institutional change simply superimposed on existing layers" (Mushlin, 1988, as cited in Bala, 1999, p. 3). By not adapting the Act to accommodate change the result was a chaotic system lacking strong political support (Bala, 1999, p. 3). When applied, this expanded version of child protection was intended to reduce the chaos and adopt multiple roles. It was meant to continue to deal promptly with ongoing child abuse; present a comprehensive approach to dealing with child abuse; shift power from helpless children to professionals who could then intervene on behalf of children, delivering the message that child abuse would not be tolerated; and predict and avert future child abuse (Bell & Tooman, 1994). But as frequently arises, the need for balance presents the dilemma of determining "what is the appropriate degree of state sanctioned intervention in a child's life?" (Bala, 1983-1985, p. 239). This question continues to plague professionals and policy-makers alike.

Proclaimed in 2000 and known as *Bill 6*, amendments to the Ontario *Child and Family Services Act* (C&FSA, 1990) expanded reporting duties "to require professionals to report in any situation where they have "reasonable grounds to suspect" any situation where a child may be in need of protection" (Bala, 1999, p. 22). Now, the *Child and Family Services Act*, not only addressed incidents where abuse had occurred, or where

50

there was good reason to believe that it had occurred, but, with the addition of "various risk-assessment tools" (Swift & Parada, 2004) also included mandatory reporting of situations when "there is a risk that the child is likely to [be physically or sexually abused]" (Government of Ontario, 1990; C & F.S.A., Government of Ontario, (S. 72 s.2, s.4). By including this phrase, the professional was now put into the position of assessing risk in order to determine when an identified behaviour was likely to happen and any resultant reporting was based on what the professional assessed might occur. As such, mandatory reporting of child abuse not only had the reactive goal to end child abuse, but also became proactive in its additional aspirations of predicting and curtailing foreseeable, likely future child abuse.

As in the mid 1960s, when mandatory reporting laws were so rapidly implemented, there was again wide societal agreement. With "little consultation and virtually no opposition" (Swift & Parada, 2004, p. 2) and much to the chagrin of academics who note that these amendments were "enacted without any public hearings or real public debate" (Bala, 1999, p. 1) professionals armed with various risk-assessment tools assumed the role of visionary, able to foresee the possibility of future child abuse. In the 1960s, however, the Canadian public coffers were flush and the universality of a social safety net was promoted.

In the neo-liberal times that resulted from the 1995 election of a Conservative government, however, there was a clear "agenda of reducing benefits for low-income populations," (Swift & Parada, 2004, p. 2) and so, interestingly, in addition to lowering the standard for intervention into a family's life, funding formulas were tied to the services provided. In this way, those who had the fewest resources and were the least

51

able to provide for their children were the most likely to be identified by the child welfare workers and became a source of income to the child welfare agency. As a result, Children's Aid Society (CAS) workers had a vested interest and renewed vigor in identifying children who may be in need of protection (Swift & Parada, 2004).

The addition of proactive functions to the *Child and Family Services Act* was a significant shift in thinking, as professionals were now not just addressing actual abuse, but they were, with the introduction of the concept of the balance of probabilities, mandated to address future abuse. Without the certainty that the abuse had actually occurred, many professionals became more reluctant to report. Some did not want to report because they feared subsequent mishandling of the case by child welfare workers, resulting in further harm to the child (Renke, 1999). Others were reluctant to surrender all personal discretion when there was still doubt that the abuse had occurred (Appelbaum, 1999). Appelbaum suggests that this lack of reporting may also indicate that the policies did not make sense to those subjected to them. Noting the high levels of non-compliance in reporting child abuse (Delaronde et al., 2000; Finkelhor & Zellman, 1991; Kalichman & Brosig, 1992; McDaniel, 2006) discretionary or "flexible reporting" (Finkelhor & Zellman, 1991) models have been proposed, but to date, not implemented.

The addition of the phrase "there is a risk of [abuse]" to the child protection reporting obligations signified a shift in thinking. Risk assessments, the first step of risk management "seek to predict the potential for harm of children if they remain in their home" (Jordan & Franklin, 1995, p. 254). They are an attempt at measuring and quantifying risk. An unanticipated outcome of the new policy changes was that the addition of this proactive wording resulted in a huge influx of mandatory reports,

overwhelming the child welfare system and resulting in an inability to distinguish and address the most serious cases (Krugman & Leventhal, 2005). An indication of how a small change can have a significant impact is evident in the following example. Minnesota's child protective services discovered that although perceived as a simple modification, the changing of the definition of child neglect to include a child's exposure to family violence created great turmoil. Although the change was made with the intent to further protect children, the amended definition added a new category of children to the caseloads of already overworked child welfare workers. The system could not handle the increase and notably, Minnesota recognized the problem and repealed the law after only one year (Edleson, Gassman-Pines, & Hill, 2006).

Mandatory Reporting of Child Abuse Outside North America

*"It was dead of winter and I was wearing only a little shirt. They wouldn't
let me put my hands in my pockets. After I dug up the winter clothes, they
wanted jewelry. I said that we had been robbed before and had none.
Offended, they smacked me across the head. You hear of seeing stars.
For the first time, I saw stars." HT*

While there may be varying views of what constitutes acceptable behaviour, there is general Euro-Western societal agreement that child abuse is never acceptable under any circumstance (Appelbaum, 1999; Bell & Tooman, 1994; Forbes Smith & Freeman, 2005; Renke, 1999). And yet, while there is widespread agreement that child abuse is not to be tolerated, there is less agreement as to what constitutes abuse and to the appropriate method for dealing with the issue. Canada, United States, and Australia have mandatory reporting for child abuse yet the United Kingdom, New Zealand, and Germany do not (Bell & Tooman, 1994; Mathews & Kenny, 2008; Parton, 2006; Renke,

1999) and while Belgium and the Netherlands do not have a mandatory system, they do have a flexible non-mandatory method of reporting (Delaronde et al., 2000). In the United Kingdom, child abuse policy followed a similar route as the North American trajectory, but with divergent results.

Discovered in the U.S.A. in the 1960s, the "syndrome" of child abuse was imported to England in the 1970s (Parton, 2006), where medical doctors became the experts in identification and then came under public scrutiny when, much like in North America, public inquiries into the deaths of children attracted media attention. While again endeavouring to balance family integrity with appropriate state involvement, there were attempts to devise a legal avenue that would allow intervention into private family lives in order to protect children and yet, "there were no legal requirements imposed on professionals to either report abuse…or attend case conferences" (Parton, 2006, p. 32).

In the late 1980s, the component of risk management was included to address prediction of abuse. It was not, however, until two decades later that the Green Paper, *Every Child Matters,* led to the passing of the *Children's Act* (2004), marking "a significant watershed in thinking about children's services in England and herald[ing] a major period of reform and change" (Parton, 2006, p. 1). Unfortunately, in concert with the U.S. and Canada, other parts of the U.K. and Australia yet again saw the death of a child precipitating this social transformation (Parton, 2006). As in North America, the ever-increasing impact of globalization and mass media technology was affecting the view of child welfare as well as the definition of family. Interestingly though, Parton (2006) suggests that the true motivation for change in the English child welfare system was the desire to ensure that children did not, as a result of abuse, lose the ability to

become productive members of the future workforce. This resonates with the 1800s provision of schooling to keep vagrant children off the streets. In any case, the paradigmatic shift took the policy focus in England from one of concern regarding significant harm to that of "safeguarding and promoting the welfare" of children (Parton, 2006 p.2).

Although the new system ensured that professionals could identify child abuse and share information so there could be a coordinated approach, this comprehensive attack, coming three decades after that of the North American child protection policies, did not see the justification to mandate the reporting of child abuse. Significantly, some U.K. academics (Bell & Tooman, 1994; Parton, 2006) suggest that because of differences between North America and the U.K. as well as due to political and societal changes in the last two decades, the ultimate purpose of the mandatory reporting of child abuse may no longer even be valid for some Euro-Western societies. Adding to that, the mandatory reporting of child abuse has been referred to as a bankrupt policy based on largely erroneous assumptions and resulting in terrible unintended consequences (Melton, 2005) providing a scathing judgment of a reified policy.

Australia is a third country that has largely embraced the mandatory reporting protocol. In 1977, the first Australian state passed mandatory reporting laws and now all states other than Western Australia have mandatory reporting obligations (Ainsworth, 2002). Yet, while "dissenting voices that query this approach in either country [Australia & U.S.] are few" (Ainsworth, 2002, p. 57) some jurisdictions, such as U.K. and New Zealand, have chosen to not enact these laws for a variety of reasons. The predominant arguments against mandatory reporting protocols include the risk of adversely impacting

children and families by reporting unfounded cases; diverting scarce resources away from children that would benefit from services (Mathews & Kenny, 2008; Melton, 2005) and the suggestion that mandatory reporting protocols have been "characterized as inefficient and ineffective" (Ainsworth, 2002, p. 62).

Subsequent Uses of the Mandatory Reporting Protocol

Mandatory reporting, although originally enacted to serve the single purpose of protecting vulnerable children from abuse, continues to be considered for ever expanding purposes including: elder abuse (Bergeron & Gray, 2003; Canadian Network for the Prevention of Elder Abuse, 2008; Dakin, 2004; Stratton & Yamasaki, 2003; Wei & Herbers, 2004), work place harassment (Government of Ontario, 2009; Ministry of Labour, Ontario Government, 2010), domestic violence (Bledsoe, Yankeelov, Barbee, & Antle, 2004; Edleson et al., 2006; Rodriguez, Sheldon, & Rao, 2002; Sachs, Koziol-McLain, Glass, Webster, & Campbell, 2002; C. M. Sullivan & Hagen, 2005), school bullying (Duncan-Daston, 2003; Talaga, 2009) and sexual relations between professional and past client (McPhedran et al., November 25, 1991; Ontario College of Social Workers and Social Service Workers., 2000; Pope, 1994). In spite of the fact that mandatory reporting as a means to address child protection has been accused of being based on unsubstantiated assumptions that have resulted in "terrible unintended effects" (Melton, 2005, p. 10) the applications of this policy continue to expand. As a policy stance, mandatory reporting is frequently considered as an adjunct for socially sanctioned behavioural standards, developed to regulate key social institutions such as marriage, child rearing, aging and work. It is intended to serve as a means to protect

society's ethical and moral constructs but can also be perceived as a system of surveillance (Lonne, 2009) that compromises civil liberties.

Based on a policy that was hastily implemented and widely disseminated throughout the United States, Canada and Australia, there has been little evaluation as to whether mandatory reporting of child abuse actually protects children or if it is really just a case gathering tool (Melton, 2005). Melton goes so far as to say "the rampant civil disobedience of mandated reporting laws by professionals who are convinced that children are worse off as a result of reports to the CPS may diminish their respect for legal policy in other contexts" (Melton, 2005 p. 14). As the definition of child abuse has evolved and become more difficult to define, it has been speculated that some professionals have chosen to protect the therapeutic relationship rather than report child abuse, believing that reporting is more damaging than helpful (Appelbaum, 1999; Walters, 1995), and perhaps agreeing that "it is regrettable that there was not more consideration of the implications of the changes" (Bala, 1999, p. 1).

The Trajectory to Multiple Applications

Although concerns regarding mandatory reporting protocols have not been addressed, applications multiply across Canada and the United States because it is a simple and inexpensive method of approaching the problem. Legislators can be perceived to be doing 'good' (Nelson, 1984) and the public is placated seeing that issues are being dealt with. Since "how people talk about a subject influences the way in which government policies are established and implemented" (Finkel, 2007, p. 3) the discourse that situates mandatory reporting on the "side of angels" (Nelson,

1984, p. 81) has eased mandated reporting into multiple professional applications with limited public resistance and very little public discussion. By teasing out the assumptions and socially constructed meanings that are imbedded in the mandatory reporting protocol, it is clear that mandatory reporting is more than "a relatively simple legislative solution to a complex set of human problems" (Bala, 1999).

Mandatory reporting's expansion of purpose from the area of child abuse where it is now considered or applied to other applications reflects the practice that Giddens refers to as "the patterning of social practices" (Giddens, 1993, p. 12). Some Canadian health care professionals are being thrust into the dilemma of having to report inappropriate activity ranging from incapacitated or incompetent professionals (Government of Ontario, 2007) to client gunshot and stab wounds leaving "some physicians and nurses…worried about having to go against their codes of ethics by directly or indirectly informing police of patient information" (Lawyers Weekly, 2007, September 14, p.28).

Mandatory reporting was first implemented to prevent or at least minimize the "damage perpetrated on vulnerable children" (Bessner, 1999-2000, p. 281). As its uses continue to expand, however, an understanding of relevant historical factors is necessary to clarify concerns that still exist within this protocol. These historical developments include the quick adoption of mandatory reporting in North America in the mid to late 1960s, the subsequent 1999 legislative expansion of reporting obligations, the history of mandatory reporting in Australia beginning in the 1970s and the reasoning behind Britain and other European countries' refusal to implement mandatory reporting.

Mandatory reporting obligations frequently appear as a response to a tragic situation (Nelson, 1984; Swift, 1999). Mandatory reporting of child abuse in North America as well as in Australia resulted after well-publicized child deaths increased the awareness of battered children. In Ontario, the death of an infant and the subsequent criminal charges against a social worker preceded the long sought-after legislation that set standards for social workers (R. v. Heikamp and Martin, 1999, December 3, 1999, OCJ (unreported), (Ontario Association of Social Workers, 2000; Swift, 1999). In the Australian state of Victoria, mandatory reporting of child abuse was introduced in 1993 "after community outrage at the killing of a young child through parental abuse" (Taylor & Lloyd, 2001, p. 2). Although mandatory reporting had initially been intended to assist physicians in the massive task of ending child abuse, in its expanded application of also anticipating abuse it frequently was reactionary rather than reflexive, and yet, in spite of any reluctance to report, mandatory reporting at this time was acknowledged as a potentially effective method of curtailing risk (Bessner, 1999-2000; Burak, 1988-1989).

Unlike Canadian federal legislation there are no unified laws within the Canadian provinces. Each province enacts their own laws within their sphere of powers. Canadian provincial legislation however is frequently similar in effect across the country and regularly reflects issues of contention that are very similar in many cases to American issues. These issues and laws often follow the same trajectory. As such, I use the province of Ontario and the profession of social work as my points of reference.

The trajectory of mandatory reporting laws relevant to Ontario social workers and public has multiplied in purpose as follows:

1. 1962 Protection of children from quantifiable, physical abuse known as Battered-Child Syndrome

2. 1970s-1980s Protection of children from sexual abuse

3. 1999 Protection of children from anticipated physical, sexual or emotional harm through administration of risk assessments

4. 1999-2000 Protection of children from emotional harm of witnessing domestic violence

5. 2000 Ontario social work legislation implemented. Protection of client from social worker/client sexual relationship

6. 2009 Ontario (Bill 37-Child Pornography Reporting Act) Protects public from transmission of child pornography via internet

7. 2010 Ontario (Bill 168-Violence and Harassment in the Workplace) Protects workers from violence that may be brought into the workplace

Figure 1: Trajectory of Mandatory Reporting Laws Relevant to Social Workers
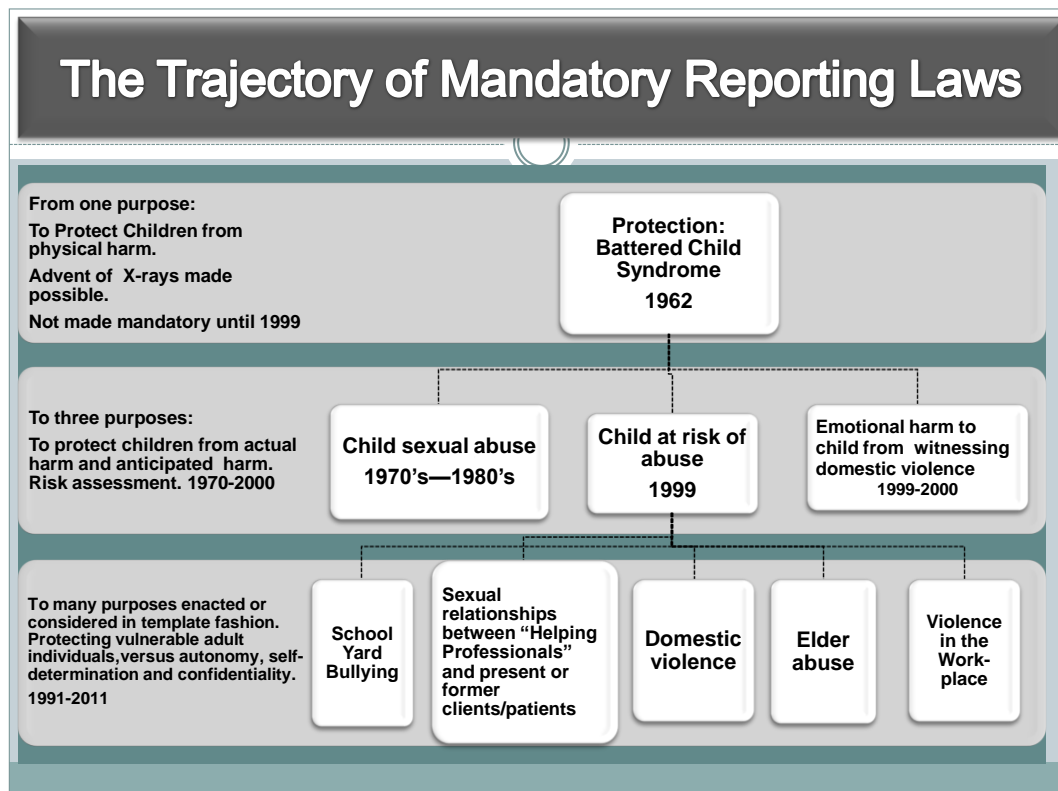
These are a few of the most significant changes that have been implemented in the province of Ontario and that are representative of mandatory reporting obligations that impact helping professionals. Parts of Canada and the United States have or have attempted to also develop legislation mandating the reporting of issues such as elder abuse, domestic violence, and school-yard bullying. The overall significance of these new mandatory reporting obligations is that they are no longer protecting just vulnerable children but now impact the autonomy of competent adults. Each of these obligations, while potentially beneficial, also has widely controversial components.

New Applications of an Old Idea

Mandatory Reporting of Unprofessional Conduct

Approximately 30 years after mandatory reporting was implemented to deal with child abuse, it received a new application generated by an old impetus. In 1991 the *Regulated Health Professions Act* (RHPA, Ontario, 1991) superseded the *Ontario Health Disciplines Act* (1974) and became the umbrella legislation for all regulated health care professions in Ontario. The Health Professions Regulatory Advisory Council (HPRAC, 1989) was charged with determining which professions would be welcomed as regulated health professions under the RHPA (Ontario Ministry of Health, Health Professions Legislation Review, 1989). One criterion that was established was that those professions included under this legislation must be able to confirm that their primary purpose in regulation was to serve the public interest rather than seeking regulation for professional self-interest. Recalling the revolutionary reclaiming of personal rights in the 1960s and 1970s, it can be asserted that the groundswell for this

legislative direction came from that consumer movement and the litigious nature of the American health care users. These actions ultimately led to sanctions encouraging doctors to regain the public trust by at least symbolically affirming and demonstrating a commitment to basic professional ideals. This effort established the need for medical malpractice insurance to deal with claims of professional incompetence while simultaneously encouraging doctors to be cognizant of colleagues' inability to adequately practice their profession (Klaperman Morrow, 1982).

In Ontario when media and public criticism drew attention to the relationship between some doctors and their patients, the Task Force on Sexual Abuse of Patients (1991) was commissioned by the College of Physicians and Surgeons of Ontario to investigate the allegations. The Task Force subsequently found that sexual abuse of patients by doctors was a significant problem (McPhedran & Sutton, 2004). It was determined that the protection of the public could best be achieved by instituting an obligation requiring regulated health professionals to report concerns involving the sexual abuse of a patient by another regulated health professional. As a result, government legislation amended the newly passed *Regulated Health Professions Act* (1991) (Ontario, 1991) to include the mandatory reporting of health care professionals who transgress sexual boundaries with patients. This was accomplished through *Bill 100* (1993) (McPhedran & Sutton, 2004).

As well as increasing both the public awareness of the problem and the confidence that the issue was being addressed, mandatory reporting of professionals assumed the additional role of increasing professional accountability with regards to the abuse of patients in a vulnerable state (McPhedran et al., November 25, 1991). As

such, the HPRAC became elemental not only in establishing alternate usages of the mandatory reporting protocol, but also in the social construction of "professionalization" and the "health professions" as well as "the social construction of professional deviance" (Klaperman Morrow, 1982, p. 92). As a result, the sexual abuse of a patient by a regulated health practitioner became about the continuous "relationship of power and control over [the] patient" (McPhedran & Sutton, 2004, p. vii). Defining these variables in this manner not only soundly placed the mandatory reporting protocol in a medical paradigm, but also firmly established the need for ongoing surveillance of professionals while simultaneously diverting attention from the rights of both the identified victim and the reporter. What was initially seen as private medical deviance had now become a part of the public agenda.

Although social work was excluded from the list of regulated health professions it was the inclusion of this mandatory duty in the RHPA (1993) that subsequently led to the establishment of mandatory reporting obligations in social work legislation. As noted, the inclusion of mandatory reporting has become a benchmark in the self-regulation of professions (Ontario College of Social Workers and Social Service Workers, March 15, 2005) and became integral to the development of the Ontario College of Social Workers and Social Service Workers (OCSWSSW) in 1998 and to the subsequent social work legislation.

Across Canada mandatory reporting is now being used to prohibit sexual relationships between some helping professionals and their clients. In Ontario, in order to obtain government support allowing legislation of the profession, social workers were obligated to include the mandatory reporting of sexual abuse by professionals as part of

the legislation. In Ontario for the profession of social work this regulation describes the obligation under *Principal VIII in the Code of Ethics and Practice of Standards Handbook 2nd edition 2008* and is referred to as 'Sexual Misconduct'. While there seems to be general acceptance that sexual relationships should not occur between current clients/patients and the caregiver there is great variance in the professions and across the country as to how long after the professional relationship has ended this restriction should be continued. Physicians, other than psychiatrists for instance, must wait a minimum of one year post termination of the patient relationship, before they can enter into a sexual relationship with the client/patient; social workers in the province of Alberta must wait a minimum of twenty four months while for social workers in Ontario, a client permanently retains the vulnerable client role and therefore the relationship restriction is forever. The client has no voice in this and cannot, therefore, ever enter an intimate relationship with someone who ever was their counsellor and in this way, retains their vulnerable status forever. Especially in insular communities such as those that are culturally defined, or bound by sexual orientation; or in isolated, rural communities, this 'forever' mandate may be unreasonable.

Canadian Social Work Mobility Issues

Further confounding this issue, in March 2007 the social work professional associations (Colleges of Social Workers for Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec, Saskatchewan, 2007) in the provinces of Canada signed a mobility agreement entitled "Mutual Recognition Agreement on Labour Mobility for Social Workers in Canada" (Colleges of Social Workers for Alberta, British Columbia, Manitoba, New

Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island,

Quebec, Saskatchewan, 2007) which states:

> We, the undersigned, enter into this Mutual Recognition Agreement (MRA) in order to comply with our obligations under the Agreement on Internal Trade (AIT), Chapter 7 (Labour Mobility). The purpose of this MRA is to establish the conditions under which a Social Worker who is registered in one Canadian jurisdiction will have his/her qualifications recognized in another Canadian jurisdiction which is a Party to tyhis Agreement.

Since the provincial legislations regarding sexual relations with a client vary

greatly across all Canadian provinces and territories it is unclear how the Ontario

'forever' mandate will play out with mobility issues in other provinces.

Mandatory Reporting of Domestic Violence

Domestic violence with child witness.

Since the time that mandatory reporting was first used for the professional

reporting of child abuse, the mandatory reporting protocol has been applied to affect

other populations perceived as vulnerable. Although there is presently no Ontario

obligation to report domestic violence, the Ontario definition of child abuse (*Child &

Family Services Act*, R.S.O.1990, S. 72) has, as in many other Canadian provinces,

been expanded to include "a child who has or may have witnessed domestic violence."

As such, some Canadian jurisdictions direct a professional suspecting that a child may

have witnessed domestic violence to submit a mandatory report to the appropriate

authorities. If there is deemed to be reason for concern, the authorities will remove the

child from the potential threat (*Child & Family Services Act*, R.S.O.1990, c.C.11) in

whatever way best addresses the situation. Research on spousal homicide, however,

looks at the impact of wives leaving the family home after a relationship breakdown and

"suggests that wives face the greatest risk of homicide within two months following separation" (Lewis, 2003, p. 358). Another concern noted regarding situations of domestic violence emerged from the United States. In Michigan, female survivors of domestic or sexual assault interviewed felt that mandatory reports should not be made without the victim's consent until systemic changes are able to avoid revictimization (Sullivan & Hagen, 2005) supporting the view that "mandatory reporting without the woman's approval creates a situation in which she may potentially feel victimized by the agency or advocate to whom she has appealed for help" (Lewis, 2003, p. 358).

In September 2000, the Canadian federal, provincial, and territorial Justice Ministers directed the establishment of an ad hoc working group to review the implementation and status of the mandatory or pro-charging and prosecutorial policies related to spousal abuse. The resultant report of this group was submitted in 2001. One conclusion noted by the Working Group was "that mandatory reporting to child protection agencies in cases of spousal/intimate partner violence where children are present might deter women from seeking assistance" (Federal-Provincial-Territorial Ministers Responsible for Justice (Canada), 2002, p. 65). A second policy consideration from this same report noted that this study met "the requirement for basic incidence and prevalence information about children who are exposed to violence in the home" (Federal-Provincial-Territorial Ministers Responsible for Justice (Canada), 2002, p. 65) indicating that data gathering is indeed a secondary purpose of mandating reports. In a manner similar to that of child abuse, domestic violence became an issue of "the public use of private deviance" (Nelson, 1984, p. 17) as a data-gathering mechanism.

Domestic violence without a child present.

Situations of domestic violence unrelated to a child witness are another area of contention. Although Canada has not yet adopted mandatory reporting for domestic violence, as of 2001, eighteen of the United States had mandatory domestic violence reporting requirements (Clark, July, 2001). In these situations "mandatory reporting laws were enacted to protect victims of woman abuse and to move the onus of reporting from the woman affected to health care professionals" (Ferris et al., 2001, p. 102). In both usages of mandatory reporting of domestic violence, the responsibility for the woman's welfare is handed to others and what was a private matter becomes a social problem to which society has an obligation to respond. This gives rise to concerns of patriarchy because "whereas it is reasonable to assume that children are unable to make informed decisions in all areas of their lives, it is paternalistic to assume that women are unable to make informed decisions about their lives and safety" (Ferris et al., 2001, p. 105).

Many fear that mandating the reporting of domestic violence will put the victim, most often a woman, at increased risk. Opponents of mandatory reporting legislation argue that these laws place women in danger of retaliation, and that women who fear retaliatory violence against themselves or their children, or who for any other reason do not want to report the violence, may forego necessary medical or counselling care (Minnesota Advocates for Human Rights, 2000). The woman may be dependent on the abuser for financial support and may be working towards a plan that would allow her to leave safely. Reporting might increase her risk of harm and in some cultures will increase her risk of being ostracized from her community.

Mandatory Reporting of Elder Abuse

The World Health Organization has defined elder abuse as a "single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harm or distress to an older person" (Rodgers et al., 2002). The alleged victims are again, due to demographics and life expectancy, more often women (Persaud, 2008). While Ontario does have the reporting of elder abuse in nursing facilities, originally through the Ontario Nursing Homes Act, this is not different than disallowing abuse of residents in any other institutional setting and is generally seen as a necessary constriction on residential staff. Ontario, however, does not have the mandatory reporting of elder abuse that may occur in the residence of the identified senior person. In Ontario, the October 2007 Speech from the Throne noted that new measures to address elder abuse will be introduced but there has been no definitive indication of what this means. In Canada the provinces of Nova Scotia, Prince Edward Island, Newfoundland, Manitoba and British Columbia, have some degree of reporting of elder abuse ranging from voluntary to mandatory and with varying criteria of what is reportable and who is mandated to report. In the U.S., however, while requirements for reporting vary widely, there are only eight states without some form of mandatory reporting of elder abuse (National Center for State Courts, 2006).

As with the other mandatory reporting applications, there are unintended consequences of the mandatory reporting protocol for elder abuse. Again, the senior adult, most often female, loses the ability to self-determine and is infantilized. Her personal choices and confidentiality are put into question without any clearly defined means to balance rights and responsibilities (Canadian Network for the Prevention of

Elder Abuse, 2008; Silva, 1992; Public Health Agency Canada http://www.phac-aspc.gc.ca/index-eng.php). While not as prevalent in Canada, elder abuse legislation continues to be considered and has been implemented in various jurisdictions, with various levels of acceptance (Macolini, 1995; Mayer, 1998) and as noted most states have enacted elder abuse reporting statutes. Commentary has been largely opposed to the mandatory reporting of elder abuse for a variety of reasons. These reasons include the fact that making reporting obligatory has not increased reports and secondly, due to vague definitions and legislative wording, there is speculation as to whether mandatory reporting is in the best interests of the seniors or whether it is an ageist response (Macolini, 1995), suggesting that many seniors are still quite competent and able to make choices for themselves.

A summary of reporting obligations for Canadian social workers: Figure 2.

MANDATORY REPORTING OBLIGATIONS OF CANADIAN SOCIAL WORKERS
FIGURE 2

MANDATORY REPORTING DUTIES	B.C.	ALTA	SASK	MAN	ONT	QUE	N. B.	N. S.	P.E.I.	NFL & LAB.	NUN	YUK	NWT
CHILD ABUSE	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
DOMESTIC VIOLENCE	No	No	No	No	No	No	No	No	No	No	No	No	No
DOM. VIOL. CHILD WITNESS	Not specific--depends on interpretation	Yes	Yes	Yes, maybe. States: unsafe environment.	Yes	May be	Yes	Yes	Yes	Yes	No	No	Yes
ELDER ABUSE	Permitted but not mandatory	Yes (institutions)	Yes (institutions)	Yes (certain professionals)	Yes (institutions)	No	Permitted but not mandatory	Yes	Permitted but not mandatory	Yes	No	No	No
SEXUAL RELATION BETWEEN CLIENT & SOCIAL WORKER	No	Yes (Noted in standards of practice but not in SW Act)	No	No	Yes (Noted in Social Work Act but not in standards of practice)	No		Yes (Noted in code of ethics but not in act or standards)	No	No	N/A	N/A	N/A
MANDATORY REPORTS MADE BY EMPLOYERS OF SOCIAL WORKERS	N/A	Not mentioned	N/A	N/A	Yes	N/A		No	N/A	N/A	NOT REGULATED		
HOW LONG INDIVIDUAL IS A CLIENT (post termination)	If therapy provided—forever; All else—two years.	24 months	24 months	No time limit stated	If therapy provided—forever; All else—two years.	Not stated		Not stated	Not stated	Not stated			
MANDATORY REPORT MADE WITHOUT CLIENT CONSENT	N/A	Yes	N/A	N/A	Yes	N/A		Not mentioned	N/A	N/A			
MANDATORY REPORTING OF OTHER PROFESSIONS	No	Yes	No	No	No	No		No	No	No			

Work Place Harassment

Workplace violence is another valid concern as a violation of confidentiality and personal autonomy. While there are few who would condone violence or harassment in the workplace, this ruling again risks intruding on the personal rights and freedoms of individuals. Bill 168 (Government of Ontario, 2009) adds the topics of violence and harassment to the *Occupational Health and Safety Act.* This Act addresses harassment and abuse of an employee by co-workers. But through section 32.0.4 of the Act, it also attempts to address the issue of domestic violence that might enter the workplace and

expose workers to physical injury. In such a situation the employer is required to "take every precaution to protect the worker" (Government of Ontario, 2009). Although this legislation is new in Ontario and has not yet been challenged, as it now exists this regulation proposes that when a co-worker confides in another that she or he has been the victim of spousal assault, it would be the obligation of the colleague to report this information to the supervisor who would then be obligated to report it to the police. In a school setting, for instance, if a teacher confided in another teacher that she was experiencing domestic violence, the teacher who received this information would be obligated to notify the principal who would then have to devise a safety plan as a means of protecting the possible victim.

The intent is to stop the abuse from entering the work setting and endangering others. The effect, however, is that the victim can no longer safely confide in a colleague without potentially experiencing increased risk of further abuse when this situation is revealed to her partner in the subsequent police investigation. The alleged abuser is furthermore identified as part of the safety plan and denied due legal process. The alleged victim may be at risk of losing her career or employment if it is deemed that she poses too high a risk to others in the workplace. There has been no discussion of the protocol that will be observed if the accused is also employed at the same locale.

Internet Child Pornography

Many Canadian provinces have adopted or are in the process of adopting legislation to mandate the reporting of child pornography. To date the provinces of Manitoba, Nova Scotia, Alberta and Ontario have made strides in this direction. In

Ontario this has been done by amending the *Child and Family Services Act*. The amendment (Bill 37) is entitled *An Act to amend the Child and Family Services Act to Protect Ontario's Children.* This regulation mandates all citizens to report child pornography that they become aware of in any location including on computers and electronically transmitted. The Manitoban provincial government (November 28, 2007) proposed a similar bill that noted the mandate was, "including online material, books, photographs and other visual representations" (Province of Manitoba: News Releases & http//news.gov.mb.ca).

While there is little controversy about the need to address child pornography, there are some who are skeptical that this legislation will prove effective. Under the new legislation, if an individual finds or is aware of computer based child pornography it must be reported regardless of who finds it or how it is found. The finder has no discretion, except to determine whether it meets the definition of child pornography. If this material was to be exposed, the one who reported it may be easily identified. Despite the whistleblower protections embedded in the Act, because of the limited access to someone's private material, it is unrealistic to believe that these people will be able to choose to maintain anonymity. Some of those mandated to report, therefore, may be obligated to risk their personal safety and suffer retaliation whether to personal or economic security, for a crime that they did not commit and with no recourse for their personal well-being. Alternately, the penalty for failure to comply with this regulation in Ontario is a fine up to $50,000 and two years in jail.

School Bullying

The last mandatory reporting obligation discussed is that of the reporting of school bullying. Ontario Bill 157 came into effect February 1, 2010. It "requires school staff to report serious student incidents to the principal and requires principals to contact the parents of victims" (Zarzour, 2009). While the McGuinty government is referring to this legislation as unprecedented and the first of its kind in Canada, others say it does not go far enough. There had been a call for a law that would require that serious incidents be reported to police, Children's Aid Societies or school board administrators. Under this legislation as it stands, principals can choose to not tell a victim's parents if they believe the victim would be at further risk, and they are to follow board protocol in determining police involvement.

Issues of concern identified regarding this bill include the fact that it does not clarify what should be done once the abuse has been reported nor is it proactive in attending to prevention. Issues of confidentiality are also not addressed. The Ontario Secondary School Teachers' Federation acknowledged that while agreeing with the spirit of this legislation, there was concern with "the lack of any procedural clarity or training" (Zarzour, 2009) noting that there is no sense of hierarchy of responsibility to guide the teachers nor any sense of what training will be required or who will provide the training necessary in order to respond to youth violence.

Conclusion

*"Was it hard to learn to speak English? Everything is
hard when you don't know how to do it." HT*

These are some of the present uses of the mandatory reporting protocol that impact the social work profession in Canada and especially in the province of Ontario. The policy protocol that spread across the North American continent faster than any other legislation is now being extended into new applications with very little public notice or attention. Being implemented as a template allows those who support the application of new obligations to present them as proven and trusted formats for protecting the vulnerable. They are simple and inexpensive to apply. In this way society continues "the patterning of social practices" (Giddens, 1993, p. 12).

Because of varying legislations and obligations there has been no comprehensive evaluation of the inherent concerns of this powerful policy stance. As a result some Ontario health care professionals are being thrust into the dilemma of choosing to complete mandatory reports that impact the lives of third parties or risking their professional integrity. Bala (1999) acknowledges that the existence of mandatory reporting does not justify its usage and any of the ethical compromises made to values such as confidentiality and autonomy must be balanced by positive benefits before mandatory reporting applications are extended. While very appealing because of the ease of application we are reminded that "change may not work out as planned; the unintended consequences of action can never be neglected" (Giddens, 1993, p. 16).

Although mandatory reporting protocols initially appear simple they have never been examined as a whole concept. It is now time to begin this review because, as my father noted, "everything is hard when you don't know how to do it."

74

CHAPTER 3: METHODOLOGY

Mandatory reporting, originally enacted to protect children from abuse, has since been considered for expanded purposes. Frequently used in establishing behavioural standards to regulate social institutions such as marriage, child rearing, aging and work, mandatory reporting while always embracing an inherent element of protection also impacts individual rights. Since "the Canadian literature on mandatory reporting is not large" (Renke, 1999, p.92), this study was designed to address that void and to both inform policy and begin the process needed to generate social action. This study examined the attitudes and views of the wide range of individuals impacted by mandatory reporting legislation.

The Research Question

This research asks the overarching question: *Are mandatory reporting policies fair and equitable and can their usage be expanded to provide protection to a wider range of vulnerable people?* To answer this question the opinions and perspectives of a broad spectrum of individuals from diverse personal and professional backgrounds were sought asking: What is your knowledge of mandatory reporting? What is your experience with mandatory reporting? What is your view of mandatory reporting? What are your thoughts regarding the success of mandatory reporting? What are your final comments regarding mandatory reporting? This last was intended to give voice to individuals impacted by these policies, many of whom are frequently silenced.

Qualitative Research and Constructivist Grounded Theory Methodology

"To ensure a strong research design, researchers must choose a research paradigm that is congruent with their beliefs about the nature of reality" (Mills, Bonner, & Francis, 2006, p. 26). Qualitative grounded theory methodology, first developed by Glaser and Strauss (Glaser & Strauss, 1967) but then adapted by Charmaz (2006) was chosen. Charmaz (Creswell, 2007) with her constructivist grounded theory provides the opportunity to accommodate an inclusive postmodern standpoint that suits this work because it allows for multiple truths and the view that no one reality can be discovered (Mills et al., 2006). "The philosophy of grounded theory lies in symbolic interactionism which posits that meaning is socially constructed, is negotiated and changes over time through the reflexive interaction of individuals" (Graham & Thomas, 2008, p. 116). Constructivist (Mills et al., 2006) grounded theory was chosen for its specific strengths including the emphasis on the subjective interrelationship between the researcher and the participant and the co-construction of meaning (Mills et al., 2006). This provided a suitable venue for my active interviewing style as it allows the researcher to become an active participant and co-producer of the meaning constructed from the data (Mills et al., 2006). The researcher assumes a reflexive stance fully acknowledging the introduction of their own values into the research process, which becomes an inevitable part of the outcome (Denzin & Lincoln, 2005; Graham & Thomas, 2008). As interview respondents participated in the interview discussions and their understandings and views shifted and changed, a constructivist approach allowed these changing attitudes to be captured. Constructivism views data analysis as a "construction that locates the data in time, place, culture and context but also reflects the researcher's thinking" (Charmaz, 2006,

p. 677) thus making a constructivist philosophy an especially good fit for this research as it provided space for the multiple voices, critical reflection and interpretive processes that I was seeking.

As it lends itself to an iterative process of data collection and analysis, constructivist grounded theory reflected the recursive character of structuration theory (Giddens, 1993) which guided much of my thinking. The emergent nature of the constructivist grounded theory methodology provided access to a circular reflexive pattern in both reviewing and analyzing the text of each interview and furthering the goal of grounding the theory in the data. The use of memoing, integral to all grounded theory methods (Glaser & Strauss, 1967), enhanced researcher immersion in the data and the further reflection on the theory, concepts and process. The on-going analysis which began before data collection was complete (Glaser & Strauss, 1967) advanced the evolving and changing nature of the interviews, each shaped by those that preceded them as described by Charmaz (2006). Constructivist grounded theory attempts to discover both the main concerns and the attempts to resolve the concerns of those impacted by the phenomena of interest, always questioning 'what's happening here' (Glaser, 1978 in Charmaz, 2006 p. 20). Because of limited knowledge regarding mandatory reporting, drawing out the thoughts and experiences of those who have specific knowledge or interest in this obligation afforded an appropriate starting point.

With constructivist grounded theory that allowed for the co-construction of meaning and a shared understanding, the uncovering of hidden oppressions and subjugated meanings was facilitated. As Mills notes, "We are all influenced by our

history and cultural context, which, in turn, shape our view of the world, the forces of creation, and the meaning of truth. Often these underlying assumptions about the world are unconscious and taken for granted" (Mills et al., 2006, p. 26). A constructivist grounded theory approach afforded me the opportunity to incorporate the history and the cultural context of the respondents through their lived experiences. Because the meaning of many social work concepts is subjective and open to diverse interpretations, all of which are affected by one's history and cultural context, it was important to deconstruct terms ensuring that the assumptions and meanings that respondents had embedded in their understanding of the mandatory reporting protocol were understood and clarified. As the interviews progressed, respondents began to recognize that terms such as "vulnerable" and "elder" had taken on unacknowledged and unrecognized meanings that were not grounded in their reality. By bringing these unconscious assumptions to light, respondents were able to explore their understanding and clarify for themselves the meanings that they held. Understanding the intended meaning of a word or concept was enabled through the use of constant comparative methods and coding so that themes could be deciphered and compared accurately rather than acting based on a false assumption of meaning. This enhanced the validity of the findings.

Constructivist grounded theory has provided me with the opportunity to incorporate an advocacy component to this work that better represents my standpoint and anti-oppressive paradigm. The social work code of ethics (CASW, 2005) calls for advocacy as one of the functions of social work stating:

> A social worker or social service worker shall advocate change in the best interest of the client, and for the overall benefit of society, the environment and the global community.

Advocacy, "the act or the process of supporting a cause or a proposal" (Kuji-Shikatani, 2007, p. 5) is increasingly appearing in various contexts fostered by "society's growing awareness of human and legal rights as reflected in the Canadian Charter of Rights and Freedoms and the Ontario Human Rights Code" (Kuji-Shikatani, 2007, p. 5). Since one can only advocate effectively for a cause that is comprehended, the research process served the dual function of educating the respondents on issues relevant to mandatory reporting and providing me as researcher insight into the views of people affected by mandatory reporting policies.

The interviews and the knowledge gained from the respondents allowed me to have a more comprehensive understanding of their views so that I am better able to advocate on their behalf. The knowledge gained through the interviews provides a substantive platform from which to launch policy review. With their new understanding of the intricacies of mandatory reporting obligations respondents left the interviews better prepared to advocate on behalf of vulnerable adults. That, in turn, will help those individuals that these hastily enacted mandatory report policies are designed to benefit. Greenwood and Levin say that credibility and validity are "measured according to whether actions that arise from [research] solve problems and increase participants' control over their own situation" (Greenwood and Levin, 1998 as cited in Kirby et al., 2006, p. 33). I would suggest that this research, possibly the first of its kind to gather this type of information embraces these qualities thereby further enhancing credibility and validity.

Constructivist grounded theory that allows for multiple realities and provides the flexibility to explore human diversity was able to provide the impetus that is needed in

policy review to advance change (Charmaz, 2006). Charmaz's (2006) approach to constructivist grounded theory provides an accessible epistemological base that allows for many viewpoints. Her incorporation of a feminist perspective, which accepts dualism and elicits "the participant's definition of terms, situations and events" (Charmaz, 2006, p. 32) provided both a more accessible vernacular and a wider perspective from which to examine structural inequities, thus further enhancing my comfort with this methodology. As a result this research now sheds light on the mandatory reporting protocol by presenting a theory of policy development and analysis. This theory of policy development and analysis is grounded in the data and provides direction for the creation of ethical policies that are prepared to meet their intended goal while simultaneously being relevant and current to those whose lives they impact.

Adapted Action Research

Seeking an interview style that shared an anti-oppressive political agenda as befitting my standpoint, I required an approach that would "attend to relationships with the goal of empowerment and emancipation" (Brown et al., 2005, p. 281). Action research combines the requisite activities of research, education and action (Kirby, Greaves and Reid, 2006) and met my criteria. While wanting a methodology that reflected my feminist and emancipatory perspectives, I looked to participatory action research. Since my research, however, "is neither participatory (in that the research question has not come from the group...) nor action (in that any knowledge created through the research process is not owned and acted upon by the participants for their growth and transformation)" (Brown et al., 2005, p. 281), it did not adequately qualify as participatory action research. Yet as the interviews progressed the research interview

questions were altered by the responses and reactions of respondents so that to some extent the questions were respondent driven; and although not owned by the respondents, was taking direction from them and intended for their ultimate benefit. I suggest therefore that it best can be categorized as an adapted action research and best fits under the rubric of emancipatory action research.

Emancipatory action research "promotes emancipatory praxis ... [and] a critical consciousness which exhibits itself in political as well as practical action to promote change" (Grundy, 1987, p. 154). This research on the mandatory reporting protocol does meet the requirements of having the potential to impact social change and also has incorporated both the action and collaboration criteria, as subsequent discussions are reflected and informed by the previous interviews throughout the process (Kirby et al., 2006). These features of reflexivity not only furthered the action research agenda but also were well suited to the interviewing style employed. The recursive pattern created, reflected structuration theory that guides this research and supported its theoretical framework (Kirby, Greaves and Reid, 2006).While clearly not the orthodox understanding of action research I believe that because research in the area of mandatory reporting protocol is at such an incipient point, foundational knowledge had to be gained before true action research criterion could be met.

Interview Style

To pursue my interest of reviewing policies and laws related to the mandatory reporting process, with a goal of advancing "social change, [sic] the process of altering the initial situation of a ...community in the direction of a more liberated state" (Kirby,

Greaves & Reid, 2006) required an interviewing style that was active and would allow for adaptation and flexibility. Using constructivist grounded theory as recommended by Charmaz, (2006) to describe how participants construct their world, provided insight into the respondents' thinking regarding the mandatory reporting protocol. In order "to learn the experiences of research informants [it is important to determine] whether the perspective operating to select and organize dimensions is that of the informants or that of the researcher" (Morse et al., 2009, p. 99). I was, therefore obligated to maintain an awareness of my input and presence regarding the interviews while also viewing the "research relative to the social circumstances impinging on it" (Morse et al., 2009, p. 134) and accounting for the social location, cultural traditions and other contingencies of the diverse group of respondents. The interview guide was designed to acknowledge the impact of the interactive process between researcher and respondent. Since "these questions also reflect a symbolic interactionist emphasis on learning about participants' views, experienced events, and actions" (Charmaz, 2006, p. 29) the questions were designed to help delve into and study individual experience. Constructivist grounded theory, allowed the questions to be shaped by the interview process and common themes to be developed as they were raised, so that the interviews themselves became incorporated into this agenda for social change.

Active Interviewing

Because of the paucity of literature and the abbreviated knowledge and understanding of mandatory reporting it appeared necessary for me, as researcher to become actively involved in the interview process. Active interviewing, a "form of interpretive practice involving respondent and interviewer" (Holstein & Gubrium, 1995,

p. 16) was used to encourage the respondents' active involvement in the construction of knowledge. Active interviewing is "an interview strategy informed by postmodern and other critical stances that argue interviewing is not about asking questions to elicit participant 'truths'; it is a method for socially constructing knowledge" (Wolgemuth & Donohue, 2006, p. 1026). As described by Holstein and Guba (1995), active interviewing adopts a constructionist perspective on both the interviewing process and the product of the interviews. The interviews are seen as social productions and the respondents are seen as narrators or storytellers so that "working together, the interviewer and narrator actively construct a story and its meaning" (Holstein & Gubrium, 1995, p. vii).

The lack of research and public discussion on the topic of mandatory reporting even as it relates to the most familiar usage of child welfare meant that respondents approached these interviews with very little previous empirical knowledge or thoughts on this topic. It was consequently necessary to provide information related to the topic and guide respondents through a critical review of the matter at hand. It was essential, in order to draw the participants' attention to the issues that they were unfamiliar with, to delineate these issues in a manner that would allow them to formulate opinions and encourage them to risk putting forth ideas and concerns that might have not yet been clearly formulated.

Accepting that "meaning is socially constituted; all knowledge is created from the action taken to obtain it" (Holstein & Gubrium, 1995, p. 3) the dilemma became how to offer the respondents the knowledge they needed to enable them to give form to the opinions asked for while minimally impacting their perspective. Realizing that the

researcher may be unavoidably and deeply implicated in the meaning making (Holstein & Gubrium, 1995) active involvement in the interviewing process is reflected in various ways. As suggested, "the social milieu in which communication takes place [during interviews] modifies not only what a person dares to say but even what he thinks he chooses to say" (Holstein & Gubrium, 1995, p. 14). Wanting to hear the authentic voice of each respondent I was concerned that this information be presented in a manner that remained open ended and non-biasing but with an approach that was still able to call upon the individuals, whether interviewed individually or in a group, to critically contemplate the issues.

Remaining actively involved in the interviewing while still having a minimalist impact on the responses, I chose to assume a stance of dialectic or Socratic questioning integral to critical thinking. Questioning the responses to the questions resulted in a hermeneutic and reflexive process within the respondent. As researcher, I impacted the final product through the choice of information presented; the terms offered for clarification; and the order in which questions were asked and by "critically asking hard questions, pointing out paradoxes, highlighting ambiguities, and challenging [his] and my assumptions" (Wolgemuth & Donohue, 2006, p. 1023). It was necessary therefore, to inject techniques that would account for this involvement while minimizing researcher impact. Because I was obligated to provide so much of the information to the respondents I had to be careful to do it in such a way as to allow participants to formulate their own opinions and thoughts.

Guided by Wolgenmuth, I established what she refers to as an inquiry of discomfort, which emphasized the "proactive and transformative potential of research

projects for both researcher and participant" (Wolgemuth & Donohue, 2006, p. 1024).

Rather than merely introducing topics and allowing the respondent the arena in which to present their experiences, I was actively involved in noting and clarifying nuances, adding information and addressing incorrect information when it impacted the discussion. In many interviews the discussions became reiterative most noticeably on the topic of child welfare. Since this was the mandatory reporting application that most respondents were familiar with, this was the topic to which they frequently returned. I managed this in subsequent interviews by inserting passages of readings when appropriate that redirected the conversation. This added a further educational component and maintained consistency throughout the interviews. These passages are noted in Appendix A. Although active interviewing techniques call for "a climate for *mutual* disclosure," (Gubrium & Holstein, 2003, p. 72) my disclosure, in part, involved the reading of these passages.

As an emancipatory research approach capable of advancing social change, active interviewing is also able to reflect my feminist agenda. Robson suggests that "any community development practice that calls itself 'feminist' has emancipatory intentions towards women which relate to underlying community development principles of equality, justice and fairness"(Robson & Spence, 2011, p. 1). Yet, she notes, these "processes have been undermined by the application of policy initiatives which were designed to achieve equality and fairness" (Robson & Spence, 2011, p. 1). Mandatory reporting is a process that appears to have, in its attempts to be fair and just, succeeded in pushing some populations further into the margins under the veil of protection. Looking again to Robson (2011, p. 2), she explains that while feminist

practitioners approach community development seeking open and "transformational change ... this change is undermined by prescribed policy agendas which reinforce masculinist structures of power." These structural inequities are so deeply embedded in the consciousness of our North American society that they are difficult to confront.

Active interviewing requires the researcher to navigate the fine line between challenging respondents' beliefs without offending them yet at the same time drawing attention to the discourse of oppression. This process required planning and sensitivity. Challenging existing beliefs risked appearing confrontational and resulting in responses that might be guarded. Being cautious is a common reaction when sharing sensitive information (Hathaway & Atkinson, 2003), yet while participants are more likely to share openly when they feel at ease with the interviewer "...researchers often inhibit themselves unnecessarily...when they accommodate answers too readily, so as to avoid offending" (Hathaway & Atkinson, 2003, p. 163) the respondent.

Wanting to be able to inform and challenge the interview participants while not inhibiting their participation or having them feel judged or conflicted was the goal. Three areas of focused attention were incorporated into this research so that it could achieve this objective. The first was a consideration of theoretical sensitivity; the second, the interjection of information; and third was the clarifying of meanings.

Theoretical Sensitivity

Active interviewing requires the postmodern interviewer to relinquish the usual neutral role (Gubrium & Holstein, 2003; Holstein & Gubrium, 1995). This posture of actively engaging in the discussion risks influencing the attitudes of the respondents.

For grounded theory research studies to be successful using active interviewing techniques, theoretical sensitivity is a necessity (Charmaz, 2006; Mills et al., 2006; Morse et al., 2009). Theoretical sensitivity is defined as a:

> Concept that includes the researchers' level of insight into the research area, how attuned they are to the nuances and complexity of the participant's words and actions, their ability to reconstruct meaning from the data generated with the participant, and a capacity to "separate the pertinent from that which isn't" (Mills et al., 2006, p. 27).

Theoretical sensitivity is a quality of the researcher. It is the attribute of insight that provides the ability to give meaning to the data and to be able to draw the themes from the conceptual words, making the abstract concrete (Morse et al., 2009). According to Mills, personal experience is a technique credited with resultant increased theoretical sensitivity (Mills et al., 2006) and is a highly valued quality for grounded theory research (Black, 2009). My personal experience in interviewing gained from many years of clinical practice, enriched my interviewing skills and assisted in the ability to be insightful in drawing out messages embedded in participants' responses. Because of my interviewing skill, I was able to separate the essential from the insignificant and when necessary, refocus the interviews back to the topic without presenting as overly indoctrinating or strident. By engaging in the interview with the respondents the active interviewing style became "merely the conduit between the two participants" (Holstein & Gubrium, 1995, p. 140) of equal status whose thoughts and views were incorporated into the discussion as an integral and valued component. The respondents appeared to enjoy the interview experience and left with added insight and a clearer perspective regarding the mandatory reporting protocol. Vivian, who had begun the interview telling

her group the many rules of her work setting, now ended the interview suggesting that "laws [must be] put forth and... tested out and precedents set and things kind of evolve."

Interjecting Information

A second technique implemented to minimize my personal impact on responses received while utilizing an active interview style was the introduction of outside text sources presented as neutral statements. The use of vignettes is not uncommon in the study of social work ethics (Wilks, 2004) and in adapting this technique, brief passages from scholarly documents were read to the respondents. These were passages that were not related to mandatory obligations and in fact the values presented in these passages might be perceived as being in conflict with those of the mandatory reporting protocol. They were intended to generate discussion and inject reflexivity related to the areas of questioning.

The first of these vignettes was interjected at the point when structural racism was being discussed. The wording of the Ontario Human Rights Commission brochure on *Rights and Responsibilities* was used to help define structural racism in a neutral manner. This brochure may be seen at Appendix A. Respondents were told that statistics show that racialized groups are over represented in some types of mandatory reports. Referring to the Canadian Charter of Rights and Freedoms and reading that "In Canada we have a Charter of Rights and Freedoms which gives us certain rights and freedoms and protects us from undue interference from government in our lives," the following segment of the Charter was then presented:

> Everyone has the right to equality before the law and to equal protection of the law without discrimination because of race, national or ethnic origin, colour, religion, age or sex.

Questions were then asked regarding how respondents thought this fact could be juxtaposed with mandatory reporting obligations. Issues such as the over representation of some populations in both the child welfare and corrections systems were interjected when appropriate. This raised the topic of intersections and multiple oppressions and questioned the impact that mandatory reporting obligations may have on these populations.

Another reading that was part of the same discussions was a passage from a document entitled 'Growing up Black in Oakville: The Impact of Community on Black Youth Identity Formation and Civic Participation' (Brown, 2003) which states:

> Communities like Oakville tend to adopt a `loving family' approach to diversity. They acknowledge the growing diversity and may even review the way they do things to ensure that they are being just and fair. But this is often done not really expecting any major flaws in the way they are: after all, they are fair and they don't make distinctions among their people. They see themselves the way good families do towards their children—they dole out love, discipline and rewards in equal measure. Surely their children will grow up to be good, honest, upright adults as a result of their upbringing.

As with the previous passage, this text was introduced into interviews where the prospect of structural racism did not arise spontaneously or in those situations where this passage would likely generate discussion related to the unequal impact that results from treating everyone equally. This passage can be found in Appendix A: Passages of Readings.

I found that because there was too little knowledge of the topic it was impossible to discuss the topic of mandatory reporting without providing information and guiding the discussion. The argument could be made that since the readings were selected by me they reflected my bias. They were especially selected, however, because in my mind they did not present an opinion but instead were inserted to generate discussion.

The techniques of enhancing theoretical sensitivity and integrating information were two examples incorporated into the research interviews. Integrating these safeguards was meant to minimize my impact on respondents, while simultaneously providing enough substance for conversation. These passages advanced my role as "necessarily and unavoidably *active"* (Holstein & Gubrium, 1995, p. 4). The passages of readings used to encourage reflexivity may be seen in Appendix A.

Clarifying Terms and Concepts

Clarifying terms and concepts is the third technique of being actively involved. Clarification enables the personal views of the respondents to be altered by reflection and knowledge as opposed to being altered by the views of the interviewer. To minimize the impact of misunderstandings it was necessary to explore the meanings of "taken-for-granted lexicon" (Charmaz as cited in Denzin & Lincoln, 2005, p. 525) to make visible what is invisible and to clarify the meanings of many social constructs that were relevant to the conversation. In this way researcher and respondents were in fact discussing the same issues. This process was confounded by the fact that in many topic areas "unfortunately, there is no consensus about definitions" (Trocmé et al., 2001, p. 3). Robson tells us that "locating common experiences of oppression builds

relationships and trust between those who share identities in these terms, leading to increased confidence, strength and solidarity" (2011, p. 5). Clarifying these definitions and identifying structural oppressions that might be ensconced in mandatory reporting obligations helped build rapport between myself and respondents and also strengthened connections amongst members in the focus groups.

Defining terms so that the interview participants and the researcher were identifying them in the same way was one area of clarification. Clarifying concepts was another. Social practices are organized through language via the ability to grasp abstract concepts (Giddens, 1976). It therefore became important to assist respondents in exploring the nuances of commonly used concepts and terminology in order to allow them the opportunity to recognize assumptions made and meanings embedded in their understanding of the discussion topics. These are those subsumed discourses which Foucault explains as "working attitudes, modes of address, terms of reference and courses of action suffused into social practices" (Foucault as cited in Denzin & Lincoln, 2005, p. 490) that systematically form and reform the objects and subjects they speak of so that they would become visible. As Coltrane (1992) notes, how an issue is discussed affects the way it is defined. Accordingly, the meanings of individual words were clarified as were the meaning attributed to concepts. As interview participants became more comfortable discussing their views, the discussion delved deeper into their attitudes. Questions were raised and inconsistencies or dilemmas pointed out that helped participants formulate their own thoughts and conclusions.

It quickly became apparent in the interviewing process that words used frequently, such as "client", "woman", "vulnerable", "confidentiality" and "senior" and

concepts such as "homelessness", "autonomy" and "competence" had all assumed socially constructed meanings. This meant that while the words used were the same, each of the respondents had their own understandings of these words and concepts and therefore, each of the concepts had assumed multiple definitions (Hick et al., 2005). Structuration theory with its hermeneutic perspective, as discussed previously, holds that one cannot easily separate the whole from the parts (Alvesson & Sköldberg, 2000; Giddens, 1984). It was thus difficult in some interviews to for instance, separate the "vulnerable" from "woman" or the "incompetent" from "elder" until these socially constructed values were identified and the essentialized meanings were unpacked.

When considering conflicting ethical issues such as those that can be generated by mandatory obligations Riach (2009) notes that interrogating our own framework of knowing is a prerequisite for reflective practices. In order to have the heightened sensitivity required I had to consciously interrogate and define my own framework regarding these concepts. This allowed me to then inject "reflexivity into the interviews through the type of questions asked" (Riach, 2009, p. 357) thus ensuring ethically sound research practices that did not seek to bias the respondents' perspective. In achieving this it was necessary for me to become aware of the debates surrounding many issues of contention. Each required conscious introspection to enable me to present both sides of the issues without presenting a bias as to which value should be held paramount. To illustrate, I include here these following issues that continued to surface and cause difficulty:

1. Balancing of Rights: The rights of the individual or of the community

2. Confidentiality: Competent adults' rights to confidentiality or the obligation to report

3. Empowerment: The rights of competent adults to self-determine or the rights of the community to restrict behavioural choices that are perceived as potentially undesirable

4. Client and Vulnerability: The rights of social work provincial legislating bodies to each independently define these terms or the right of the federal governing body to define these terms across the country

The questions asked of the respondents to generate reflexivity regarding the many controversial issues may be seen in the interview guide found at Appendix C.

Giddens (1991) suggests that to be meaningful, reflexivity must bring about change. Where the first interviews revealed gaps in the clarification of terms, change was instituted and further probes were added to draw out the binaries inherent in many of these concepts. When I recognized for instance, that women and elders were both frequently being equated with children, it became necessary to clarify these beliefs and challenge my own views on dependency. Adjusted to fit the level of rapport present, interviewing techniques ranged from "skeptical queries in search of clarification to outright challenges of the viewpoints espoused" (Hathaway & Atkinson, 2003, p. 173) and while maintaining a suitable degree of discretion, questions sometimes had to be adapted. This resulted in a range of questions from innocuous questions such as "Any initial thoughts regarding the concept of mandatory reporting?" to somewhat challenging questions such as "That is what I am wondering, why are we equating elders and women with children?" asked in such a manner to not offend or attribute the thought to any one respondent of the group and therefore not embarrass anyone in the asking.

In those first interviews where I initially began by asking: "what applications of mandatory reporting have you heard of?" I invariably received the response of "child abuse" which led respondents on a tangent regarding why we needed mandatory reporting to protect children. As I tried to redirect the conversation, I received vague responses such as that from Dr. Woodcock who said, "Yes, I think I have heard of some issues [such as] 'someone should report this,' reported...Yes but not intensively..." which left me obligated to correct misinformation and risk alienating respondents or alternatively, allowing incorrect information to be the starting point for the interview. In an attempt to bypass this concern for future interviews, the question was subsequently altered to either ask respondents whether they had heard of specific usages that I then identified, or additional information was provided and then specifically referenced. I believe that by challenging the initial beliefs of the respondents; by asking questions based on accurate knowledge as opposed to false assumptions and by not espousing my own opinion, my personal impact on responses was again lessened.

Words that incorporate new meanings without acknowledgment, definitions of terms that are not consistent or minor changes made in defining a condition can result in significant unanticipated impacts. Without clarification and understanding of terms and concepts, I felt ill equipped to know the meaning the respondents were attributing to these ideas. Since, as noted by Gramsci, those who have power can maintain it through creating a world view that "seems to be based on common sense" (Carniol, 2000, p. 21), by not noting the impacts of definitions and definitional changes, shifts in power and the resultant impeding of rights often goes unnoticed. When, for example, the words "or

at risk of abuse" were added to the Child and Family Services Act when defining child abuse, the number of abuse allegations increased significantly.

Coltrane (Coltrane & Hickman, 1992) speaks of claims makers, those who propel their own issue to present it as a social problem, and refers to "warrants", which he explains as those statements people make to explain why a social problem needs attention and to demand that something be done to deal with this terrible injustice. Warrants serve to "advance self-evident truths with which any reasonable person would agree" (Coltrane & Hickman, 1992, p. 406). Many respondents appeared to have adopted their views of mandatory reporting as their own self-evident truths and these needed to be uncovered.

Research Design

This research was designed to explore as diverse a range possible of public and professional standpoints regarding the mandatory reporting protocol. Because of the dearth of knowledge on this topic, this research is largely exploratory and seeks to advance the understanding of this topic with an ultimate goal of shaping future policies so that the policy's goal is achieved. Mandatory reports compromise values of confidentiality and self-determination while obligating reporters to collude in these practices. Furthermore, there is suspicion that mandatory obligations are oppressive and impact marginalized populations more harshly than they impact the dominant population of privilege, thus maintaining hegemonic inequities. Policy makers have an obligation to include all voices representing the diversity of our populace through public discussions prior to effecting new public policy.

Preamble

Each interview was preceded by a reading that explained the reason for the research (Appendix B). Although this was the same information that had been delivered with the request to participate in the interview process most respondents appeared to have little recollection of the information. Minor changes were made in this preamble over time. The reading noted the original intent of mandatory reporting obligations and some of the ways that this protocol is presently utilized. It then noted that the intent of this research was to understand the views that people such as them held for mandatory reporting policies.

Interview Guide

After the preamble was read, the semi-structured interview guide and the 5 areas of discussion were introduced. It was explained that the questions might evolve and change if appropriate during subsequent interviews with other respondents. At this point the interview respondents were told that they would be questioned on the following areas. Subsequently, the discussions began.

- Knowledge of the term mandatory reporting
- Experience with mandatory reporting
- View of mandatory reporting
- Thoughts regarding the success of mandatory reporting
- Final comments and thoughts on the topic

The complete interview guide is located in Appendix C.

Recruitment Procedures

This research included the perspectives of 50 people in total. This number comprised both individual interviews (N=14) and focus group interviews (N=36). The decision to incorporate both individual and focus groups for data collection sources was made in order to provide access to a wide range of perspectives. Perspectives ranged from those who were the subject of a report to those who were the mandated reporters, as well as those who were in position to evaluate or affect policy and some who fit into multiple categories. Prior to any individual or focus group interviews all respondents were informed of potential ethical concerns and required to sign an informed consent form before their continued participation. See Appendix G.

Purposive theoretical sampling, an accepted practice of grounded theory, allowed the development of the properties of the theoretical categories and helped to clarify their boundaries and relevance (Charmaz, 2006). This sampling method was used to select respondents for this research. It allowed me to include a diverse group of individuals who could speak to their experiences with the mandatory reporting protocol from various standpoints. By utilizing both individual interviews and focus groups the benefits of both interview formats were obtained. Individual interviews provided access to people who would have found a group meeting undesirable because of scheduling factors and issues of confidentiality. With individuals, interviews were arranged to accommodate their schedule and in their location of choice. In individual interviews, respondents were able to confidentially share intimate details of their history in a way they would have not done in a more public forum.

Focus groups provided different benefits. Diversity was incorporated into the focus groups. They provided access to a large number of respondents in a time efficient manner. Whereas travel to a northern Ontario area would have been prohibitive for reasons of both cost and time to meet with only one respondent, focus groups made access to the rural location viable. Meeting in a focus group setting also generates interactive dialogue that would not have been possible in individual interviews.

Individual interviews.

The goal of interviewing individuals from varying professions and backgrounds was to access a wide range of perspectives, from those who are mandated reporters; instrumental in policy writing; or able to provide a specific personal perspective. As noted, those who were individually interviewed would not have been responsive to focus group interviews. Included in the individual interviews were respondents from the fields of social work; medicine; law; academics, and legislators from professional colleges as well as representatives from both federal and provincial governments. Also included were individuals who could address this research question from a specific personal perspective such as a marginalized or abuse-history perspective. Some respondents met multiple criteria. People included in the individual interviews were those often peripherally involved in establishing or approving policies but frequently not in a position to directly note the resultant exigencies. Because of the lack of previous research on the topic of mandatory reporting, there exists minimal knowledge regarding the views and impacts of the mandatory reporting protocol. This necessitated input from individuals who would be able to further the understanding of diverse specialist attitudes and perspectives and as such supported this purposive sampling of participants.

In order to recruit people for individual interviews a number of electronic letters were sent introducing myself and my work and explaining my request. These letters were sent to people who had written or spoken on issues of law, ethics, professionalism or similar topics and seemed likely to have an interest in the topic of mandatory reporting and a willingness to meet with me. Some of the people that I contacted suggested others that I might recruit and I also contacted those individuals where appropriate. I attempted to incorporate diversity in as many attributes as possible in those that I contacted. I explained that I was doing this electronically in order to be less intrusive than using personal mail or telephone. I indicated that if the individual was not in favour of participating, there would be no further follow up. This removed any sense of an obligation to participate based on prior professional communication we might have had. Individuals were asked to reply by electronic mail or telephone. There were some requests that did not receive a reply and others where the individual refused citing time constraints or a lack of knowledge of the subject area as the reason. Many others responded positively and appeared eager to participate. In total, from the approximately 24 invitations sent, I interviewed 14 individuals. Each of these individuals was asked to participate in an interview lasting approximately one to one and a half hours and to speak from both personal and professional perspectives.

Focus groups.

While Charmaz (2006) suggests that successful research can involve fewer participants interviewed more often, Creswell advocates conducting 20 to 30 individual interviews (Creswell, 2007, p64), which allowed for the diversity that I sought. In addition to the 14 individual interviews, I therefore also facilitated 5 focus groups. There is suggestion that focus groups can "decentre the authority of the researcher," empower women and bring about an intensity of discussion that is not available in individual interviews (Kamberelis & Dimitriadis as cited in Denzin & Lincoln, 2005, p. 893). Focus groups allow access to a wide range of opinions from many people at the same time in a cost and time effective manner. Diversity including "constructs of race, gender, class, sexual orientation, age, and ability" (Campbell, 2003, p. 122) was incorporated into the focus groups. With the addition of focus groups I was able to benefit from the positive attributes of both individual and group methods of data collection without the compromise that each method alone would engender.

Recruitment for inclusion in focus groups was in part purposive and part snowball recruitment. Each group and its recruitment will be described separately. To ensure maximum confidentiality for group members, they will not be further identified beyond what is noted below and the non-identifying information that each group member noted on the Intake Form (Appendix F), which has been cumulatively presented in the Case Book (Appendix D). Because it is impossible to guarantee that confidentiality will be maintained by other group members, and because being a member of a group means that the other group members may know your identity, confidentiality in a group is not absolute as it is in individual interviews.

While communities that are geographically distant may experience vastly different issues, the Ontario Social Work Code of Ethics (Ontario College of Social Workers and Social Service Workers, 2000) (Ontario College of Social Workers and Social Service Workers, March 15, 2005) is applied unilaterally to all Ontario social workers. In Canada, social work codes were crafted to reflect Euro-Western principles that reify values of individualism, competition, and independence and a Eurocentric worldview (Briskman & Noble, 1999; Mullaly, 2002). In order to explore how this one provincial code of ethics is able to address issues of regional difference, individual interviews and 3 focus groups were held in areas within a one hour radius of Toronto and two focus groups were held in a northern Ontario town approximately 9 hours north of Toronto. This northern community, while having a population of approximately 45 thousand residents also incorporates many outlying communities ranging from less than 100 residents to communities of thousands. This northern Ontario community was selected as appropriate because it met a number of criteria. As an area with both a mid-sized city and a large rural area, it has a large hospital that houses a mental health clinic, which employs a number of social workers, many of whom participated in my focus group. These social workers also provide mobile service to a large catchment area of isolated rural communities. This northern Ontario community is far enough away from the Toronto area to not be influenced by the big city politics yet close enough to be accessible to this researcher. It was also a suitable area because it was able to address another aspect of diversity, that of ethnicity. While urban centres offer a cultural mix, the northern Ontario area offered the rural communities that are pockets of specific cultures. As such, many Aboriginal Canadians, English Canadians and French Canadians

residing in this area became integral to the conversations and to the discussion of hegemonic behaviours that are ensconced in the Social Work Code of Ethics. Each focus group will now be described.

Focus Group 1: Northern Ontario Social Workers

The first focus group (referred to as Northern Ontario Social Workers) had 7 participants and was held in a large and modern hospital. This group was snowball recruitment through a social work contact in the northern Ontario community. This contact individual led to another contact person at the hospital who gathered the group.

Focus Group 2: Northern Ontario First Nations

The second group (Northern Ontario First Nations) consisted of 6 individuals and was held in a Native Community Centre in northern Ontario. Recruitment for this group occurred in the same fashion as for the first group (northern Ontario Social Workers).

Focus Group 3: Southern Ontario Social Workers

A third group (Southern Ontario social workers) consisted of 6 people who worked in communities one to two hours in the vicinity of Toronto in the area known as the Golden Horseshoe of southern Ontario.

Focus Group 4: Southern Ontario Affinity Group

The fourth focus group (Southern Ontario Affinity group) consisted of 7 respondents. I have referred to this group as an affinity group. An affinity group consists of individuals who have ties with each other beyond the focus group. In this case, many of the respondents were colleagues at the same United Way Agency or the

acquaintance of one of the other group members. This group served as a linkage between the people who make policies and implement them and those who use the policies and are impacted by them. These individuals are all volunteers with community service agencies and are therefore familiar with the services and the need in a growing community outside of a large city. This group has a unique awareness of social policies and insight to the impact of social and demographic changes. With the inclusion of this group, my respondents included a full spectrum of service providers and recipients.

Respondents were recruited for this group with a combination of direct contact and snowball sampling. While I directly contacted one member of this United Way agency, she in turn used snowball techniques and recruited the rest of the group.

Focus Group 5: Client Based Group

The fifth focus group (Client Based group) consisted of 10 individuals all of whom have been in the role of client at some point in time. They each had received counselling or child welfare assistance at some time in their life and had the first hand experience of being identified as a client. This client group was made up of the people who are frequently impacted by policies that others make. Some of the clients in this group were women who at the time of interviewing, were residing in the woman's shelter. Others had received service from social workers or other mental health practitioners in either, private or public mental health settings. This group was recruited with a flyer, seen in Appendix E, which was electronically distributed asking for participants. Key people identified as the community contact person for local agencies printed and posted this flyer in prime locations. Some of these key individuals met the

criteria and attended the group and some subsequently provided me with the names of others so that I again used a snowball recruitment technique.

Concluding Information

As recommended by Kirby, Greaves & Reid (2006, p. 158) an initial understanding of each respondent was generated prior to every interview. Through the use of a brief, optional intake form landmarks or milestones in the life of the respondent such as date and place of birth, educational achievements and date of emigration were noted. This Intake Form can be seen at Appendix F and the information gathered seen in the Case Book at Appendix D. With the use of the semi-structured interview guide (Appendix C) discussions based on the open-ended questions and probes gradually became more focused as the interviews progressed.

Each individual interview and each focus group was approximately one and a half to one and three quarter hours in duration and digitally recorded. Wanting to intersperse individual interviews with focus groups I alternated them as time permitted. The intent was to allow each interview to inform the following interviews. This provided a circularity, which added comprehensiveness and suited the interactive change agenda that was sought.

Each of the individuals interviewed received a small gift of appreciation, valued at approximately ten dollars, for their time. Each participant of a focus group received refreshments and a lunch as thanks for their participation. The ten members of the client group each also received twenty dollars cash to cover any additional expenses they

may have incurred to attend. Transportation was also provided to those in the client group for whom it was required.

Constructivist Grounded Theory Method of Data Analysis

Constructivist grounded theory implies a method of data analysis. Rather than beginning from a hypothesis, traditional grounded theory approaches the data from a position of not knowing (Morse et al., 2009). However, it recognizes that while one must stay open to emerging concepts it is impossible to arrive at this point in the research without an awareness of the existing issues that impact the topic of the research. In order to allow the data to direct and shape subsequent interviews I followed the recommendations found in the literature and analyzed the data concurrently with data collection (Burck, 2005; Charmaz, 2006; Creswell, 2007). Heeding the advice of Glaser and Charmaz (as cited in Anglin, 2002, p. 50; Charmaz, 2006), personally transcribing all individual interviews and focus groups allowed me to maintain a closeness to the work so that the initial coding remained current and active.

Because of the style of active interviewing employed, the interviews were not the usual one-way dialogue but rather, a two-way conversation. This required more attention to the ways in which the information was assembled than is usually the case (Holstein & Gubrium, 1995). While traditional interviewing posits the interview as a source of bias, misunderstanding and misguided interpretations, active interviewing recognizes the process of the interview conversation as integral in the constructing of knowledge (Holstein & Gubrium, 1995). A constructivist perspective applied to active interviewing allows for multiple realities to be accepted thus lessening the concern for

bias. As suggested by Gubrium and Holstein (1995) the interviews are a collaborative encounter in which knowledge is actively constructed. The goal, they say, must be more focused on explicating how meanings are actively constituted during the interviews (J. Gubrium & Holstein, 2003) rather than on maintaining neutrality and a passive stance.

Coding

Initial or open coding.

Quoting Charmaz, "the first analytic turn in our grounded theory journey brings us to coding" (2006, p. 42). Following Charmaz's approach, the first stages of initial, or open coding involved line-by-line coding, identifying key points from the data (Mills et al., 2006, p. 29) and developing them into initial codes. Using NVivo software I began the coding process looking for the action in "what's happening" in the studied experience (Charmaz, 2006). By identifying the action that was occurring rather than just considering the words, I was able to identify, for example, what *holding power* meant to these respondents rather than just learning how they would define the concept of power. This conceptualizing allowed me to delve deeper into the hidden meanings and thoughts so that I was able to identify codes based on emotion and meaning as well as on actual words. Initial codes, therefore, were often presented as action concepts or gerunds (Glaser as cited in Charmaz, 2006).

Focusing on the action in this manner also fit well with the active interviewing's attention to process. Alternating between the individual interviews and the group interviews, focused coding began a constant comparison of data, looking for words, themes, incidents and meanings that provided clarity in understanding obscure thoughts

and views held by the respondents. After coding the first transcripts, (Morse et al., 2009) gaps in meanings and definitions were noted. In order to draw out the respondents' understandings of terms and the significance that the respondent attributed to these terms the interviewing process was adapted accordingly to address these breaches. Codes such as "being competent" and "compromising rights of confidentiality and self-determination" were developed as dynamic action codes that helped to delineate the meanings respondents ascribed to these ideas. This began the breaking down of the data to identify both explicit and implicit meanings embedded in the respondents' words.

Remaining open to all possibilities (Charmaz, 2006) resulted in many codes which began to appear similar. This indicated that there was a need to begin collapsing these codes into similar concepts (Mills et al., 2006) and commence focused or selective coding. With constant comparison, codes were collapsed and conceptual labels were assigned. As an example, the code "civil disobedience," which included information on topics such as "breaking the law by not reporting," and "we all do something illegal every day" and the code "defying legislation" which included topics such as "I would not report even if they [the college] say I have to" and "I would not do it," "you could not mandate me to report," were collapsed into "Political and Legislative Influences" that incorporated both of these codes.

Word-by-word coding.

Using active interviewing precluded word-by-word coding as described by Charmaz (2006) as there was more of a dialogue than an emotional sharing in the interviews. That said, however, word-by-word coding on initial interviews pointed out

inconsistencies in terms and helped me to recognize the need for defining terms rather than just hoping that the respondents would provide spontaneous clarification. As such, subsequent respondents were asked specifically about their understanding of particular terms and then their responses were coded. As an example of this, using NVivo's 'search' feature, words such as those that depict women (she; her; girl, mother) and words that depict men (he; his; boy; father) were searched. Seeing these terms in their context enabled a clearer picture to emerge of the widely held and accepted view of women as vulnerable and child-like. When the respondents were speaking of a victim that person was always defined as female.

Selective or focused coding.

As codes began to collapse into one another with the help of line-by-line coding, more abstract conceptual themes emerged to become selective codes. This focused coding allowed me to "move across interviews and observations and compare people's experiences, actions, and interpretations" (Charmaz, 2006, p. 59). Codes were kept active and related to the research questions. They now included grander concepts such as: "asserting society's moral responsibility"; "punishing rather than remedial"; and "issues of ethicality". By constantly comparing codes, themes continued to be grouped into conceptually higher levels of abstraction as they assumed more or less significance towards the final understanding. As coding progressed concepts were grouped together and core categories were developed. Core categories were then challenged with theoretical sampling, by looking at each category for "its ability to integrate the other major categories into a coherent and dense theoretical framework" (Glaser as cited in Anglin, 2002, p. 50).

Analyzing the data of active interviewing did not always fit in the anticipated categories of coding. Since I was not talking to the respondents about their personal experiences as much as about their assumed views and conjectures, it was not always easy for me to find the action or behaviour associated with the concept. Respondents had to first be guided through the mandatory reporting applications and then asked to project themselves into the experience in an attempt to inject a theoretical sensitivity into their thinking. Charmaz allows for flexibility when she offers grounded theory as "a set of principles and practices, not as prescriptions or packages" (Charmaz, 2006, p. 17). Using this flexibility allowed me to take another approach to coding. With NVivo, I was able to bring together and compare the responses to each question asked across the interviews. By drawing out each participant's response to the same interview guide question and doing a comparison of responses across the various interviews, it became easier to recognize themes and patterns that emerged in some areas of the discussions. Saturation was achieved when coding across individual and focus groups offered no new codes or themes. This occurred after coding approximately 3 focus groups and 11 individual interviews. Subsequently, the process to "generate a theory that accounts for a pattern of behaviour which is relevant and problematic for those involved" began (Glaser as cited in Anglin, 2002, p. 50).

Memoing

Memoing is seen as an integral component of constructivist grounded theory. The process of memoing was constant in my work and done in a field journal as well in NVivo. Memos offered a place to hold the thoughts and connections until eventual linkages were made. Memoing allowed me to see paradoxes that emerged in my

thinking and in the words of respondents. Memoing helped to keep me focused and allowed me to capture and work through my thoughts. In one memo dated April 18, 2010 for example, I wrestled with the paradox of mandatory reporting being presented as a means of providing protection to the vulnerable but in fact, after speaking to some respondents found they felt otherwise. I noted:

> Mandatory reporting creates suspicion and distrust amongst people--both professionals who might be called on to report, and "others" who might be reported on. All are afraid to talk to anyone to get help or advice or support for fear of being reported. In this way, mandatory reporting fragments communities and paradoxically tightens the walls around diverse communities--those that would marginalize or shun anyone from within, but would not protect those who took their private issues outside the community.

Trustworthiness, Rigor & Validity

Qualitative researchers (Denzin & Lincoln, 2005; Denzin & Lincoln, 2008; Guba & Lincoln, 1981; Rolfe, 2006) speak of trustworthiness and rigor and methods of attaining these attributes in qualitative research. Some attribute the term rigor as being associated with a positivist approach to research as it suggests a rigidity that is not a characteristic of qualitative interactive and for this reason some prefer to refer to the term trustworthiness (Denzin & Lincoln, 2005; Gubrium & Holstein, 2003; Harrison, MacGibbon, & Morton, 2001; Lietz, Langer, & Furman, 2006). Trustworthiness is defined as the techniques used "to meet the criteria of validity, credibility, and believability of our research," (Harrison et al., 2001, p. 324). Analyzing the data of active interviewing, although unconventional, is not any less rigorous but does require discipline and "sensitivity to both process and substance" (Gubrium & Holstein, 2003, p. 78). Issues of trustworthiness that were incorporated into this research study include:

reflexivity; audit trail, triangulation, extended field work, member checks, peer review, and negative case sampling. Each will be considered.

Reflexivity.

Lietz (2006) suggests that reflexivity is a first strategy in increasing rigor in qualitative work and defines reflexivity as "the acknowledgement by the researcher that her/his own actions and decisions will inevitably impact on the meaning and context" of the research (Horsburgh as cited in Lietz et al., 2006, p. 447). As noted, active interviewing assumes a two way informational sharing, meaning-making conversation (Holstein & Gubrium, 1995). Since this meant that I would be unable to proceed with the research interviews from a neutral position, it was important to consciously be aware of the information that I imparted. I anticipated that since little or no research has been carried out on the topic of mandatory reporting respondents would likely not have a comprehensive grasp of the topic. For this reason the care previously described was put into planning both the information presented and the research design itself. Also as previously discussed, it was important that I reflexively deconstruct my own history and values so that my own biases did not derail the interviews. Structuration theory was a perfect conjunct as it brought reflexivity to the fore so that it became "a process that occurs throughout the research" (Guillemin and Gillam as cited in Lietz et al., 2006, p. 447) allowing me to acknowledge that my mere attitude of presentation could impact participants' responses and keeping me reminded of this.

Audit trail.

A second attribute of trustworthiness is the ability to support statements and actions made (Lietz et al., 2006, p. 449). Trust is enhanced by the existence of an audit trail. With NVivo and memoing a record of thoughts and decisions throughout the process has been kept. As questions or the preamble were adapted, all changes and versions were maintained. When coding was collapsed into concepts, all original records and new editions have become a part of the audit trail. This audit trail allows the decisions made to be reviewed if challenged and provides additional credibility. By providing the ability to continually trace and evaluate decisions, an audit trail allows "critical thinking to occur" (Lietz et al., 2006, p. 450) to enhance subsequent decision

Triangulation.

Triangulation is another element of trustworthiness. "In qualitative data analysis, triangulation occurs when multiple items [are used to]... measure the same construct, or when two different [measurement techniques] join to measure the same construct" (Denzin & Lincoln, 2008, p. 187). Triangulation allows the researcher to crosscheck information through the use of multiple sources, looking for corroboration, and the heightened clarification and credibility of data.

Data triangulation. Triangulation was attained in this research project, in a number of ways. The first strategy was the use of data triangulation which entails gathering data through different recruitment strategies. In recruiting for this research direct contact, snowball method and a flyer were all used to recruit participants. I was able to contact colleagues and acquaintances over a wide distance who then forwarded

112

my request to potential participants. This gave me access to many data sources from different environments and life styles that I would not have been privy to otherwise

Methods triangulation. The second type of triangulation was methods triangulation which refers to the use of more than one method for gathering data. Multiple data sources were provided by the two interviewing approaches adopted and the large number of respondents I was able to speak to.

Being able to utilize both individual and focus group styles each provided the uniqueness of that method and counteracted the limitations of the other. In this way I was able to benefit from both styles while minimizing negative results such as the lack of interaction that occurs in individual interviews or the reluctance to share personal information in front of others that might occur in a focus group.

The two methods used also had the second benefit of providing access to a large number of respondents. This large number was intentional and allowed for the additional benefit of maximum diversity incorporated into the total respondent group. As a result, I had the opportunity to speak with mental health care providers and mental health care recipients; social workers from both, a northern region and a southern area along with other professionals from both the north and south; I was able to include both men and women; old and young; gay and straight; many different cultures, places of birth and religions; diverse educational backgrounds and currently living in widely different geographical locations. Each of these differences was intentional, desired and meant to provide a range of responses from those who are impacted by mandatory reporting protocols, as well as those who write the legislative policies.

Theory triangulation. This research has been informed by a number of theories. Structuration theory has been the foundation of much of the thinking. It has allowed me to bring in concepts of reiterative patterns and demonstrate the manner in which they are sustained or changed over time and space. Anti-oppressive and critical theories centered my personal standpoint. Feminist thinking assisted in the centering of vulnerability and marginalized populations while at the same time considering issues of power, while postmodern theory as informed by Foucault, drew in systems of power relations and social constructions. The wide range of respondents interviewed was reflective of the theories that shaped my research.

Participant review of transcript.

Although each individual was asked if they would be willing to participate in a second member check interview for the purpose of clarification and for any additional thoughts or questions, this did not occur. Although not achieving the same purpose, respondents of individual interviews were asked to review their own transcripts (Appendix H). With the respondents' agreement each received an electronic transcript of their own interview for their approval. They were invited to make any alterations, additions or clarifications that they saw fit. This agreement was secured in every case, however, while many sent encouragement for the research process, only a small number made additional comments regarding the interviews. Of those who did give feedback, two asked that I not share some identifiable segments of our conversation, namely the stories, and one asked that I note that nothing said was to be considered as legal advice, which is now duly noted. Member check interviews had not been planned with focus groups as it would have been impossible for me to reconvene these groups.

For reasons of confidentiality, focus groups were not sent transcripts and so there was no follow-up for the group interviews. Although not the evaluative process planned this additional opportunity for input and clarification enhanced the rigor and trustworthiness of the design (Creswell, 2007).

Peer review.

Peer review is an evaluative process carried out to enhance the quality of research. It consists of the evaluation of the research by others in a relevant field. This research on the mandatory reporting protocol did benefit from peer review. Through regular discussion of interpretations, conclusions, and intended meanings with a "disinterested peer" (Guba & Lincoln, 1981) I have been able to have continuous critical and sceptical review and challenge. This peer, who did not view raw data and was not privy to the interview process, approached the review without preconceived impressions of the dialogues that followed. The constant challenges that have been generated in the peer discussions have clarified and enriched the resultant analysis.

Negative case sampling.

Negative cases disconfirm the researcher's expectations and initial explanations. There appeared to be a negative case in which one respondent held firm to her beliefs as they related to one specific application of the mandatory reporting protocol. Unlike other respondents she maintained her view in favour of the mandatory reporting protocol until she received further information about the resultant implications. This caused her to reconsider her perspective regarding one small aspect of this application only as it applies to social work but she continued to hold fast to her views under all other circumstances. This occurred in an individual interview so this respondent was not

115

conforming to group pressure nor was she being asked to alter her attitude by the researcher. As has been indicated, I was concerned that the information that I interjected and the active interviewing style may have influenced the participants' views. I took a number of safeguards to avoid this eventuality as noted. I took reassurance from the fact that this respondent maintained her personal view of the topic.

Qualitative research has been accused of lacking scientific rigor and reliability (Denzin & Lincoln, 2003). Practices such as those discussed add to the trustworthiness of a qualitative project while still allowing for the flexibility needed. This research project attempts to reflect the voice of the participants as truly as possible through the use of in vivo quotes. Social work holds an ethical responsibility to "uncover voices that have been hidden or to bring awareness to perspectives that have been oppressed. It is through rigorous research activity within qualitative work that we can work to bring awareness to thoughts, ideas and experiences not commonly heard" (Lietz et al., 2006, p. 456). Qualitative research using techniques of trustworthiness provides this.

CHAPTER 4: FINDINGS

This research was designed to provide a comprehensive evaluation of mandatory reporting policies, asking whether these policies are fair and equitable and if their usage can be expanded to provide protection to a wide range of vulnerable people. The following discussion reflects the thoughts, views, and themes that emerged from the interviews and focus groups that were conducted as a component of this qualitative inquiry. This analysis is comprised of three distinct parts. This chapter, Chapter 4, contains the first two pieces, each composed of an aspect of the interactivity contained in the interviews. The first, "Shifting Horizons of Meaning" addresses the shifts in thinking that transpired within the interview process. These shifts form the basis of the theory of policy analysis that has emerged giving richer meaning to this research project and underscoring the importance of including a critical review in the planning of social policies.

The second piece, also in Chapter 4, "The Findings" is indicative of the discussions that took place in the individual and focus group interviews. It was through these discussions that the shifts in thinking were noted. These discussions addressed the five areas of questioning regarding mandatory reporting that were explored in order to understand the views of the interview respondents. In this segment the actual words of the respondents can be heard allowing both the evolutionary process of the developing horizons and the incipient themes to emerge. This process is described not in the linear path of the interviews but rather, is categorized by the emergent themes. It reflects the active interviewing strategy employed that perceives interviews not as a

means of finding truths but as a "method for socially constructing knowledge" (Wolgemuth & Donohue, 2006, p. 1026).

The third section, found in Chapter 5, contains the "Overarching Themes Emerging from the Data" and discusses the themes that emerged from the research questions, putting the themes into context. These three components—the shifting of views, the discussions and the unpacking of the many theoretical components integral to the mandatory reporting protocol—together provide a unique insight for future policy development. The final product will be a theory of policy evaluation that can be utilized when designing social policies that are effective, empowering, and that achieve their intended goals.

The Respondents

I will begin this discussion by introducing those who participated as respondents in this research. I will first describe and identify by pseudonym, those who took part in individual interviews. I will then do the same with each of the focus groups.

Individual interviews.

Individual interviews were held with the people identified below. They are listed in no particular order. These respondents are identified by their professional status and some of their stated personal and professional interests and passions in the manner that they self identified on the optional intake form (Appendix F). This information is shared so as to help clarify the standpoint that these respondents brought to the

interview. Further non-identifying information that they provided is found in the Case

Book located at Appendix D. The individual respondents were:

1. John Tyler: Lawyer—Human rights; Native land issues
2. Elizabeth Carson: MSW—educator; administrator; social work governance
3. Dr. Adele Forman: Physician—educator; researcher; social activist
4. Dr. Edward Anderson: Social worker—academic; social work governance
5. Peter Ward: Social worker—politician
6. Pamela Storm: Politician—member of legislative assembly Ontario and Member of Parliament, held many ministerial and cabinet positions.
7. Dr. William Woodcock: Social worker—academic; social work governance
8. Dr. Andria Jordan: Policy analyst—executive director of social planning agency; social activist
9. Sarah Fraser: Social worker—executive director of large provincial professional organization
10. Evelyn Daniels: Politician—member of legislative assembly of Ontario; Regional government chair
11. Ngozi Igwe: Social worker—child welfare worker; administrator; client reported to child welfare.
12. Dr. Margaret Shannon: Social worker—academic; child welfare worker
13. Alice Baderson: Special respondent—involved in a sexual relationship during counselling by non-regulated professional
14. Petra Justice: Lawyer—legal adjudicator; academic

Focus group interviews.

Focus Group 1: Northern Ontario Social Workers

The respondents who participated in this group either worked in health care or

were involved in the local social service community. Some were active on the Ontario

Social Workers and Social Service Workers College council. In this group were one

male and six females. Six of the group identified as social workers and one as a social

service worker. One identified as Francophone. Again using pseudonyms, this group

consisted of:

1. Desmond Brown

2. Cally Lester
3. Tessa Delorraine
4. Lisette Hancock
5. Linda Jones
6. Jenna Hamer
7. Harriet Engels

Focus Group 2: Northern Ontario First Nations

The second group consisted of professionals who worked in a northern Native Community Centre. In this group were social workers; child welfare workers; teachers and administrators. They worked with a wide variety of issues including child welfare, healthy living; fetal alcohol syndrome; employment and parenting and administration. This group was made up of 2 males and 4 females. In this group the pseudonyms are:

1. Katy Abel
2. Doris Black
3. Hannah Calais
4. Carlotta Drinkwater
5. Kevin Frank
6. Cole Griffin

Focus Group 3: Southern Ontario Social Workers

Individuals in the third group were social workers, corrections workers and other mental health and regulated health professionals. The group had five females and one male. They included:

1. Monique Oppenheim
2. Nellie Frasier
3. Vivian Blue
4. Gabrielle Portman
5. Robert Russell
6. Suzanne Winter

Focus Group 4: Southern Ontario Affinity Group

The fourth group was made up of 1 male and 6 females. The defining feature for inclusion in this group was a volunteer connection to the social service community through the same United Way charitable organization. Included in this group were a school principal; a primary school teacher; an office worker; an executive director of charitable agency; an employee of a community agency; a regulated health professional and a pastoral social worker from the provincial corrections system. The pseudonyms for the members of this group are:

1. Mitchell Small
2. Toni Kirk
3. Kelly Gundy
4. Isla Miller
5. Sophie Lang
6. Sandra Moffat
7. Delaney Farmer

Focus Group 5: Client Based Group

The fifth group was made up of people who had each been identified at some point in their life as a client of a mental health service provider. This group of respondents included a client of the Children's Aid Society, a relationship counselling recipient, a woman's shelter resident, a childhood trauma counsellor. There was one male and nine females. These respondents will be referred to by their pseudonyms as:

1. Jason Jeffery
2. Michaela Blatchford
3. Amira Igwe
4. Laura Kingston
5. Claudia Jacobs
6. Helen Antonio

7. Kris Ager
8. Nora Carmichael
9. Jennifer Zack
10. Jacquie Martin

In total a group of 50 respondents participated in this research. They all resided in the province of Ontario. Those in the southern part of the province lived within an area that covered approximately 450 kilometers in an east and west direction in the southern district of the province. Those in the northern area were located in a locale approximately 800 kilometers north of those in the south.

Shifting Horizons of Meaning

British composer John Powell is credited with saying, "A person can grow only as much as his horizon allows" (Powell, 1963). Effective social policies, as such, must be far sighted enough to anticipate and mitigate the inherent risks of potential unintended negative impacts and see beyond the immediate issue. In analyzing the research data an evolutionary process relevant to this intent emerged. This pattern shows the evolution of critical thinking that respondents travelled beginning with little awareness of the topic and finally resulting in active engagement in the development of policies that are able to incorporate the flexibility needed to adapt to multiple truths. Although it became visible only after completion of the initial data analysis, continued examination of the data clarified the repetitiveness of this pattern and gave further meaning to this research. Borrowing from (Gadamer, Weinsheimer, & Marshall, 2004; Holstein & Gubrium, 1995; and Giddens Clark et al., 1990), I refer to this process as the concept of shifting horizons of meaning. This emergent pattern was not found specifically in what anyone said, but rather, in a developmental evolution that occurred consistently during

the course of each interview. While it was initially less noticeable in those few interviews where the respondent did not begin firmly committed in favour of the mandatory reporting protocol, it presented itself nonetheless at a later stage and then continued to the same end point.

Gadamer (Gadamer et al., 2004) describes the concept of horizons of meaning by stating that the way people perceive their world is learned through variables such as their history, culture, and gender and no one is able to completely remove his or her self from the influence of these demographics. He continues saying that these variables impact the way that each person experiences and pre-judges life so that "the prejudices of an individual, far more than his judgments, are the historical reality of his being" (Gadamer as cited in J. Clark Ph.D. et al., 1990, p. 146). Because of this, each individual interprets the experiences that they are exposed to through the filters of these pre-judgments and past occurrences, thus establishing their personal standpoint or perspective or what is being referred to here as their horizon of meaning (Alvesson & Sköldberg, 2000; Holstein & Gubrium, 1995).

The emergence of these horizons was an unexpected occurrence. As noted, I used an active interview style which provided "an environment conducive to the production of a range and complexity of meanings that address relevant issues, [that were] not...confined by predetermined agendas" (Gubrium & Holstein, 2003 p. 75). In analyzing the many interviews, I did line by line coding; compared meanings of words that were commonly used; compared variances in responses from individual interviews and focus group interviews and compared responses from northern groups to southern individual and group interviews. I also compared replies to each of the five areas of

123

questioning. In doing these many comparisons, I was attempting to find differences in responses that would indicate alternate reactions from various populations. It was in considering the different responses question by question that I began to recognize that although there was a difference in response, the difference was most apparent in the order of the questioning rather than in the response to the individual line of questioning. What I noted was that although each participant had similar reactions to each question, the attitude to the mandatory reporting protocol shifted almost in unison as the questions progressed. It was this realization that alerted me to the fact that the respondents' views and reactions had shifted in very similar ways and each interview had followed a very similar course as the interview process transpired.

The shift that had occurred, referred to here as shifting horizons of meaning, was not related to the concept of mandatory reporting but rather, emerged as a separate discovery and a new model for policy analysis. What had happened, I believe can best be identified as an "inquiry of discomfort" (Wolgemuth & Donohue, 2006). This inquiry of discomfort identified and promoted "an intentional and conscious shift from dualistic, categorical, and entrenched possibility to a more ambiguous engagement with social reality" (Wolgemuth & Donohue, 2006 p. 1024). Wolgemuth suggests that an inquiry of discomfort leads to an emancipatory loosening of bonds that challenge rigid connections. Although Wolgemuth uses this discomfort to shift rigid thinking regarding personal identity, I suggest that a similar shifting occurred in my interviews so that the respondents' were encouraged to shift their firm attitudes regarding the mandatory reporting protocol as a protective and efficacious means of providing protection, to recognizing the unintended secondary consequences that led to undesirable results.

124

Alvesson (Alvesson & Sköldberg, 2000, p. 84) tells us that "every world is a 'horizon of meanings' determined by the social construction of understanding now, in the future, and in 'the area in between.'" Much as an ever shifting horizon leads the traveler to the next point of sojourn, the questions discussed in the interviews appear to have forced the respondents to engage in an abbreviated process of shifting perception that, rather than taking years, took minutes and led them through a process of critical review to subsequent different levels of understanding. By asking about past events and imagined or potential future experiences, the intent was to carry the respondents through a process of critically evaluating the mandatory reporting protocol. While this did occur, the resulting patterns were not anticipated.

Attempting to explain this process of shifting horizons, Alvesson notes that individuals have a need to make sense of their world. As such, reflexive hermeneutics lead not only to a "better *self*-understanding" but also, because "every individual is enmeshed in her meaning-field, intentional in time and space…[and] never free from preconceptions inherited from the past, preconceived meanings" (Alvesson & Sköldberg, 2000, p. 84) to a better understanding of the views and perceptions of others. Yet Gubrium (J. F. Gubrium & Holstein, 2009, p. 55) tells us that "no item of experience is meaningful in its own right. An experience is made meaningful through the particular ways it is linked to other items," suggesting that it is therefore both the shifting horizons and the linkages, the new knowledge resulting from the additional information, that are the framework for new levels of understanding.

Shifting horizons of meaning is an idea compatible with Giddens' theory of structuration and the concept of the double hermeneutic. The concept of the double

hermeneutic requires the individual to first get a solid grasp on their own "preconceptions contained in the commonsense, traditional knowledge on which the social practices they wish to study draw" Clark et al., 1990, p. 146) before they attempt to develop new interpretations. Giddens supports the belief that these interpretations are constantly changing through creative questioning of traditional beliefs in real time but also injects the aspect of "historicality" Clark et al., 1990, p. 146). Historicality allows an individual to reflect back on historical viewpoints and interpret today's activities through this lens, building a transitional bridge that enables the "structuration of events in time and space through the continual interplay of agency and structure" (Giddens, 1984, p. 362). This merges past and present understanding to shape future responses. Gadamer (Gadamer et al., 2004) believes that individuals interpret experiences based on established pre-judgments and anticipated future responses. This interpretive process was recreated in the research interviews by first questioning past experiences and then moving to anticipated or potential future experiences. This method of critical review utilized the duality that patterns social practice (Giddens, 1993) and appears to have enhanced the process of reflexivity, which in turn accelerated the horizontal shifts making them visible.

In spite of the broad ranged diversity, which had been intentionally incorporated into the selection process, the pattern that emerged followed a similar trajectory in all interviews, whether individual or group. Holstein (1995, p. 58) tells us "coherent, meaningful configurations emerge through patterned narrative linkages." Through the interviews, both individual and focus group, many respondents related aspects of the material discussed to accounts of their own past experiences. When relaying these

incidents, respondents were able to view past experiences through the lens of a new

horizon developed in the present and thereby linking the past and the present through

time in what I envision as a spiralling hermeneutic (Illustration 1) of reflexivity with each

new level of critical thinking leading to a new path of awareness.

Giddens' (1993) theory of structuration incorporates time and the concept of

space, which he speaks of in a geographic sense. Incidents such as cultural traditions,

situated in a space such as a country of origin, evolve as patterns and are repeated,

transmitted, and relocated to a new place, in this way creating linkages through time

and also through space. The sharing of information as respondents worked at

comprehending the full complexity of what appeared initially to be a simple concept of

mandated reporting, served as the reflexive conduit through which the next layer of

understanding was attained. Together, these linkages united the horizons and exposed

the patterns that coalesced and matured, marking notable shifts in thinking. I suggest

that these shifts of understanding, which echo the process of ethical growth that

develop, not with maturity but rather, as an individual gains more information and

engages in further critical thinking, can be used with intentionality to design and assess

future policies.

I lean on Kohlberg's (Crain, 2000) stages of moral development, as the

framework while reifying Euro-Western values appears to be the most widely accepted

standard of reference on which other similar theories were predicated. Kohlberg's

justice-based stage theory of moral thinking based in the 1960s, developed in an era of

justice and civil rights, the same thinking that surrounded the initiation of mandatory

reporting. While basing my work on Kohlberg's framework, I acknowledge that it is

generally accepted that there are two divergent lines of thinking regarding moral reasoning. While Kohlberg puts forth a justice perspective, and speaks of deferring to authority and conforming to stereotypical roles, Gilligan suggests that an ethic of care based on values such as caring for self and self-sacrifice is more reflective of the female perspective (Jorgensen, 2006). In evaluating a justice-based policy format and acknowledging Gilligan's recognition of her work as not in conflict with but rather, an extension of Kohlberg's work (Jorgensen, 2006), Kohlberg's frame provided what appeared to me, to be the best fit.

Accepting Kohlberg's observation that "[m]oral development involves a continual process of matching a moral view to one's experience of life in a social world" (in Canestrari & Marlowe, 2010, p. 124) allows for the recursive pattern that mirrors the developing horizons and reflects the progress of an ever evolving process of adult moral development. Kohlberg (1981) suggests all individuals are continuously exposed to shifting beliefs in their moral reasoning and ethical growth and that the process of attaining moral maturity is gradual and life-long. The use of Kohlberg's framework, therefore, is fitting and does not suggest that the interview participants were themselves making their initial journey through these stages of moral development. What it does suggest, however, is that because it is so rarely challenged, it is likely the respondents had never previously engaged in a critical analysis of mandatory reporting.

Much as with any developmental stage, and even though the process is ongoing, milestones are guides to a process and no stage is set in stone. Again, Kohlberg (Kohlberg in Canestrari & Marlowe, 2010) accounts for this in his discussion of continuities and discontinuities in adult moral development when he points out that no

two individuals reach a milestone at the same exact time due to a number of factors, noting that no stage is unique or distinct. Even though the respondents did not arrive at the same stage of meaning at the same time, nor are there specific and definitive criteria to identify a horizon, it was interesting to recognize that each interview traveled a very similar path of enlightenment. Although Kohlberg (Crain, 2000) suggests six stages, with the understanding that any division of stages is inherently artificial, eight horizons of meaning have been delineated and each will be individually described. The shifting of horizons is included at this point in the discussions in order to provide the reader the ability to observe the unfolding process of evolution as it transpired in the interviews.

Horizon 1: Qualifiers and Limitations: "This is Not My Field"

Accepting the concept of "shifting horizons of thought" as a progression that parallels the developmental process of moral judgment allows it to be viewed as separate progressive stages. At this juncture, the first horizon is reminiscent of the point in moral development where the principled argument is yet amorphous and the ensuing ethical debate is unclear, possibly best fitting with Kohlberg's (Crain, 1985) preconventional morality. Many respondents at this point did not see a reason to ask the questions as they felt that the mandatory reporting obligation was working to reduce child abuse and did not perceive an ethical dilemma.

This first horizon of thought was evident even before the interviewing began. Some of the people approached for individual interviews, selected specifically because they had spoken or written on related topics, politely declined on the grounds that they

claimed lack of expertise on the topic of mandatory reporting and denied having more than a very basic knowledge of it. They expressed reluctance to speak and doubted their ability to contribute anything of any value.

Others, who did accept the invitation to participate in the research project, responded that they had not had experience with mandatory reporting other than as it relates to child welfare. Many of these tentative respondents were regulated professionals with multiple mandatory reporting obligations. Some of those who were interviewed needed reassurance that I was not seeking their expertise on the topic but merely their thoughts and understandings. Still, initial comments of self-reassurance served as qualifiers to clarify as Sarah suggested that "you will be seeking informed perspectives based upon experience as opposed to more philosophical reflections," while others such as Dr. Anderson sought reassurance during the interviews saying things such as "Oh, I hope I am being helpful. This is not my field. Hopefully, I am being relatively neutral. I have my views on it, of course." At this first horizon the overall attitude showed some level of apprehension and uncertainty.

This hesitancy was not unique to the individual responses. In the focus groups there was a similar reluctance but it presented somewhat differently. The focus group respondents, rather than qualifying their knowledge in the same manner that the individual respondents did, asked testing questions to clarify their knowledge. Interestingly, questions emerged early and often out of context in each group interview, such as Mitchell's of the affinity group who asked "If you hear of domestic violence are you obligated to report that?" and from the client group Jacquie's "I just have one question. I know that like with … the laws say you're a child until you are 18 but with

Children's Aid and child protection laws they say until 16..." Even when there was not a direct question there was a self-deprecating attitude, such as that seen in Tessa's comment "sorry, I am forgetting already" that served as a qualifier.

Horizon 2: The Fight Between "Good" and "Bad"

Kohlberg (Crain, 1985) at his initial stage of moral development refers to an "obedience and punishment orientation" suggesting that rules are seen as fixed and to be followed unquestioningly. The interview discussions at this point focused on respondents' initial thoughts of the mandatory reporting protocol and their view of its efficacy as a policy stance. Respondents were asked to reflect on their own personal knowledge and experience of mandatory reporting obligations. As noted, preconceptions that one holds are drawn upon as the foundation from which to shape and build the next level of understanding. At this juncture, the horizon of thought had a short focal length that provided a limited view. Based on partial knowledge and personal conjectures, the mandatory reporting protocol was generally accepted as presented and was reflected in polarized attitudes that situated this policy protocol in a dichotomy of "doing good" versus "doing bad." Most respondents entered the discussion arena on the "side of angels" (Nelson, 1984) and many spoke as if they may be affronted by a conflicting viewpoint. There was a suggestion that those who would challenge the mandatory reporting protocol must be in favour of allowing abuse to continue.

Potentially a defensive reflex, a common response to the initial suggestion that mandatory reporting might compromise individual rights was Dr. Anderson's rhetorical "Are you against reporting?" or John's question "Is that designed to be confrontational;

131

or thought provoking?" There was the suggestion that if someone was not on the side of "good" and in favour of reporting, they then were on the side of "bad," and as such, supported ignoring abuse so that it was able to continue. This somewhat "black and white thinking" suggests a simple style of evaluating an issue that, in the mandatory reporting discourse, presents as an attempt to maintain social order by instinctively doing one's duty and following the rules. Dichotomous thinking makes it difficult to challenge this policy protocol as it engenders a reaction that aligns those who challenge mandatory reporting with being on the side of the abuser.

Comments sometimes presented as confrontational, such as this from the group of northern Ontario social workers where Tessa asked "What would you do as a professional if you knew something was wrong and someone was in trouble and there wasn't such a thing as mandatory reporting? What? Would you just go home at the end of the day?" At this point in the conversation, there were no alternatives considered. This reflects the thinking that rules are fixed and absolute with the internal struggle as between obedience and punishment (Crain, 2000). Respondents at this stage saw their options as dichotomies: either, follow the rules of mandatory reporting or risk punishment; make the report or condone abuse. At these early stages I, as researcher, felt that respondents would be affronted if I challenged them or asked confrontational questions that challenged the goodness of the mandatory reporting protocol.

Horizon 3: From Accepting the Tradition to Recognizing Other Perspectives

At this next horizon, respondents began to address the fact that there is not just one right view handed down by authorities. Kohlberg (Crain, 1985) refers to this as the stage of individualism and exchange where the term exchange refers to things being

132

fair, as in a fair trade. It is here things begin to be relative. This stage, following the traditional rules of the mandatory reporting protocol by carrying out the anticipated action in the anticipated way and in template-like fashion, appeared to provide respondents with a sense of security because "for someone following a traditional practice, questions don't have to be asked about alternatives" (Giddens, 2002, p. 41).

Many respondents reflected the attitude that the obligation to report was, as Peter said, "not an issue [in] which I have any say" so feelings of personal responsibility were alleviated. Laura of the client focus group simply said "I think it takes the monkey off your back," meaning that the burden of the decision of whether to report or not becomes a moot point. Some now began to speak of mandatory reporting in a positive light for the secondary benefits that it could provide, and made comments such as Doris' of the northern Ontario First Nations' group who said "mandatory reporting is good because it doesn't make everybody just turn [away] their heads" or from the same group, Kevin who suggested "mandatory reporting is sometimes a wake-up call for some people."

With the knowledge of the mandatory reporting obligations that the respondents possessed, there was an apparent acceptance of mandatory reporting as the only option to consider when faced with issues of protection. With further discussion, however, interview participants at this horizon began to link mandatory reporting to secondary and unanticipated results. This generated Dr. Anderson's question of "And what then?" and prompted him to comment, "As a concept it is a valid one. With children, that it's required. I am very strong on that one, but then when it comes to other

groups ..." Any initial confidence that suggested that mandatory reporting was beyond reproach was beginning to waver. Others began to link mandatory reporting to laws and legal consequences that followed as a challenge to reporting. "Everyone just wants to cover their own butt," as Tessa commented, was a commonly expressed opinion that signified this shift in thinking. Elizabeth wondered who would benefit from her reporting. This recognition of the multifaceted nature of the problem signified the beginning of a shift towards a less parochial attitude. Respondents now became more animated in the interview process and initiated questions about potential negative repercussions inherent in reporting. Dr. Anderson noted, "The issue is, whether you are [against reporting] or not, there is a whole host of conflicts that come along with it. And that's what you are addressing." The conversation suggested that thinking was altered and horizons stretched further into the distance. Comments acknowledging negative unintended consequences of reporting began. Indicating the need to consider potential repercussions of reporting were comments such as John's. He called for a comprehensive outlook, "to deal with the reports after putting the mandatory in place, we have a problem because we are creating interventions and initiatives without considering the cascade of needs that are established by that."

At this point views seemed to have shifted so that mandatory reporting was no longer seen as predominantly either all good or all bad, but rather, there was an emerging recognition that there may be value in pursuing multiple viewpoints. While the process of critical thinking in adults is far more complex, this respondent shift in thinking parallels the next stage of moral judgment (Crain, 2000) where there is the realization that rather than there being one right view derived from external authoritarian sources,

different individuals have varying view points and ethical traditions that might affect their actions. Respondents at this point appeared less defensive and more accepting of challenging questions that were intrinsic to the critical evaluation as part of the interview process.

Horizon 4: Not All Interventions are Created Equally

Following the interview guide, respondents were asked to imagine the impact that a report would have first on the reported and then on the reporter. Asking respondents to project themselves into another individual's horizon of meaning in this manner created a process of moving back and forth on the issue while attempting to establish one's own independent perspective rather than expressing the views of the authorities. In ethical development, this process leads to increasing personal autonomy, but also to the growing doubt that accompanies responsibility (Crain, 1985). There is recognition of intent and acknowledgment that moral issues may not always be black and white. It appeared that the respondents' thinking followed a more complex but similar trajectory. Dr. Jordan recognized the duality when she noted "this isn't an argument against interventions; it's an argument about what we've got in place to make meaningful interventions and right now we have a social safety net that is completely frayed, if not entirely dismantling itself."

Again following the interview guide, the next area of questioning asked, "What would you think of before" and "what thoughts would you have after" a report was made. These questions had the effect of situating respondents in the context of time and place. Questioning in this manner encouraged respondents to recite real or imagined

scenarios that often revealed their own personal narrative and incorporated their preconceptions and pre-judged meanings. This linking of personal views and experiences to the discussion appeared to loosen rigid bonds of good and bad and instead, made space for doubt, skepticism, and heightened awareness. Comments such as Elizabeth's suggesting that I "may be on to something" because she has hope that this research will actually change policy to the point that there will be alternatives to mandated reporting suggested the shift that was occurring.

Respondents, rather than looking at the issue as unilateral, began a more comprehensive examination, noting as Petra did that "the whole thing is in a state of immaturity at the moment … what your work is going to do is to elaborate some ways more maturity might be garnered in this situation," or Sarah's comment that "anything that is mandated has areas of problems" and Tessa's concern that "I would never want to see a fellow social worker crucified," which all demonstrated a less rigid attitude. At this stage respondents were beginning to have doubts as to the ability of mandatory reporting to be anything more than a "bankrupt policy" (Melton, 2005), p. 15) without reason and "a shift from unquestioning obedience to a relativistic outlook" (Crain, 2000, p. 121) appeared to be taking place.

Horizon 5: Protection or a Tool of Social Order?

In moral development as described by Kohlberg (Crain, 1985) the next stage involves adopting a broader perspective. Whereas the previous stages were focused on understanding the feelings of another individual, this stage focuses on being concerned with society as a whole. With an active interviewing style, respondents in this research

went to the next stage of moral development. At this point respondents began to critically explore the issues inherent in the mandatory reporting protocol. The active interviewing style used in this research involves the researcher as an active participant, (Holstein and Gubrium as cited in Silverman, 2004). With active interviewing, information, traditionally flowing only from respondent to interviewer, is shared in both directions. Because knowledge of the mandatory reporting protocol and the specific mandated obligations is so limited generally, respondents did not enter the interview process with a great deal of understanding of the topic. An active interview style provided a safe environment for testing ideas. In my research at this point with the use of active interviewing, respondents were seen to be adopting a longer focal point where, rather than focusing on personal information and individual scenarios they began thinking about society on a broader scale (Crain, 2000).

"Active interviewing capitalizes on the ways that respondents both develop and use horizons to establish and organize subjective meanings" (Holstein & Gubrium, 1995, p. 59). In encouraging respondents to challenge their existing views regarding mandatory reporting and confront arcane preconceptions, questions asked in the interviewing process were designed to broaden the horizons and promote growth through an analysis of discourse and syntax. Asking respondents to define terms such as "vulnerable," "elder," or "single mother" drew their attention to the invisible social constructions incorporated in these terms that linked these words, frequently associated with women, children, and childlike behaviours. Through further discussion respondents began to recognize that women, especially poor women, are frequently portrayed as infantilized and incapable of taking control of their lives. In the 1st Nations group

137

respondents spoke of women who "just learn to keep their mouth shut." Helen realized "like whenever I hear of abuse I always think of unable people but if they are able..."

When then asked to define words such as "competent" or "autonomy," participants began to see the prejudgments that they had adopted. It became apparent that when thinking of mandatory reporting and socially constructed terms such as "single mother" or "vulnerable," there was an assumption of incompetence and an accompanying inability to make responsible choices. Once an individual was deemed unable to make good personal choices, mandatory reporting seemed to be a valid response. When an entire population, such as single mothers or seniors, was considered unable to responsibly maintain personal care, the privileged in our society, those who have the authority to apply regulations, felt justified in stepping in to take away the autonomy of an entire group and with the use of reporting, save them from themselves. This is reminiscent of the deserving-undeserving poor dichotomy that exists in our Canadian history and spoken of in Chapter 2. Respondents were now recognizing the existence of what Dominelli refers to as "the self-other dichotomy or binary dyad [that] enables the self to externalize the 'other,' and facilitates the act of viewing the 'other' in an antagonistic and hierarchical relationship to itself … these dualisms become the basis of oppressive relationships … and reproduce relations of domination (Dominelli, 2004, p. 76)." Now respondents began questioning their own established views and made comments such as that of Lisette's who asked "how do we expect [people] to be able to deal with these huge issues when most of us don't know how to deal with them ourselves?" Respondents were recognizing that the questions were not speaking about specific individuals or cases but rather, of the broader societal values

138

and social constructions of society that are a common product of our North American Euro-Western value system.

Respondents in both individual and group interviews began confronting their horizons of understanding and the linkages they had previously made. At this stage they saw that the mandatory reporting protocol was not as simple or confined as previously thought and began to question the limits of this protocol with questions such as this of Dr. Anderson who asked, "Where are the boundaries of this whole thing?" This enhanced understanding led to a shift in perspective and horizon that provided a further broadening of their outlook and a clearer vision of the possible impact that a mandatory report may hold.

As frequently occurs in the stages of moral development, and appears to have run parallel in this process of adult ethical challenge, the thinking of respondents now evolved to a point of evaluating the impact of mandated actions on the social order. Respondents began raising issues of power and control and of surveillance. They considered other possibly suspect motivations for applying the mandatory reporting protocol to multiple functions, prompting Lisette of the northern Ontario social workers focus group to note, "Are we not just trying to [use] mandatory reporting to deal with the social problems that we really don't know what to do with?" Participants now, as part of the discussion of power and control, questioned whether vulnerability was always a permanent situation.

Respondents suggested that although reporting may curtail specific behaviours, the making of a mandated report does not in itself offer positive future change. Sandra,

in the affinity focus group, optimistically said "My hope would be that on the other end of the mandatory reporting the hope would be to restore health to the family rather than to assign blame and condemnation." As respondents began to confront their assumptions and preconceived perspectives they concurrently began to question their complicity in enabling the structural inequities to continue unchallenged.

Horizon 6: Multiple Perspectives and Shifting Meanings

The interview conversation as noted flowed both ways between researcher and participants. It was necessary for me as researcher to be actively involved as the respondents entered the interview process with very limited knowledge of the mandatory reporting protocol, as described in Horizon 1. In order to address some of these gaps, explanatory scenarios or additional information designed to help delineate the issues were presented. Respondents, in turn, frequently expanded on the information by relaying their own relevant stories. Kirk recognized "I try to find acceptance that I did the right thing. It's more self vindication. I know I did the right thing it's what I am supposed to do." As did Kirk, interview participants began to personalize issues now, allowing them the opportunity to identify with the feelings of others, or in Alvesson's terms, "move into the other's meaning-field," which he further identified as the ability to empathize (Alvesson & Sköldberg, 2000, p. 84)

While empathy is essential in relating to the feelings of others, Alvesson (Alvesson & Sköldberg, 2000) suggests that the concept of empathy alone is insufficient in understanding another person's thinking as each person enters every interaction with their own biases and beliefs. Because of this, Alvesson believes that the concept of empathy, which suggests the ability to relate to the feelings of another, simplifies or

minimizes the complexity of the hermeneutic circle where no one "proceeds from a *tabula rasa*" (Alvesson & Sköldberg, 2000, p. 84). Each person who enters an interaction does so with their own perspectives. These perspectives are then further impacted by the other individual in the interaction and by the prejudices that each brings to their understanding of a situation.

At this point in the interview process respondents were asked to imagine themselves in the meaning-fields of the individual reported and also of the reporter. By developing empathy within these interviews respondents were able to recognize that mandatory reporting frequently risks sustaining the hegemonic values of the dominant group and puts the different "outsider" perspectives at greater risk of being perceived as wrongdoing. This led to respondents at this stage becoming more involved in deconstructing the mandatory reporting obligations and questioning the ethicality of the impact of these obligations. Issues such as confidentiality and autonomy were discussed. The struggle incorporated in the decision-making process when trying to balance the need to protect by reporting against the right to confidentiality and autonomy is heard in the comments by Katey of the northern Ontario First Nations who said "If it wasn't mandatory … people would shy away from actually doing it because they are scared of hurting that person [and] if you're just looking for someone to confide in and to try to figure it out for yourself you would stop talking about it [if you thought you would be reported]."

When the discussion turned to sexual relations between a professional and a past client, many related that they were aware of such incidents and yet unless they felt that someone was being harmed in the relationship, their ethical predisposition would

141

not allow them to consider reporting. As the discussions continued between me and the respondent in individual interviews and amongst respondents in focus group interviews, scenarios and illustrative vignettes were often relayed by respondents. These stories appeared to help respondents envision the standpoint of others. Entering the meaning-field of another appeared to assist respondents in putting aside their own prejudices and stretch their horizons further so that the respondents were now better able to consider multiple acceptable alternatives while at the same time recognizing some of the inherent complexities of the mandatory reporting protocol.

Horizon 7: Alternative Knowledge, Ownership, Autonomy, and Choice

Much as learning is an ongoing and lifelong process, honing the skill of critical evaluation is a process always in flux. In considering alternate responses or options to mandatory reporting, individual and focus group participants at this stage were able to set their horizons further beyond what might have initially been perceived as their comfort zone. As additional information was provided, the shift to their critically reviewing the mandatory reporting protocol was spontaneous. Where the process had begun with the view that mandatory reporting obligations were the law, required minimal personal thought, and relieved the reporter of the decision making aspect now respondents were recognizing the complexity inherent in these obligations and in the benefits they can provide. As Kevin suggested, "I mean it lets you off the hook, realistically. Like at the end of the day when someone asks you 'why did you do it' [it's] because I was obligated to do it. It's not *my* policy. It's *their* policy." At this point in the discussion, however, there were echoes of indignation and disregard for the law with suggestions of civil disobedience. Respondents were now seeing that the issues of

mandatory reporting are multifaceted and cannot be addressed with unilateral answers. Respondents became galvanized by the change in tone and many responded to my questions about their views with comments such as the surprised, "Good question!" from Dr. Anderson. Individuals and focus group members now made confrontational comments, such as Dr. Jordan's "why are we developing these policies and at the cost of what...it is easier to develop these policies to cover up poverty...." Laura, of the client group, said "I think you should have your own choice" while Sara suggested "for me it is not cut and dried." Dr. Anderson said, "What would happen if I didn't report?" These comments were indicative of the shift that was occurring. Comments even less ambiguous that demonstrated a readiness to reconsider mandatory reporting policies from a critical perspective evolved such as again from Dr. Anderson, "What I like about that, what you are interjecting which is really quite beautiful, is the whole idea of ownership, autonomy, and choice". This following comment from Ngozi, a former child welfare worker, evidenced the shift in thinking:

So with mandatory reporting, you come to the attention of the agency for some flimsy thing and then to justify their work and the fact that they are there, they look at the smoke alarm...they look here...they look there...until we find something and really, how could we not find something?

These comments were from individuals who just moments previously defended the merits of this policy stance and accepted their inevitable obligation to report, believing that they were providing protection. At this stage of ethical growth and enhanced understanding there is an acknowledgment that individual rights as well as community rights and responsibilities must be considered in the development of mandatory reporting policies.

Horizon 8: Developing a New Perspective

As the hermeneutic wheel of understanding turned again, I found myself speaking not to uncertain and possibly suspicious individuals who were questioning my motives and challenging what they initially perceived to be my disrupting of the status quo, but to colleagues who also wanted answers and were excited and energized by this process. In coding, I referred to the spontaneous remarks that were uttered at this moment as "traditional non-conformist revolts" because at the time that they were occurring, this attitudinal shift suggested a change in perspective and an excitement level previously unseen. Although revolts usually generate visions of anger and oppression, this shift was described as a revolt because of the intensity of reaction. The "tradition" comes from the huge shift in attitude from the status quo and the "non-conformist" label describes a sense of excitement and hope, not unlike the qualities frequently associated with a revolt. Comments such as Dr. Anderson's "Absolutely! I see where you are going with this!" and "A knee-jerk reaction! So many policies get decided because they are the flavour of the day and people don't think through" or to Dr. Anderson's "What a lot of fun this is! Very good! Very good! This is very neat!" or his closing comment "I had fun!" and finally Pamela's "Is this for your PhD? PhD's are about boat rocking!" were spoken with enthusiasm and represented the excitement seen in all interview participants.

This increased level of engagement and passion continued so that as many of the interviews concluded and after thanking the respondents I was surprised by their sincerity as they thanked me, expressed their interest in the process, and spurred me on with good wishes. At this point the reflexive hermeneutic had shifted to a new level of

144

understanding where these individuals both in private interviews or focus groups now saw value in adopting a critical perspective in designing effective and relevant policies. Yet since there is no clear "correlation between moral judgment and moral action" (Crain, 2000, p. 129) there is no way to predict whether, when next faced with a similar task, this group of fifty individuals would approach it differently than they had originally. This will be further discussed when considering limitations of this study.

Figure 3:

The Spiralling Process of Critical Review
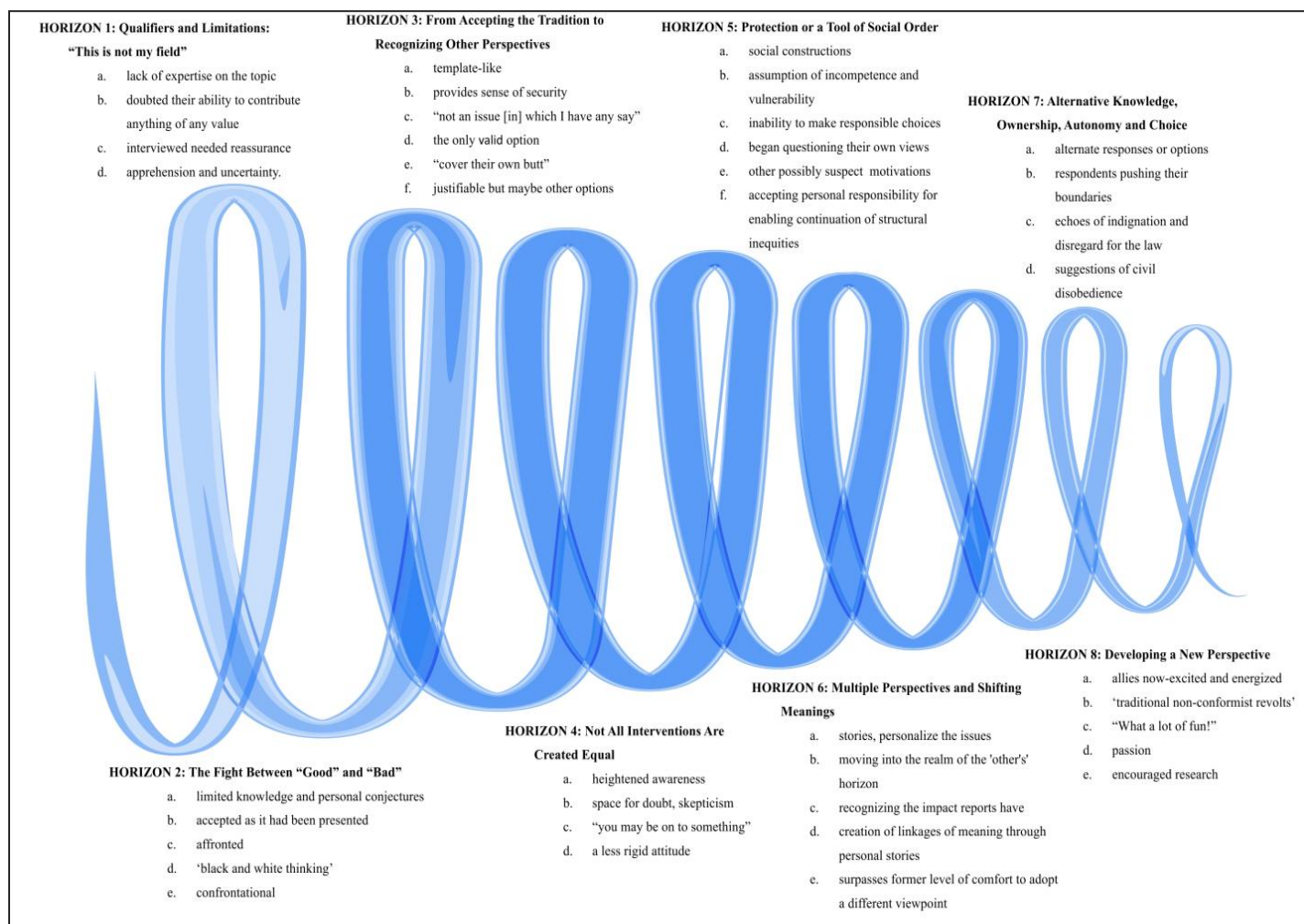
The Findings

This segment revisits the research questions described in Chapter 3 delineating

the responses received. The findings are presented, not in linear order but according to

the themes that emerged from each particular aspect of the discussion. When the

interviews were conducted individual interviews and focus group interviews were

interspersed so that each could inform the other. The order of presentation is arbitrary.

The findings are complex and reflect the evolution that occurred during the course of the

interviews.

Straus and Corbin departed from Glaser's positivistic roots by referring to

construction rather than discovery of grounded theory (Charmaz, 2000 as cited in

Denzin & Lincoln, 2005). Since that time Charmaz has extended the reach of grounded

theory by stating that researchers "can use basic grounded theory guidelines with

twenty-first century methodological assumptions and approaches" (Charmaz, 2006).

This move has enabled researchers to approach grounded theory from different

vantage points. Although grounded theory has thus been accused of "ontological

ambivalence" (Seaman, 2008 p. 3), this loosening of boundaries has provided the

opportunity to approach grounded theory research with an enhanced flexibility in order

to further move it beyond its positivist past. This shift, however, has also created

discontinuity with the grounded theory language. Relevant to this work is the confusion

regarding the terms themes and categories. While some grounded theorists use the

term categories to explain how thoughts and ideas are clustered, others use the

concept of themes, while yet others use both terms interchangeably. As such, I have

chosen to pursue an adapted grounded theory that draws on the work of researchers

who speak not of categories but rather, of emergent themes (2006; Charmaz, 2006; Guttman & Lingard, 2010; Seaman, 2008; Wee & Paterson, 2009). Seaman (2008), for instance speaks of "wait[ing] for a theme to emerge from the data", while Bowen (2006 p. 2) states that "grounded theory is generated by themes, and themes emerge from the data during analysis." Wee (2009 p. 170) uses both terms and describes the progression of her analysis as "from these were derived the main themes...Categories, concepts, and proposed models were presented..." Compounding the confusion, Morse and Field (as cited in Bowen, 2006 p. 2) who do use the language of themes note that themes in grounded theory are "usually quite abstract and therefore difficult to identify." Even Charmaz, whose work I lean on most heavily, does not clarify the issue and defines categories as "abstracting common themes and patterns" (Charmaz, 2006p. 186). In light of this confusion, I have chosen to refer to themes rather than categories. The choice to do so was made because, rather than the usual grounded theory description of action processes which can comfortably be gathered into categories of behaviours and responses, I was describing the private thoughts that emerged from my interview respondents. Overarching themes afforded me with what I perceive to be a more humanistic and respectful vehicle with which to present the cumulative thoughts and conceptual perspectives of respondents. As such, the following section presents the overarching themes that emerged from the research interviews.

Themes Evolving from the Discussions

Theme 1: Limited Knowledge of Mandatory Reporting Hinders Critical Review

   Limited general knowledge of mandatory reporting.

The first area of questioning in the interviews focused on the respondents' knowledge of mandatory reporting. Asked for their understanding of the term, Cole, an agency administrator, noted that when he heard the term mandatory reporting, "what comes to mind is---it's legislated," while Monique, a nurse, said "mandatory to me means it is the law." Social worker and political activist Peter noted that "[Mandatory reporting] is set up by law and therefore it is not an issue about which I have discretion. That is both a concern and a comfort," while John, human rights lawyer, added that "Mandatory is the collectivity saying we are going to remove the element of discretion from the reporter." Pamela, a politician, defined mandatory reporting as "a government response to a public policy issue [that] is about how the government can intervene to protect, so it is a protection policy issue." Sarah suggested that mandatory reporting as "Something prescribed in some statute by legislature on a federal or provincial level that requires...that lays out, the requirements of people, people who are in certain positions, which would be considered positions of power."

Even though there was general familiarity with the mandatory obligation to report child abuse, some were unsure of the actual obligation they themselves held. While everyone seemed aware of the responsibility, there was confusion regarding who was responsible for actually making a report regarding child abuse. Although mandated to report, many of the professional respondents had limited knowledge. The respondent Delaney, herself a member of a regulated health profession, reflected the confusion

when she did not think she had the obligation to report child abuse even if she herself witnessed it. It was only after the question was reworded to ask whether, as a regulated health professional governed by the *Regulated Health Professions Act* was she responsible for reporting child abuse that she recognized that she was in fact obligated. Many respondents were confused by the nuances of their reporting duties, as demonstrated by the questions posed by Monique, also a regulated health professional, who asked "How do we know what's reportable? I mean, are there written guidelines that you read? Are you taught that in school?"

There was much confusion as to the mandatory obligations but although there was sometimes a lack of clarity, everyone had some knowledge of the obligation to intervene in cases of child abuse. As such, the response from both the focus groups and the individuals interviewed when asked if they were familiar with the term mandatory reporting was predominately "Yes." Their initial comments upon hearing the term mandatory reporting were, however, limited and suggested a lack of true clarity with the term. "My first thought off the top of my head is child welfare," said Dr. Anderson, a typical response indicating that child welfare was the only known application.

With this limited knowledge, many spoke of mandatory reporting in positive terms and believed that it was an effective communal response to child abuse. Although it was emphasized to them that mandatory reporting was not only used for child welfare concerns, most respondents continued to speak of child welfare as their only reference point to mandatory reporting obligations and saw it as a positive intervention. Dr. Shannon suggested this by saying, "Well, with my background in child welfare I think

149

mandatory reporting generally is a very good thing." Dr. Woodcock had a similar perspective of mandatory reporting saying "I have heard the term, but I don't know a great deal about it because I haven't been directly involved for many years. My general impression is that it is a good idea, but that it doesn't get used enough." Petra, a legal adjudicator and academic, spoke more generally in favour of mandatory reporting protocols suggesting that it "is a stiff measure, but I think it's arguably an important one."

Mandatory reporting was accepted as a valence policy, socially constructed to provide unequivocal protection. When the interviews began, many spoke of the benefits of this policy format. Dr. Woodcock, who was only aware of the mandatory reporting of child abuse, also saw mandatory reporting as an adjunct used to alleviate his responsibility in decision making. He said that having this duty made it easier for him to report as he was "more comfortable doing it from a professional position." Even so, he would seek consultation so that the decision did not fall solely on him, adding "I think I would be very guarded about using [mandatory reporting] and probably, being a professional, I would go and talk to someone in the field." Many others, unsure of their responsibilities and obligations, also spoke of consultation as a means of spreading the burden of responsibility.

While the professional respondents were confused as to their obligations, respondents not professionally mandated to report also had limited knowledge of the mandatory reporting obligations. They too spoke only of child abuse. Those who had experienced an abuse investigation did not question the intrusive nature of the mandatory reporting protocol but rather, spoke of the strong emotions the investigation

generated. Although Kris investigated for an allegation of child neglect, admitted that when:

> Children's Aid for absolutely no reason they just showed up at the door one night. And I was like, 'what are you doing here' and they said 'we have to investigate' and I said 'ok, here's my daughter' and I stripped her naked and said 'look, does she look abused'?

She was insulted and angry at the intrusion by the investigator yet she did not question either the policy that allowed an unfounded allegation to be made or the fact that the allegation had to be explored. Ngozi, who was also the subject of an investigation, spoke not of anger but of the fear experienced by herself and her "husband who was so terrified" when he received the call from the child welfare agency.

Confusion regarding mandatory obligations and professional duties.

Along with a limited knowledge of the mandatory reporting protocol many respondents also had a great deal of confusion and misinformation regarding the mandatory obligations.

Confusion with codes of ethics. Evelyn best demonstrated the confusion between moral obligations that originate in codes of ethics and mandatory obligations that are actual legal precepts when, speaking of mandatory reporting obligations she stated, "Yes, within professions they have their own code and that if it's applied, once it is reported, it works; and teachers have it; doctors have it; I am sure lawyers have it, too." She is accurate in her knowledge that codes of ethics are an important aspect of professionalism, but she does not accurately depict the mandatory reporting obligations.

Confusion with duty to report. Tessa, presenting her view in a northern focus group, confused the terms "mandatory reporting" and "duty to report." When asked her thoughts regarding her mandatory obligations she responded by defining mandatory reporting as the child welfare concept of duty to report child abuse. Evelyn did the same, explaining mandatory reporting as, "If a professional or a neighbour or a family member is aware of a child being abused in some way, physically, mentally, emotionally, they are mandated to report it to the authorities." Although both Tessa and Evelyn are accurately relating the duty to report child abuse, they are confusing the concept of "mandatory reporting" with the broader concept of "duty to report."

As John noted, the mandatory aspect does not apply to everyone. As a lawyer, he is accurate when he states, "I don't have to report child abuse. I am *permitted* to. I am protected against making a false report or making a misguided report, but I am not *obliged* to."

Confusion with duty to warn. Vivian, a social worker, however, equated duty to warn with mandatory reporting. In the following, she is describing is the duty to warn and not the mandatory obligation to report:

> In my situation, I work in psychiatry...there [are] different levels of
> reporting. One is with child welfare and one is also 'risk to other people' so
> if a client says, you know, I am going to kill somebody, there is an
> obligation for that professional to...

Respondents' Knowledge of Specific Applications of Mandatory Reporting

Mandatory Reporting and Domestic Violence

Respondents were asked about their knowledge of mandatory reporting as it intersects with the various instances of domestic violence. There are three relevant criteria.

Mandatory reporting of domestic violence. Most respondents when asked about their knowledge of mandatory reporting of domestic violence simply answered that they had not heard of it. Some asked for clarification regarding the topic. The first of these questions sought to clarify the existing obligation. In the affinity group, Mitchell, a school principal, said "I have a question. If you hear of domestic violence are you obligated to report that? " John questioned "And what mandatory reporting obligations do we have for spousal abuse now?" Petra knew that we do not have this mandatory obligation and stated, "Not that I can think of, I am not aware of an actual law that does that."

John, aware that there was no obligation to report domestic violence, expressed concerns with making domestic violence a mandatory report stating that with regard to

> ...autonomous people, we can't as a state intervene in marriage; and that's why too many women are being killed. We balance it between providing rape crisis and abuse shelters and between making available the means to complain about maltreatment, but not getting in there and saying the state has an interest in monitoring people's marriages—we can't. So I think any jurisdictions that go mandatory on reporting on suspicions of spousal abuse are making a social mistake.

John's comment is representative of the shift in thinking that was evolving for many when new information was added. Structural issues were beginning to be

recognized at this point and the role that resources play in discussions regarding mandatory reporting were noted as part of the evolution to the next horizon of meaning.

Mandatory reporting of domestic violence with a child witness. Domestic violence with a child witness now does in fact generate a mandatory report. Many of the respondents recognized potential concerns with this policy and the concepts of double jeopardy and negative repercussions were frequently raised. Ngozi was conflicted regarding the best intervention approach and questioned the mandatory aspect of this policy. She spoke of a young family with children:

> [They] were reported by the counselling centre where they had gone for counselling...There had been no physical abuse, no hitting, pushing, shoving, nothing of the sort [but] they were definitely having arguments. There were some financial strains, things like. After the reports and CAS got involved [however] they decided now we are not going to go back to counselling

Kirk from the Northern First Nations group spoke of the personal burden he experienced in making a mandatory report with a child witness but saw positive values in doing so. He noted that "as far as the process, it is very hard being a professional person picking up the phone and knowing you are going to bring turmoil into someone's life." He, however, concluded "but at the end of the day it is to a greater good." Lastly, many expressed the concern that in cases of severe abuse, although as a responsible individual they would want to protect both the victim and the child, a report made before the victim is able to take refuge in a place of safety, might be life threatening. As one respondent noted, it is "not the fact that we are reporting, [it is] the fact that the moment the cat is out of the bag, the woman is in extreme danger."

Mandatory reporting and domestic violence in the workplace. Although the bill implementing this mandatory reporting obligation was just coming into effect at the time of interviewing and any of the respondents employed in any workplace would be impacted by it, only Desmond had any awareness of it. Desmond presented his explanation as "[prior to this Bill] the ministry of labour [could] walk into a work place and [even] if there is a major toxic atmosphere and somebody feels threatened literally for their life the ministry really has no power to press charges." This Bill, he said, would address this issue. Even he, however, had not recognized the significance of this new legislation as it related to the topics of domestic violence and mandatory reporting.

Respondents saw many issues of concern when given information about *Bill 168* and the lack of public awareness. They did not agree with the mandatory reporting of domestic violence and felt that an individual experiencing domestic abuse, most often a woman, should be able to confide in a work colleague without fearing disclosure. The following dialogue is reflective of the discussions that occurred.

John was given the information that mandatory reporting of domestic violence had been implemented in some jurisdictions and subsequently withdrawn when women indicated that they felt that they were at increased risk. He responded:

> Yeah, absolutely! I don't think we can [mandate the reporting of domestic violence] and for a whole range of reasons. If I thought about it more and I have never thought about it because at the very outset, I don't see society at large as having a place in the bedroom. I think that the downsides of going there are as great as the upsides that anyone might propose. In fact, the downsides are greater. I don't think it would work!

In spite of strongly expressed opinions against mandating the reporting of domestic violence, the workplace violence law has in fact done just that, and with little

or no public debate, impacted everyone in every work environment. Tessa presented the attitude of many:

> The concern would be especially for somewhere like [this town]... it is a small town you know, and that can create ... even if, you know, you are in a bigger city or hospital...where you work becomes kind of like your subculture, like a community you know and so it kind of gets, you know, I think that there would definitely be, what's the word I am looking for...

Her colleague Jenna suggested "Intrusion?"

> ...yeah, intrusion, and I think it would get, it's more complicated than that because your co-workers, you know your co-workers, like you're enmeshed with them a lot of times even though you keep appropriate boundaries and you know... the trust, right? It just speaks to a *huge* issue of Big Brother... At what point does it become professional and at what point does it become personal?

Dr. Jordan, upon hearing of this application questioned incredulously "Who are they protecting in something like that?" while Elizabeth summed up the discussion simply with "Oh! That is really terrible!"

Mandatory Reporting and Elder Abuse

Elder abuse was another area where the knowledge was limited. Whereas some like Dr. Jordan were able to say, "Yes, yes I have [heard of it], both in terms of the economic abuse of seniors and seniors at home and seniors in long-term care centres," others, such as Sarah, had more limited familiarity and knew of it only "as it is applied to the *Long-Term Home Care Act* and the *Nursing Homes Act*, but when it moves beyond that I am not familiar with mandatory reporting." Dr. Woodcock had a vague notion: "Yes, I think I have heard of some issues 'someone should report this' ... I have heard of people saying, 'something should be done' or 'I should call the police; the parish...'"

The lack of previous knowledge needed to evaluate this policy was becoming less significant as respondents were beginning to conjure up the dilemmas on their own after hearing them discussed with previous issues. Jenna spoke of the futility inherent in the mandatory reporting of elder abuse in their workplace and noted:

> We had a case upstairs of elder abuse and we involved the police and
> nothing was...

Cally confirmed:

> There is no consequence.

To which Jenna agreed:

> There was no consequence. There was nothing really done.

Desmond entered the conversation noting:

> So it kind of goes out there—okay, so I've reported this situation, so we're
> hoping that there is a corrective action, but where—you know, you put it
> out there but then...

Dr. Anderson had been professionally involved with seniors and was familiar with the existing obligations, but now questioned the value of expanding this policy. He summed up the views of many and expressed the ineffectiveness of this policy by simply asking "To who? There is no one to report to." By this point in the interviews respondents were beginning to spontaneously reflect on the nuances of mandatory reporting. The interview participants' attitudes seemed to have changed and now, although everyone supported the implementation of compassionate interventions, no one actively supported the implementation of mandatory reporting of elder abuse. It appeared that none of the respondents at this time still felt that the mandatory reporting of elder abuse was the best approach to potential problems. Although Ngozi had not previously heard of this application of mandatory reporting, the topic engendered strong feelings in her. When asked if she thought that this could be a successful approach to

senior protection she responded with "I doubt it!" Assuming the senior to be a woman and the abuser to be her child, Ngozi continued to expand on her reaction:

> In her old age, you take away the son she knows or the child she has? What are you giving her instead? How are you helping her? You remove all the props she has in her old age and send her to an early grave, feeling guilty...I think we are doing her a disservice that way.

Mandatory Reporting of School Yard Bullying

Evelyn was adamant that making bullying a mandatory report was the only way to deal with what she saw as a serious and oftentimes threatening issue. She had recently been involved "in a huge effort to get the [governmental body] to require mandatory reporting for student-on-student violence. They don't want to admit their own failures in this government and they blew me off. They won't do it!"

John also saw advantages to making school bullying a mandatory report, telling me about his past cases where "...children are being bullied and [the] school board and the teachers and the principal were systemically incapable of dealing with outrageous cases of bullying—it wasn't bullying, it was terrorization. And there was no reporting obligation."

Dr. Jordan, who had come to the interview process with a community development perspective, was one who called for a flexible approach decrying the labeling of a child and voicing concerns regarding the impact of such a label. She felt that "To label a youth a bully is criminal in itself...if that goes into some kind of system, you don't get rid of it." Addressing the behaviour rather than identifying the child was the preferred focus for many. Dr. Jordan asked: "What are we doing? What systems have

we put in place to respond to the causes of bullying? What are the causes of bullying?"
and suggested that further research and resources would be a more responsive way to
approach this issue.

Theme 2: Mandatory Reporting is Perceived as Inadequate

After discussing their personal experiences with mandatory reporting and
their knowledge of specific applications, respondents were asked for their views
on the perceived impact of mandatory reporting when applied to various
populations. They were asked whether they saw the impact as being the same
for all people or if they felt that some populations were disproportionately
impacted and thus carried a more significant burden. The following discussion
transpired from this line of questioning.

Mandatory reporting impacts women differently than men. Although
never implicitly stated, upon review of the transcripts it became evident that when
discussing vulnerabilities, the person being discussed and in need of intervention
was always assumed to be female. John approached this topic from his legal and
human rights perspective noting that "merely because women are vulnerable vis
a vis men, is not a good enough reason for society to get involved in marriages
directly through people having an obligation to report suspicions of spousal
abuse." John added his thought that mandatory reporting impacts women in the
same way that it impacts other, as he referred to them, "incapacitated"
populations.

Competence was another issue that was not initially considered as relevant by respondents. Asked if she would offer a competent older woman living in a potentially abusive situation a choice regarding her life circumstances, Jacquie responded with "Would you give a child a choice?" Asking her to elaborate and explain why she was equating competent women with children, her explanation suggested that she saw women who remain in abusive situations as child-like in their ability to make good personal decisions and, therefore, like a child, should lose the right of autonomy:

> I think if somebody is being abused they are not able to make [a choice], 'cause a child doesn't know better and if you are being abused you may know better, like this is wrong but you don't know how to deal with it so obviously...

This belief was not only held in regard to elders as apparent in the comment made by Claudia who spoke of domestic violence and abused women saying, "I don't think that the person that is being abused is in their right mind to make that decision of whether you should be reporting it or not."

Respondents did not speak of injustices related to gender in mandatory reporting obligations but did give personal examples of how they would respond to a mandatory report. In the affinity group, Kelly spoke of domestic violence. She responded from a personal perspective and admitted to having lived in a situation of spousal abuse. Asked if she would have welcomed the outside intervention afforded by a report to assist in addressing the imbalance of power, she responded that reporting would not have been beneficial as she would have seen it as another affront to her integrity and a further violation of her personal rights. She would not have willingly relinquished her remaining autonomy:

You keep thinking I can do something; I can do that to make this better. It's going to turn around. Maybe if I do this, maybe it will be better. You know. Keep trying, keep trying. Keep hoping—whatever. I didn't want to have a 'failed marriage'.

Isla of the same group entered the discussion regarding power differentials. She believed that resources such as shelters provided support to women but did not question the justification of policies that place economic power in the hands of men and build shelters for women. She noted:

We have evolved. I remember when my parents split up and it was very abusive... there were no shelters...no resources—the police didn't come and do anything. If anything happened the police would not...you know.

This provided the opportunity to redirect to Kelly to ask if she had any sense of what would have happened if the police had been called to help her. Could mandatory reporting of domestic violence help Kelly, or women in general, regain power? She replied:

I hadn't even thought of that because at one point I did call the police and you know, they came, whatever, I had a...restraining order...but that didn't stop him from... and when I went back to the police...'we can only do something if he hurts you'"

Dr. Forman wanted to empower women in domestic violence situations by allowing them choice noting "because … statistically more women are murdered after they leave the home than they are when they are still in the home and [reporting] has to be her choice." Others voiced similar thoughts, coming to the realization that making domestic violence a mandatory report would remove the women's autonomy.

Tessa from the northern social workers group discussed the logistics of leaving a violent home situation saying that, "It is a process and it is not something that needs to be convenient for the professional" to which Cally replied:

...and because it is a person's choice, I'm sorry but you can't take away someone's choice. People will live how they choose to live a lot of the time and what we see as safe or healthy, it doesn't matter. It is not about us.

Ngozi described the implications that mandatory reporting of domestic violence would have for many new immigrants to Canada. Noting that it may be unwise to report abuse that "demonizes the man in the home" and puts the woman at risk of being abandoned she asked, "Mom maybe doesn't drive, doesn't have a job, maybe doesn't speak the language, you kick the man out, what is that going to do to the family?"

Although many respondents discussed women's right to autonomy and choice in deciding if they wanted to report their abuse, few spoke of the woman's right to make an unpopular decision. Gabrielle of the Southern Ontario social workers' focus group, however, did take this perspective and defended women's right to choose to live in an abusive situation. She was alone in suggesting that:

[They have] existed that way—it is not the way I would like to exist but if they are happy that way, they have the right to do that and I don't think—I know we have enough Big Brother in our lives. They have the right to live that way. I mean, we can offer them services. We can make sure the house is heated ... they need assistance. They don't need reporting.

Mandatory reporting impacts people differently based on their residential location. The question at this point in the discussion was whether people of various locations, would tend to be more or less likely to be reported for behaviours for which other populations would not be reported. Dr. Jordan referred to low-income neighbourhoods and felt that populations marginalized by their residential locale would draw more unfavourable attention and be more prone to being the subject of a report. She stated that "It is easier to develop these policies to cover up poverty, hunger,

162

unemployment...the institutional causes...so we are pretending to take care of the vulnerable people that we allow to be created by the bigger social and political abuses."

In the northern Ontario social workers group Desmond began with "Demographics are huge!" and Tessa added "Huge! In Ontario, though! I am not talking though, about [a distant location] versus Canada." They first spoke of their belief that if involved in a mandatory report regarding sexual relations with a client, they did not feel confident that they would receive a just review by the Ontario College of Social Workers and Social Service Workers. Asking about reporting a colleague for an inappropriate relationship, the response from Tessa was "Well, social workers in [this locale] won't have any friends. This is a small community right? It could be your neighbour. It could be your family member." Lisette responded with "People you went to school with in high school. "

The northern Ontario First Nations' group also voiced an opinion on this matter. Believing that the Aboriginal people in that community were "Of course!" treated differently by the police than were non-native people, the nuances of living in a small community were further brought to light. Although they are of an oppressed population, this group felt that their location would impact the treatment they would receive if they became involved in a mandatory report as much as would their cultural background. Many explained that in a rural or isolated community everyone knows everyone else. Stereotypes are more rampant. Not only is the individual victim more easily identified, but so are the individual professionals.

One of the impacts of a small community was noted when Doris added that it "depends on the officer and people involved." Those in the northern groups spoke of the difference they felt because of living in a small community. How a person is treated in her community is historical. In a small community where everyone knows everyone, people of minority status are more frequently watched and more easily policed. People of privileged status are more able to get away with inappropriate behaviours. People who engage in inappropriate or unwanted behaviour may be more readily found out and those who do choose to engage in behaviours, such as entering a sexual relationship with a client, or reporting an incident of sexual relations with a client, are much less likely to be able to hide their actions. Confidentiality is more liable to be compromised. Kevin was referring to how much more likely it was that an Aboriginal individual in their community would be reported as compared to a non-Aboriginal under the same circumstances:

> I grew up here basically my whole life; I left for [a while] and then I came back. The attitudes... it may be a little more covert now because [of] political correctness...but I feel the stereotypes and thoughts and feelings are very much the same...the way an Aboriginal situation is approached and a non-Aboriginal situation is approached...

Carlotta, who had grown up in an even more isolated and northern community spoke of her sister's sexual abuse which, although reported, received no response. She was asked if she thought living in a different location may have impacted the results of the investigation with her sister's abuse. "It would have been different if we had been...where, like here [in the community the focus group was held in] it would have been dealt with, properly, differently, better and more promptly."

Dr. Anderson spoke of issues that might arise as a result of reporting in a rural community:

> Yes, certainly in a rural community it's a smaller group and word gets around. I think there would be less anonymity than there would be in a city than in a closer knit community and probably the chance of it being known by other people is greater and therefore the consequences could be devastating to the family in that area.

Mandatory reporting impacts people differently based on their sexual orientation. When asked if she thought that a specialized or segregated community based, not on locale but on sexual orientation would impact mandatory reporting practices Sarah responded, "No, I don't think it should be based on sexual orientation; same way I don't think it should be based on gender either. It should cut across." Asked if she felt that sexual orientation, such as a lesbian therapist and a lesbian former client living in a small or isolated community, might impact mandatory reporting attitudes Sara replied:

> I think that is the same as any person who is a part of a small subset— whether it is because of religious background or cultural or language, I think it makes it more difficult, I think it makes something 'forever' much more problematic and I have had long conversations with social workers in that regard and they just... it is very hard to date or form relationships because of the crossovers.

This was echoed by many respondents, who again repeated that in small communities the opportunity for boundary crossing was greater, which increased the chances of sexual relations with a former client. Some called for policies that would enable all people to live with minimum interference and John suggested that decisions have to be made as a "sophisticated collective consensus...implemented through deep discussion and reflection."

Mandatory reporting impacts people differently based on their culture.
Issues related to culture are very similar to those of the preceding intersections. Asked about communities that have formed based on their diversity, such as Toronto's "Gay Village" or "Little Italy," I questioned whether loyalty to the community or unquestioningly following mandates would prevail.

While Ngozi believed that those of non-Euro-Western backgrounds would be at greater risk of being reported and feared over reporting, Evelyn told me that "different cultures have a different approach to these issues" which she felt might lead to under reporting. She believed "in one law for all and anyone who lives in Canada is now Canadian and abides by Canadian societal law" and, therefore, she did not support a system that would allow laws to reflect differences. Evelyn believed that what our Euro-Western values might perceive as abusive might be accepted as the norm in other cultures, leaving abuse concealed and unreported by members from within the culture. She voiced the thought that in Canada "we shouldn't differentiate...if we are going to make things equal and the same then we can't start creating differences." Petra suggested that mandatory reporting obligations cannot be implemented in a template fashion and "when one imposes mandatory reporting of any kind there needs to be some thought and some energy put into the ramifications of mandatory reporting."

Dr. Jordan recognized that the background of the reporter would also impact the situation. She suggested that "If the reporting person is of a distinct culture or class or gender [sexual orientation], they could be imposing their own biases in their read of a situation … I mean, it is open to all kinds of biases and inequities." Suzanne of the Southern Ontario social worker's group, speaking of cultural difference, expressed her

thought that the likely impact in some homes if a report was made would put the woman at increased risk because "it will be deemed as it was probably all her fault—because it wasn't *his* fault—he didn't notify anybody about it. Personal business stays in the home."

Dr. Anderson noted that cultural background impacts all aspects of family life, including parenting and domestic relations. He summarized the topic, believing that mandatory reporting protocols are more oppressive to those of marginalized status. He said:

> Right. Right. It's a very great question...if someone's a member of a group they are likely to be reported and treated more harshly and disbelieved more...so, is there a greater impact? Probably so and probably a statistically significant difference I would think.

Discussion continued considering the impact that mandatory reporting has when it intersects with familial issues, questioning whether culture further impacts these outcomes. Factors of parenting and domestic relations were each discussed individually questioning the impact each of these issues has when they intersect with mandatory reporting and cultural diversity forming a three point intersection.

Mandatory reporting as it intersects with parenting style and cultural diversity. Many respondents felt that parenting styles that differed from what is now seen as the norm in Canada might be misunderstood by well intentioned reporters. Pamela noted the shifting of acceptable parenting practices and attitudes stating, "I remember as a child, going to school and having a teacher strap my hand. We don't do that anymore. Similarly, when I was a child, my parents wacked me. Now they do time

out." Dr. Anderson believed that being implicated in a mandatory report would have a significant impact on people of some cultural backgrounds and suggested:

> I think it impacts differently in terms of culturally, for example, if you come from an area where [what Canadian standards determine to be] abuse is the, 'norm'...and then you are charged here, in a sense maybe more easily because you are a visible minority...Then yes it is really going to impact you in many ways. I think it is true to say that if one is a member of a marginalized group in society the chances are greater that you are going to be treated…more poorly, and more poorly, and more poorly.

Elizabeth, who as was noted previously, did not want direct quotes used echoed this idea and spoke of a woman who had come forward to reveal the abuse perpetrated on her by her brother and father. This woman was no longer welcome in her community or her family. No one would speak to her because she broke the silence of abuse. Elizabeth was suggesting that this was a phenomenon unique to women of non Euro-Western cultural backgrounds.

Ngozi related to this intersection of culture and parenting style. She described how she feels when people look at her son. Ngozi fears being the victim of racist stereotypes that will misjudge her family life and her parenting ability resulting in her being wrongly reported as people look at her "black teenage boy."

> Walking down the street...What does the police see? A black gangster! If he is in the mall, what do people see—shop lifter! They can't even babysit because who is going to leave their child with a black boy! The thought of it!

Peter suggested that the non-native population sustains its hegemonic position by depicting Native parenting styles as neglectful. Stating that it is "not just that our current legal standards are not appropriate [but] that in fact they are oppressive," resulting in First Nations' families more readily being identified and punished inappropriately.

168

John was speaking of his experiences with Aboriginal services as he delineated the views:

> The abused child--the reports are made; the social workers are told; and nothing happens and the child is left in that circumstance either because the system isn't sufficiently resourced to respond in time and the child dies or whatever happens … those stories happen or alternatively they intervene and separate the child from the family and the child is worse off in the system than had the kid been left where it was and we've had tens or hundreds of thousands of Aboriginal child protection cases where the children were better off in their poor, denuded family situations than where they ended up.

In applying this knowledge and logic to other cultures that have joined Canadian communities, Pamela was asked to expand on her thought that there may be different standards of parenting or of domestic interactions that might be perceived as abusive by current mainstream Canadian standards but as not abusive by those of other cultures. Her reply was:

> The question is when immigrants come to this country how do we educate them about the social norms in Canada? We have taught a new generation [of Canadian parents] better ways; however, people coming from other countries import with them a different social norm.

Mandatory reporting as it intersects with domestic relations and cultural diversity. Familial norms were another identified area of difference. Some respondents suggested that clashes in culture create problems as the accepted manner of family interactions of some cultures is not seen to be appropriate here. Pamela continuing with the above discussion spoke of this suggesting:

> [People coming from other countries import with them a different social norm] particularly, in my view, in the attitude towards women...people coming to this country where they came from a place where the status of women is very different and they treat their women in ways that we might

find abusive...we need the sensitivity to understand that these people come from different cultures and a different environment where their behaviours are not only acceptable but they're the norm!

Peter, referring to situations of domestic abuse, addressed this with:

If she chooses to be there and she accepts those consequences, what right do we have to intervene? I agree that is a difficulty. That also goes to the whole issue that was being put forth about Sharia law or a Muslim court. Can there be a Muslim alternate, alternative justice system?

Evelyn, alluding to the significance of discrepancies in the definition of abuse, also referred to domestic violence as she explored cultural impacts of mandatory obligations. Stating her belief that domestic violence is more accepted in some cultures she affirmed, "Yes, definitely; and child abuse as well. Yeah. Or is it the norm?" Evelyn, however, insisted that there should only be one set of laws that applies to everyone.

How to best intervene and apply our Euro-Western cultural values to non-Euro-Western or non-mainstream communities was a question that a number of participants raised. Dr. Jordan cautioned that "to mandatorily assume that someone is vulnerable is crossing cultural definitions that we don't have the training to do." Evelyn suggested that "they have their cultural rules...so it makes it really hard to go in and impose Canadian law."

Mandatory reporting as it intersects with school bullying and cultural diversity. While considering the impact of culture on the mandatory reporting protocol, Peter spoke of the impact of culture on school bullying, suggesting that a child who engaged in aggressive behaviour would be treated differently if they were of a less

affluent status or of a subjugated culture. He compared it to zero tolerance, which he said:

> tends to be differentially applied to African Canadian youth and, of course, you know from social work research if you go to Hamilton there is a distinct difference how the school will treat children from affluent and prestigious families versus the children of underclass families even if you are looking at the same behaviours—that's what zero tolerance does. It ends up with something somewhat less than zero tolerance.

Theme 3: Mandatory Reporting is Perceived as Oppressive

When the discussion of mandatory reporting in its many uses was first discussed, many initial responses were similar to that of Petra's. Petra, speaking of elder abuse, said "If it hasn't been [applied] it should be," Petra's justification for this, which speaks for many of the respondents, was that "abuse is such a function of imbalance, people who are abused are usually vulnerable in some way or another and in my world they are very vulnerable." As interviews continued, respondents began to acknowledge the existence of professional power incorporated into mandatory reporting obligations. John noted "our professionals are all charged with enormous power on behalf of the society, I mean we give them permission and...in fact, a funded capacity to intervene in all of our lives." Recognizing the power imbalance and the potential for misuse, Lisette acknowledged, "What we are looking for is, people in power or positions of power not abusing their positions." Jenna saw irony in using mandatory reporting for protection recognizing that, "We say they are the lesser powered person but we are taking even more power away when we say they don't get that choice to make [their own decisions]."

Professional Power Used as a Recursive Social Practice Becomes Oppressive

Respondents began to recognize the unintended backlash of mandatory reporting obligations. They began to question the social constructions of many identified populations and recognized that for many "the values of privacy, autonomy, and independence, run counter to the idea of professional intervention in personal matters" (Harbison, 1999, p. 12) and are more highly valued.

Unanticipated Secondary Consequences of Mandatory Reporting Contribute to Oppression

Mandatory Reporting Legitimates Systemic Oppression. The word vulnerable, although used frequently, clearly did not hold the same meaning for all respondents. In asking respondents to attempt to define the word, the definition of vulnerable shifted from "a vulnerable person is one who is vulnerable to harm" to "... somebody who is at risk of harming themselves or of harming others." Some respondents may have agreed with Toni from the affinity group who defined a vulnerable person as "not living a normal life [of] contributing to society in any way, shape, or form" but more agreed with Dr. Woodcock's suggestion that "…we are all very vulnerable. We are a stroke away." Recognizing that at times we can all assume either role, the disparity between the powerful and the vulnerable lessened. Sarah described this by noting, "social work is a strength-based profession. Sometimes I guess I'm not quite as confident about change as some of my colleagues are, but I think that people are not necessarily vulnerable throughout their life."

The intersection of the mandatory reporting legislations and marginalized status is evident in the histories below of two women who left their homeland and the security of many of their support networks. They brought their children to an unfamiliar new country in order to provide them with better opportunities for their future. The first of these stories belongs to Amira. New to this country, bruised and battered and victimized after an episode of severe domestic violence perpetrated by her husband, Amira described her sense of powerlessness when after undergoing as she described it, "Violence domestic. He abuse me. He do a lot [to] me. He came to my home with my kids, like at night and um, he do a lot, like bad stuff about me," the police came to arrest her as she slept with her children. Her arrest warrant for child abuse was based on her husband's allegations that she had been abusive to him and that the children had witnessed the assault. She spoke of her sense of degradation and humiliation when the policewoman "… not even give me like chance to explain to her to show her my body of what's happened to me."

Her story was not unique. In this second story of an immigrant experience, Ngozi had similar experiences of subjugation as "they already make their judgments... [and] assume I don't even speak a word of English. They patronize me; they make assumptions about my children; about me; about my family." As did many of the women interviewed, especially those in the client focus group, both Amira and Ngozi had come to the attention of the authorities, as implicated in child welfare concerns. Whereas those who were investigated but were white and Western in appearance and presentation reported being angry, as was Kris who said, "I was furious!" the women of visible minority appeared to be saddened but resigned to their experiences.

The question was put forth asking if society has a right to obligate a free, mentally competent individual, even if deemed vulnerable, to relinquish autonomy and accept protection against his or her will. The response was a unanimous "Absolutely not!" Ngozi noted "the women will be vulnerable if we just manage and report everything without consideration," while Doris suggested empowering women with information so that we "give them the information and slowly at their pace give them the empowerment so that they can make the decisions on their own."

Helen from the client group suggested that the individual should have input into decisions that affect them and that mandatory policies should be evaluated "like a jury. Just having objective opinions about what's going on." One concern that arose was the question of whether the vulnerable could recognize their vulnerability and at what point in the process of becoming vulnerable do they also lose the right of autonomy. Jacquie from the client group suggested:

> I think the person that is being abused ... should have a say [and] be more
> involved in the investigation. If...they are abused maybe somebody should
> work with them and say 'okay, this is going on. Do you want to come up
> with a plan to get out of the situation?'

Vivian from the Southern Ontario social workers focus group addressed this when commenting, "But victims sometimes—the whole dynamic of the victim they don't realize that they are the victim," to which Gabrielle replied "Yes, but we are adults and we should have the right to make our own decisions."

Noting the interaction of autonomy and vulnerability as they intersect with power, Dr. Jordan pointed to structural issues that keep sole-support mothers over represented

in child welfare reports. These women, some of whom are escaping violent situations, are most often attempting to enter the workforce. They are sole-supporting, frequently impoverished, and must attain adequate childcare provision. Dr. Jordan, identifying policies that limit the value placed on child rearing, suggested that these policies are a means of appropriating women's autonomy, "So we underpay them and we don't train them properly."

How the Term "Client" is Defined May Legitimate Oppression. In Ontario the social work client retains that status forever so that there is no past client. Even Petra, who was possibly the strongest advocate of mandatory reporting protocols and who initially stated that the limitation was justified because "professional practice is a privilege and not a right," changed her stance when she realized that the ban for Ontario social workers was permanent, and responded, "that's tougher than probably the conventional wisdom of five years, sorry two years... Maybe the alternative is to say, okay five years and we will let everything else go." This forever status has implications that had not been considered by most respondents. As the recognition dawned, many of the respondents were caught off guard. Dr. Woodcock appeared confused and stated, "We always have to protect the client so whether there was legislation or not the uncertainty of whether once a client are they always a client...[but]...we all meet clients *years* later that you can't even remember." Dr. Jordan, who was aware of the relationship ban and the mandatory report obligation, still found the length of time surprising and noted, "Yes, I knew that. I...I don't think I knew anything about the longevity or with the *past* clients...I...that to me, strikes me as absurd." There appeared to be general agreement with her assessment. Lisette saw time as an aspect of power

and felt that it diminished her. Labeling it "Stigmatizing! ...That's just like telling me if I ever need to seek out therapy amongst my peers in [this town] and see a therapist, um, that I am forever going to be viewed as a client." Ngozi, presenting both the client and the professional perspective, emphasized the importance of being able to move beyond the client role. Having been forced to relinquish her professional status when immigrating to Canada, she comforts her own clients that their vulnerability is temporary:

> We felt the pain of client-hood and we felt the pain of being professionals from where we were coming from and now here we were reduced to clients...[but] I tell people it's not forever; it's not written on your forehead ... for clients they need to know it's not going to be forever. So holding it in perpetuity is wrong.

For clients of Ontario social workers, however, Ngozi's statement is not completely accurate because for these clients it is forever.

As the conversations continued and the recognition that retaining the client title indefinitely also suggested that vulnerability co-existed, no one any longer was prepared to accept vulnerability as a permanent condition, noting that while "an argument could be made that the vulnerability exists forever, [perceiving a client as permanently vulnerable]...I think that the doctors and the lawyers and the social workers will say 'hell, no that's too much of a restriction'." Tessa saw it as oppressive and felt that it was "creating an elite category and a not so elite [who] can't mingle with our crew anymore because you've gotten help. That's the message I think it is saying."

Even those involved in the professional social work regulatory body found the time frames confusing. Dr. Anderson recognized in response to his own question, "What about the statue of limitations?" that there was not one and sighed, "Oh, zero

176

tolerance—zero...that's another crop of problems." Katy in the First Nations' group objected to the term client being applied forever. She suggested that "everybody grows and changes...so to say 20, 30 years down the road that they are as vulnerable as they were when they were 16 is kind of a tough thing to say." This was a typical response suggesting that since people are not static, responsive policies cannot be either.

John felt that "we are not going to be able to fashion a test that says the vulnerability is gone so we may as well put a time limit on it...a recognition that stuff happens between people and that people get well!" Dr. Jordan who was shocked by the time restriction went on to suggest:

> I mean they're not vulnerable! I mean the whole 'always vulnerable,' that's a relationship that is locked in time. There's no growth, there's no evolution, it doesn't admit to any kind of change... Well if you are no longer a client the answer is it's your choice. Two consenting adults! I'd go back to what Trudeau said. We don't have anything to do in the nation's bedrooms. I can't imagine!

Theme 4: Mandatory Reporting is Perceived as Morally and Ethically Unsound

Personal and Professional Ethics

With a great deal of uncertainty as to what needs to be reported or what happens after a mandatory report is made, concern regarding the possible reverberations emanating from reporting was raised. Delaney in the affinity focus group expressed this concern and questioned "what repercussions are there to the family?" Respondents asked about potential negative impacts to anyone who was the subject of a mandatory report. They expressed concern in trusting their judgment to determine reportable situations or in trusting the system to have a positive impact after a report was made. As

177

Monique of the Southern Ontario professional focus group noted, "I think it is a difficult situation to report. You see a child with bruises--maybe the child fell down. It is difficult initiating maybe getting someone in trouble."

Ngozi and Helen were two of the many respondents who expressed hesitancy in reporting anything other than blatant cases of child abuse. Both suggested that they prefer to not get involved, citing conflicting ethical values as the source of their concern. Conflicting issues of client autonomy and the right to self-determine clashing with the use of the professional power provided by mandatory reports to influence client behaviour were frequently mentioned. Elizabeth also spoke of her reluctance to submit a report. She discussed power imbalances and the lack of autonomy inherent in the mandatory reporting policy stance. She initially suggested that mandatory reporting obligations pitted her against her client, "triangulating" her between the client and her professional responsibilities where she felt conflicted when forced to "tattle."

John suggested that while mandatory reporting protocols may create increased risk for some, this may be a necessary cost for the benefit of protection. As he explained:

> I think it will cause harm in some instances, but overall it is like
> vaccinations...It's going to kill X number of people. We are sentencing
> them to death, but in the overall benefit basis we're saying that instead of
> 30 to 50 people dying...we are going to lose two.

Elizabeth, like others, expressed that she felt conflicted when obligated to make a mandatory report that interfered with client autonomy and self-determination. She was not convinced that it is most often in the client's best interests. Recognizing the importance of client confidentiality, Isla of the affinity group confronted this issue. She

wondered how a professional can be obligated to report an adult's confidential information against their wishes. She suggested that this obligation would limit what could be said in a therapeutic session "because...I mean people have to be able to come to you and let it all out because otherwise, you can't help them if they can't tell you."

Many respondents identified their own ambivalence and lack of conviction as their reason for not reporting. Feeling that mandatory reporting is inadequate in providing professional support and alternatives, the professional respondents mandated to report suggested that they often ignore or renege on the obligation. Helen from the client group was also a member of a regulated profession and when faced with a reportable action "decided not to report because... it was just too much stress... and I just didn't want to get involved." Nancy, not a regulated professional and therefore, not obligated to report, told of her experience of reporting a neighbour for suspected child abuse and how "at the time, um, it felt okay until the mother was in a social group with me and [then] I felt guilty." Many respondents suggested that they feared consequences or retaliation and, as such, preferred to not report. Stress of reporting was cited as a reason to not report in many of the interviews. Monique echoed the concerns of many when she added that at her place of work, colleagues question "whether or not to report. I think some...are reluctant to get involved. They are reluctant to report. They think, 'Oh wow, I don't know if I should get involved. And who do we tell?'" A lack of information, lack of clarity, and lack of supportive feedback did little to alleviate the stress of reporting.

Both Pamela and Dr. Jordan expressed similar fears of being forced into situations that would compromise their personal values and that might require them to act in ways that conflict with their ethical and moral beliefs. Dr. Jordan articulated her fear of the impact of rigid policies on structural issues such as oppression, poverty, and human rights. She cautioned: "I'm always wary of anything that is mandatory because it is not relative to the context or the culture group or the age group." She believed that mandatory reporting policies tend to be regressive, impacting those already marginalized more significantly than they impact others. Dr. Anderson was also concerned and commented on the rigid nature of mandatory regulations. He expressed the view that they needed to be nuanced rather than applied in template fashion.

Mandatory Reporting and Confidentiality and Self-determination

Confidentiality was seen as integral component to a trusting therapeutic relationship and concurrently, to self-determination. Dr. Forman described an incident that she did not report involving a relationship between a regulated professional and a client. Even though she recognized that the incident was possibly inappropriate she saw no reason to become involved and did not feel it would be ethical to reveal their relationship. She added that her experience showed that in small communities unreported sexual relationships were not uncommon. Tessa of the northern Ontario social workers supported this. She said that in an area where over time everyone knows everyone else, if northern social workers reported colleagues they would no longer be welcome in their community. She furthermore pointed out the problem that arises when the same worker in a small community serves over time in multiple professional roles further limiting their actions. She noted that:

[another problem] of living in the north, is that I have served, I have provided service to the individual in different ... working at the Ministry and working here ... so yeah you get that, so they identify you in one way and now you are providing a different service.

A number of respondents indicated that they were aware of social worker-client relationships that occurred beginning after the therapeutic relationship had ended and that in fact had gone on to be successful marriages. Because this is a violation of the professional code, however, the views of someone who has engaged in this sort of relationship are difficult to access. The interview with Alice, a respondent who was especially selected because of her unique past experience was therefore, of special interest. Alice's case was comparable, but her relationship occurred concurrent to the professional relationship making it inappropriate in any case. Yet her story is instructive as the unique respondent voice of the client in such a relationship. As noted, Alice entered into a sexual relationship that co-existed with the therapeutic relationship. When the professional therapist "Jim" ended the sexual relationship, her counselling was also terminated. Alice told me, "Jim ended it abruptly and I was devastated and couldn't understand what happened." Because this relationship occurred prior to the time that relevant legislation came into effect there is no recourse at that time. Alice's advocacy efforts, however, does appear to have in part provided the impetus for an awareness of the need to consider prohibition for sexual relations with a client. Alice described the confusion she went through:

> He was very seductive and we went out for dinner; we went out for coffee, we went shopping...and I was still paying for this. I had no voice. I had no self esteem... And then he decided that he would have to end it because he was [married and] a man of the cloth and clergy and...It became a sudden abrupt stop and I was just shocked.

Alice had been coerced. Jim convinced her that this relationship was divine intervention. Although she consented she came to recognize that this relationship was inappropriate and totally Jim's responsibility. When she understood this, she wanted Jim held accountable for his behaviour. Since then, she has dedicated many years to advocating for legislation to hold predators accountable when taking advantage of vulnerable individuals and to provide avenues of recourse for those who are victimized. And yet when asked her views on mandatory reporting of sexual relations between a regulated professional and a client she felt that these obligations are unethical and intrusive firstly, "because [at the time] I didn't think there was anything wrong," and, secondly, because all she wanted at that time was to be heard. Her greatest fear during the time of the experience was that her own privacy and that of her family would be compromised if the abuser was punished. Even with guarantees of confidentiality she knew that, especially in her small community, there was a great chance that her identity would become evident. Although she wanted serious consequences for Jim, she feared personal retribution.

Asked her current views on a mandatory report in a situation such as hers and her reply was, "I would say it's not my business … I would think that is up to them as consenting adults unless I really ... thought this person was [incompetent and] at risk or in danger." When asked how she would respond to someone who became involved in a relationship with the therapist after the professional relationship had been over for what she determined was an appropriate length of time her response was:

> I guess the first thing that comes to mind is...why am I making this report if
> they are both consenting and they are fine and they are healthy and they
> didn't have the client-counsellor relationship anymore?

I mean it would be—to my way of thinking...the purpose of the mandatory report would be to keep track of perpetrators and if there is not a perpetrator...if that is not a risk, and the client is not a danger, then what would be the point?

Alice's thoughts reflected the thinking of many of the respondents. Fear that fulfilling the mandatory obligation may be more harmful than beneficial to the one who was supposedly being protected made respondents question the ethics of reporting and reluctant to submit a mandatory report. Trying to balance responsibility to the client with personal liability emerged as incongruous for these respondents and for many it was hard to reconcile which was the right course to follow. Many expressed feeling conflicted in deciding whether it was more important to only report when confident of the beneficence of the result, or to choose to not think too much of the issues, but rather, to follow the legislative mandate even when not confident that the benefits would outweigh the damage.

Suzanne, a Southern Ontario social worker, reflected this concern. She admitted her fear and the ethical dilemma she faced between her own desire to avoid conflict and her obligation to fulfill a mandatory report. While recognizing her desire to protect others it was her fear of the negative consequences that she might personally incur if she were to ignore a potential reporting obligation that she said would motivate her to submit a report. Citing her suspicion that she could be fined or disciplined by the governing college if she refrained from submitting a report, even though she admitted her reluctance to become involved, she expressed her fear that she risked over-reporting because, "at the same time you're always better off reporting more than less too because there are consequences for not reporting...where do you draw the line where you report or you don't?" Respondents, once they made the connection, found it ironic

that while sexual relations with a client, current or former is not a criminal act, but rather one of professional misconduct, failure to report is a provincial offense with significant legal consequences. This means that the one who does not report could be consequenced more severely than the one who engages in the relationship.

Universality or Cultural Relativism

The person who lives on the margins of society must adapt or consciously confront the many stigmas conferred upon them by essentializing eyes and racist views. Because of oppressive attitudes Ngozi, a social work professional, felt that she was situated, "in many ways…in the middle in some; but in a lot of areas I am on the periphery, but in terms of oppression, I know where I sit." When displaced through emigration, the culturally accepted roles of woman, wife, and mother are often challenged. Amira, a recent immigrant to Canada experienced conflicting values and although authorities were alerted, not by a mandatory report but rather by her vindictive husband, the resulting investigation followed the same course.

Amira came to this focus group from the woman's shelter where she was presently residing. She described her experience of the investigation in a way that illustrates the conflicting ethical values. From her homeland, she was terrified at the thought of contact with the police and did not feel that a mandatory report would benefit her situation. Amira comes from a patriarchal culture that suggests that the man owns his wife and children. She would not speak out in her own defense for fear of further reprisals. In theory, our provincial legal system attempts to be egalitarian and not automatically confer traditional gender-based roles to domestic violence. They accept

184

allegations of abuse from both women and men. They apply the law and use the legal system appropriately. Her husband, however, not only believes he has the right to abuse his family and decide where his wife and children shall live and what financial support they will get, he has the support of his cultural community in carrying out this belief. Furthermore, he feels justified in treating Amira like chattel. Amira, who noted that she has no other source of income, suggested that her subservient roles may have been tempered by extended family in her homeland, but here she has no other family support system.

Amira explained to the focus group that after suffering a beating by her husband, she went to sleep and he left the home. Her husband, however, went to the police station where he reported that she had assaulted him. The authorities, legislated by the child welfare regulations, respond to child abuse allegations in the same way whether the report is made by a concerned individual or if a mandatory report is made by a professional. While she lay asleep in bed with her four children, the police arrived, arrested Amira and took her, clothed in pajamas, to jail where she remained for a week until the allegations were judged to be false and all charges were dropped. Respondents in Amira's group spoke about their conflicted views on reporting cases of domestic violence even with a child witness in situations similar to Amira's. They questioned the ethicality of submitting a report in a case where the report would add to the indignity and punitive response that women such as Amira had already endured.

Ngozi understood a reaction such as that of Amira's and expressed the abject emptiness and terror that a failed relationship holds when you do not have the support of family or community and you are in an unfamiliar culture:

185

The most scary place and time in a woman's life is that point where you leave and all of a sudden you're like groping, you're like drowning, the security of being in this relationship, of being in this room, of having this family and having this big house and having this person provide, is taken away from you.

Mandatory Reporting and Empowerment

Amira continued her narrative trying to explain her struggle to balance the North American emphasis on individuality and empowerment while simultaneously trying to find her voice within the collectivist rights of her cultural role. In her culture she is expected to be wife, mother, and silent. The evolution of her Middle Eastern value system as it shifts to a more Euro-Western view creates conflict. As she becomes empowered she recognizes that she does not have to continue to be a "good" wife and mother if that also means she has to accept abuse. She wants to make changes in her own time and without losing her community's acceptance. A mandatory report would not assist her through this process. Honouring her story and respecting the extreme courage it took for her to speak out, Amira is given the opportunity here to be heard in her own voice:

> But, you know what? I left my home now because I can't take it anymore. I don't like to lose myself. I don't like to back jail. I don't like to lose my older [eldest]. So that's why I left them, peace so at least now they take lessons how to respect me. I just...they don't respect me because he's always washing brain to them. Washing brain; washing brain; washing brain.

> Because it is my fault because I am always no say [remaining silent]. Nothings. I am never talk. I never complains. I never do report. I know that that is my fault. Because always, you know, I love my kids so I am always work to my kids. My problem is I never talk, I never complains, I never report—but look now—I am the loser.

Attempting to empower Amira by reporting under the auspices of the child welfare legislation or other legislation that attempts to protect women from abuse would neither benefit Amira nor would it be a welcome intrusion. She would see it as further silencing her and as impeding her right to make choices for herself and her children. She has a role that she values in her community and that does not include individualism or competitiveness (Herberg, 1993; Pack-Brown & Williams, 2003; Briskman & Noble as cited in Pease & Fook, 1999; Callahan & Swift as cited in Westhues, 2006). Many interview participants used phrases like "one law for all" or alternatively, "we can't impose Canadian law," and adopted the view that equality cannot rise out of difference in treatment.

Although Amira does not want the situation to continue, she would accept whatever she had to endure so that her children retain their community status and avoid being disenfranchised. Respondents felt that because of the negative impact that a mandatory report would have on these situations they would become complicit in the abuse if they were to intervene by reporting. In cases where cultural diversity was relevant, respondents came to view mandatory reporting as an element of social control.

The Negative Impact of Mandatory Reporting Increases with the Number of Oppressive Intersections

Further complexities related to mandatory reporting obligations were noted. Carlotta, who spoke earlier of her sister's sexual abuse, noted the impact of a number of oppressions. When her sister's abuse was reported nothing was done. This was due, in

part, because in a small and isolated Ontario community where everyone knows everyone else no one wanted to punish an abuser who was their friend and neighbour. Carlotta experienced a similar reaction when attempting to leave her abusive husband. "I called the cops a few times and they never did anything. They said 'I know where he is coming from.' 'Well what about me?' I said. 'What about me and the safety of my two kids?'...and still they didn't do anything.'"

Doris of the First Nations' group pointed out that no matter how dysfunctional the family may appear, family ties are very strong when threatened and "even in Carlotta's situation if you bring someone in...I know my family, we can be fighting like crazy but you bring in an outside person and they are going to close in," suggesting that any attempts to intervene would be rebuffed and suggestions of abuse would be denied to avoid creating discord in the community. Both Doris and Carlotta note that mandatory reports that are meant to accommodate any and all eventualities will not succeed within a community that is determined to use their own discretionary approaches to deal with misdemeanors and decide by them self as Ngozi said "what gets reported, what gets pathologized."

Robert, a recent immigrant to Canada, presented a different perspective and spoke from his personal experience which was different than that of the women. He spoke as a male professional, in a cosmopolitan area. Recognizing the intersectionality of female gender, cultural beliefs, and religious morés, he suggested that immigrants come to Canada because they want a new life and so they are obligated to follow the laws of the land:

So she gets punished. You are not in your native land. So let's say you are in Ontario and the man is abusing her because the repair man came to the house. As a social worker you are allowed to report it *because you don't want to be back home*! You have to obey the laws of the land you live in, right? So I would report it myself.

Ngozi described the cumulative effects of intersectionality as she experiences them. As an immigrant woman and mother of a visible minority child she spoke of her child coming to the attention of child welfare authorities, not because he was showing signs of increased risk of abuse as was reported, but rather because as a black child who "was doing too well...he didn't fit the stereotype" and it was assumed that he was being abused to force his academic achievements. When his success was not acknowledged he spoke out to his teacher. She then misinterpreted his accomplishments and his outspokenness as indicative of the extreme pressure and aggression that she assumed he was experiencing in the home that forced him to be angry and fear failure. The teacher then reported this terrified family, who were still new to the country, to the local child welfare agency and they were obligated to undergo a family investigation that both frightened and humiliated them.

Amira was a victim of multiple intersections of oppression. The cumulative effect of this intersectionality is apparent as she completes her story of the severe abuse that she had endured and her ejection from her home with only two of her four children. She told the group:

My problem. My always problem my culture. Always my culture. The culture. The culture...because you know what? Like, um, I don't like to do something bad for him. He's still like my kid's dad. Look what he do [to] me but I don't like to do same, but my kids, like my daughter she's always, please mommy, like, leave him alone like, don't. I...promise me—don't put him in the jail. Promise me—he do like lot [to] me but my children...My four

189

children. That's why I not do anythings for him. That's why I left—peace. Look, he's in my home. He's...Oh my gosh!

Amira explained that for the sake of her children and also because her husband, on disability benefits, was the sole income support, she could not afford to have him charged criminally. The social welfare system would not be sufficient and so she is again oppressed and further under the control of the system. In addition, if a mandatory report was submitted questioning either the parenting or the domestic violence occurring in this home, the fact that her husband had already had her jailed based on the assault he said she had inflicted upon him, it is likely that Amira would lose access to her children and her home completely. This would happen through the auspices of the child welfare legislation. As previously noted, what would happen through the unofficial community channels as a result of her speaking out against her husband, in a culture where men have custody of the children, would likely be far worse.

In the northern focus group Carlotta again spoke of her Native community and the cumulative impacts of intersectionality. She reiterated that mandatory reporting would further oppress her and would not be able to account for her reality nor ensure her safety. As she explained, after asking the rhetorical question:

> Why do you put up with him? Like I do try to leave him but he keeps on threatening and for...for me, it was hard to leave because what if he does kill himself, his family is going to blame me—that's how I was thinking.

In her small and isolated community she had no support and no resources and so, afraid of being ostracized by the community or experiencing vengeful retribution, she stayed with a very physically and emotionally abusive partner until she was able to gather the financial resources to leave the community completely.

Whether mandatory reporting was designed to protect and benefit the less powerful in the situation, or whether it was meant to appease the public by having a mechanism in place that suggested that as a society we protect the vulnerable, the general view by the end of the interview processes appeared to be well represented in the following comment. Speaking of the impact of reporting a colleague who may be employed in the same small community or in a contained work environment such as a social service agency, Kevin noted that:

> The minute you report you are going to fragment that chain easily, right? Sides will be taken, there will be those going to people saying, I can't believe she did this, I can't believe he did it either. And then you have a poison environment. Watch a workplace crumble over something...cause a deterioration, a deterioration of the team work because the trust issues.

Ultimately, most respondents came to the conclusion that rules had to be sensitive to the culture or setting and yet most, such as Ngozi, did not want to give up on their hopes for building a caring community, stating that we cannot allow abuse to be "open to everyone's individual interpretation because we can't also...we would have anarchy." As such, many stated that they found themselves in what was often referred to by respondents as a conundrum; they want to be accepting of difference but not condone abuse. The common standpoint as described by Evelyn was:

> You are welcome to practice religion and culture but you are not allowed to hurt another human being because that is not what we do here. You have come here to embrace the benefits and you have come here for the values we hold in Canada. Well, here is what we do. And we *don't* understand. No exception. We *don't understand* the idea that you are allowed to hurt somebody else.

Mandatory Reporting and Blowing the Whistle

Respondents frequently drew the comparison between mandatory reporting and whistleblowing. Cole of the northern Ontario First Nations' group expressed concern that by reporting a sexual relationship with a former client when there was no complainant, he was betraying both the client and the professional. He suggested that before reporting:

> You would have to ask yourself...what are the consequences...of mandatory reporting...you are going to disrupt this [professional and client's] family...[and] do more harm than good....what are going to be the consequences of your actions?...that is a very difficult ethical decision.

He and the others interviewed were not satisfied with the response that they were "just doing their job." Many compared it to snitching or tattling and felt that it was not something they were comfortable with. Pamela suggested that reporting is not a simple process and that in her experience:

> People are very reluctant to be whistleblowers and this is part of the whole whistle blowing culture and especially if you have any concerns about...are you reporting anonymously, uh, will this—uh, what will, what will you have to do after the report, how would this affect your relationship with others. I mean it is quite a complex logic journey that I think everybody would go through before they would make a report.

Regulating Moral Behaviour for the State

Some respondents began to question the true intent of mandatory reporting obligations wondering as did Tessa and Lisette of the northern Ontario social workers who wondered if mandatory reporting was more for the protection of the reporter than the alleged victim. John suggested:

> We are voting for our governments to be powerless because we are allowing corporations and international capital to convince us that social

investment is not cost effective ...so what they do is they pass laws that are symbolic and restrictive and repressive.

Dr. Jordan, speaking of the need to create "humane and socially just communities," believed that mandatory reporting protocols were designed more to regulate the behaviours of the oppressed and keep them under surveillance. She said "well, my first observation would be, I guess, one of real caution; many of the problems are structural." Linda of the northern focus group questioned both the value and the intent of mandatory reporting obligations saying:

> It is totally litigious. We are completing all these reports to say, 'Oh yeah we did something about that—we reported it' so that if it ever comes back to a legal situation we can say, 'Oh no, we reported it'... But nothing's coming from it.

Questioned regarding their view of the ability of human rights and mandatory reporting obligations to coexist, many of the respondents again perceived an inherent conflict. Lisette of the northern Ontario social workers' focus group noted, "Like you couldn't say that the Charter in any way proposes that mandatory reporting is acceptable. But it happens. For me, for me there is huge conflict." Kevin of the northern Ontario First Nations' focus group asked, "What entity government-wise is going to decide okay, the Charter covers you because of the unalienable rights, but because you have this problem the Charter doesn't cover you? You know, it's kind of like a...I guess to not complicate the question, yeah there is definitely a conflict between the Charter and at times what we report." Many referred to the juxtapositioning of "mandatory reporting" and "the Charter of Rights and Freedoms" as an oxymoron, a contradiction of terms that, as Tessa suggested, "people say to make themselves feel better about what

is really happening; about what is really going on. [They say] 'We have a Charter of Rights and Freedoms in Canada' but, do we really?"

Many other respondents also questioned how mandatory reporting obligations could respectfully coexist with personal rights of the reported. Discrepancies were noted by all respondents, including those like John who approached it from a legal perspective:

> They [mandatory reporting obligations] are an infringement of the right to privacy and confidentiality and to all of that stuff, but 'Item I' of our Charter, which says that all of our fundamental rights that are guaranteed in this Charter are subject to such limitations as can be justified in a free and democratic society … the collectivity is allowed to say yes, you have a right to freedom of expression, but it only goes so far.

Elizabeth suggested that mandatory reporting has a role in maintaining order and is in direct contradiction of the Charter of Rights and Freedoms. She spoke of the difficulty in balancing where one person's rights and responsibilities begin, and the other's ends. Dworkin tells us that much of constitutional law consists of reconciling these two ideas. The discussion that ensued in the interviews with respondents reflected what Dworkin (1994, p. 150) states are "two sometimes competing traditions, both of which are part of America's political heritage. The first is the tradition of personal freedoms. The second assigns government responsibility for guarding the public moral space in which all citizens live." Lisette related mandatory reporting and moral regulation to the concept of surveillance suggested that she felt that the state was increasingly regulating behaviour:

> I guess...it keeps expanding, too—it just keeps expanding. And I am going to take the smoking issue....it is also controlling. You're wearing a seat

194

belt, you're not allowed to smoke anywhere; you may not be allowed to smoke in the park; like it really is pervasive.

As the interviews progressed, many respondents made this similar comparison, indicating their feelings of being watched and feeling distrusted. This was a topic that frequently engendered enlivened discussions and strong emotions from many of the respondents, especially in the focus groups, with phrases such as the following used as analogous descriptors to describe their view of this policy: "Reporting communists and on red alert," "huge issue of Big Brother … the Big Brother thing, it's kind of like, at what point are we going to, are they going to try to control everything we talk about at work?," "it's Big Brother, it's a bad thing ... it's too restrictive, too paternalistic, too draconian," "it's a witch hunt," and lastly "like a sledgehammer killing a fly." Many were even stronger in their language, using phrases such as "This reeks of totalitarianism, as well and fascism," "Advocacy versus policing," "The Stalinist impulse," "People are very reluctant to be whistleblowers," "Neo-fascist tendencies," "McCarthyism—perfect example, McCarthyism" to describe their feelings about being used as a cog in the social mechanism.

Questioning the true reason for mandatory reporting protocols, Lisette of the northern focus group suggested "I think that speaks to the bigger problem though, eh? Are we not just trying to do mandatory reporting to deal with the social problems that we really don't know what to do with? Is that not what this is all about?" With disdain at being implicated in the role of policing, one respondent raised a different aspect of concern. Stating her belief that this issue of moral regulation would succeed as a Charter challenge, Dr. Jordan suggested, "There is no respect for human rights … Yeah, well, I think that has to be taken to court. Send [lawyers] to court on that one!"

Theme 5: A Call for Multidisciplinary Review and Input Prior to New

Implementations

Uncertain that mandatory reporting protocols were fair, effective, or equitable, respondents spoke of the need for public debate and assessment suggesting that mandatory reporting was being applied as "a knee-jerk reaction. So many policies get decided because they are the flavour of the day and [not thought] through." Dr. Anderson, when asked if he saw these policies as presently implemented as being beneficial, equitable, or fair responded that these policies can be misused:

> Fair? It's complicated. It's fair if it is self-evident and we are sure of what's, you know, happening, so to speak. It's less fair if we are reporting something we are not sure of and the consequences are going to hurt the family, hurt the group...If it is used vindictively that way, it can be misused of course, and that is a huge problem.

Although many respondents had initially approached the topic of mandatory reporting obligations with limited opinions by the end of the interviews most had final comments and thoughts that they wanted to interject. Sarah noted that "anything that is mandated has areas of problems. I can't think of any piece of legislation that is wonderful. Anytime you enact something you will find cases that don't fit into the mold." Jason questioned the justification for the ban on sexual relations with a client asking if it was based on "professional organizations trying not to open themselves up to law cases and financial retribution … who's actually dictating the fact that we need these mandatory [reports] between professionals?" The group as a whole was indignant at the thought that they could never regain their full autonomy in relation to their therapist. Laura said "yeah, I think you should have your own choice" and received a chorus of agreement.

As the respondents found their collective voice on the topic of mandatory reporting, they had thoughts that they wanted presented to policy makers. Six topic areas surfaced. All six of these topic areas had been touched on previously in the interviews, but were raised again spontaneously by respondents as a further call for public input and debate when developing social welfare programs. These topic areas will be discussed under the categories of:

- Professional discretion
- Client discretion
- Education and resources
- Public consultation
- Checks and balances
- Closing the gaps and strengthening the system

Professional Discretion

Many respondents suggested that professionals should not be faced with mandatory reporting requirements but rather, should be allowed to have discretion in accordance with their experience and expertise. Monique, in the southern group spoke of her belief that the policies should "be revised. We should be able to use our own judgment." Nellie of the same group, questioned why we need "mandatory reporting [that] takes away professional discretion." Wanting the professional status attained through education and experience to have a bearing, she said "I think professional discretion has to be based on knowledge and education. We all have to have accountability. We all have to be educated." She felt that lack of recognition of the professional designation was reflected in a disrespectful attitude towards the professional.

A number of professionals spoke of feeling powerless to intervene effectively when faced with a mandatory reporting obligation. Jenna, Lisette, and Harriet of the northern group discussed the fact that mandatory reporting obligations had lost their "original intent" because although "mandatory reporting was really to help people...now it has become a legal system and you have to protect yourself. It was supposed to protect vulnerable children." Noting the manner in which new mandatory reporting obligations have been applied, they said, "It has been switched to 'now we use it to protect ourselves because we have to'." Harriet demonstrated the futility she felt when making a report by throwing her hands in the air helplessly saying "It's out of my hands. I have done what I had to do."

John addressed the lack of discretionary power that the professional holds as well as the balance that he believes must be found. Expressing his view that social policies must find a balance that allow for discretion, he described his own experience establishing legislation and described his process: "What we looked for was the minimum level of intervention that would protect [society and] provide the greatest level of protection for the confidentiality and human rights of the [individual] concerned." Saying that policies can only be guidelines and need the flexibility of discretionary input to give them meaning, he concluded the discussion with "mandatory reporting is neither a good nor a bad thing. It simply is a thing." As noted by Dr. Woodcock, it's "too easy to say [mandatory reporting] is the solution to everything ... it's naïve to say it's cut and dry... [you realize that] you have made the decision lots of time not to report and would society hold you responsible?"

When asked what she would consider prior to making a mandatory report, Dr. Jordan used the example of an illicit relationship between a client and their past social worker and replied that if she were a social worker and became aware of it she would not, without the client's approval, make a report. Suggesting that she would be in violation of the legislation she declared "I would not do it...to report them would be to violate the confidentiality between us. You could not mandate me to report!" This raised the question of what value a legislation carries if it is not carried out as intended.

Pamela advocated for a voluntary as opposed to mandatory system, which would necessitate active involvement by the reporter. Believing that these issues are more responsive to "a voluntary reporting mechanism," where they can be "investigated by the justice system," she stated that she did not have the confidence, using elder abuse as her example, that "mandatory reporting is necessarily going to be effective—certainly the senior isn't empowered to make the call if they are the one being abused—so it's got to be somebody on the outside." Like others, she appreciated the opportunity and the venue to make a report in order to intervene on behalf of a victim, but she felt it would be detrimental to the process if this obligation was made mandatory.

Client Discretion

Some, such as Helen from the client group, suggested that individuals should have input into decisions that affect them. Helen felt that mandatory policies should be evaluated "like a jury. Just having objective opinions about what's going on." In response, Jacquie then made a recommendation that truly evidenced the shift in

thinking that she had gone through throughout the interview process. She was at this point describing a flexible and responsive system:

> I think the person that is being abused or whatever should have a say in...the investigation—they should be more involved in the investigation. If it does come out that they are abused maybe somebody should work with them and say 'okay, this is going on. Do you want to come up with a plan to get out of the situation?' Or [to] the elderly that is being abused—'do you feel you are being abused in this situation?'

Many of the respondents who had experienced domestic violence felt that having someone make a report on their behalf would increase their credibility. Comments such as: "I would have liked somebody to do it, because then he [her abuser] would think 'it's not just her saying it. It's somebody else saying it and [therefore] maybe it is true,'" or "I think it takes the monkey off your back," suggested that this population doubted their own judgment or felt that others questioned their veracity. Having someone else make a report would lend credence to their allegations.

Evelyn felt that client input would be helpful in evaluating this policy and in designing effective and relevant policies. She recommended talking to people "who have already experienced it … who are willing to talk about their personal situation … we have to talk about real things with people who have experienced it. There is nothing like firsthand experience." She also felt that the rigid stance that is an attribute of mandatory policies does not allow for the flexibility required in a responsive community. The notion of mandatory policies being an overreaction to social issues was raised when she made the comment that compared it to a sledgehammer killing a fly. Evelyn continued by saying "I am a believer in the real world, so if you talk to real people and understand what the real issues are then you will create real rules that apply."

Education and Resources

As interviews came to a conclusion respondents suggested that they wanted "a flexible version of mandatory reporting ... that … open[s] doors for people" rather than being an end in itself. Many respondents agreed that they would like to see their legislative college take a leadership role in providing interactive consultation and education. Doris requested guidance from the college adding laughingly that the connection she has with her college at present extends to "I send my cheque in!" Kevin joined in with "and I get their newsletter!" Respondents wanted to be assured that a mandated report was going to be a benefit to the client rather than causing them to "suffer all the negative connotations about that report." There was a call for follow-up information after a report was made. Interview participants in the social work groups were most vocal about this and felt that follow-up information would provide them with the reassurance of the benefits of their reports. Tessa identified this:

> We need to look at if there is going to be some kind of follow up. If there is going to be solutions, to the reporting … like if there is a set, clear, this-is-what-is-going-to-happen-when-you-report and this-is-how-it-is-going-to-help. Then it is fine to have reporting. But if we don't have a plan in place after the report goes in, then what's the point?

Some felt that without this proper follow-up there was no reason to report as the following discussion amongst the northern Ontario Social Workers indicates:

"It's like a hole, like a black hole. You might as well just take your reports and put them into a black hole." "We are completing all these reports to say 'oh, yeah, we did something about that'—we reported it so that if it ever comes back to a legal situation we can say, 'oh no, we reported it.'" Linda suggested that, "Yeah, all we are doing is paperwork." Cally followed with "you know we assess, assess, assess, but if there is

nothing beyond that, no treatment in place, no program in place or plan after. What's the point? You know?"

Elizabeth also complained of the lack of resources to justify mandatory reports. She suggested that if all was as it should be, there would not be a need for mandatory reporting as professionals would be "in there doing prevention, prevention, prevention." Elizabeth stated her preference of an increase in the number of services available so that the mandatory reporting of issues that she suspected were often structurally based, would be less necessary. She expressed her desire for mandatory reporting to signal the implementation of a "cascade of services" rather than an investigation which then becomes the conclusion of the intervention. Dr. Woodcock, too, believed that "it is society's responsibility, if it makes laws … that it provides for the resources and services … needed to fill them out."

Public Consultation

Many respondents recognized their own lack of awareness and suggested that there was a need for more public input into policy decisions. Pamela suggested:

> The more you can involve the public so that they can understand what the intent and the purpose is the better you are. I think this can be college led, but certainly, if the college does not want to lead it, it can be a group of informed citizens that can lead the discussion or raise these kinds of issues, or the media can, but they shouldn't be partisan issues in my view because while each political party may have their own values and philosophy, the one thing they will agree on is that there is a need for government to take some action in some way to attempt to protect the vulnerable so if everyone agrees on that then it is a question of degree and how you are going to do it.

Checks and Balances

Interview participants began to initiate conversations addressing the secondary impacts. The client focus group also voiced these same concerns. Helen, assuming the victim in domestic violence situations to be female, wanted to provide her a voice and suggested:

> Just that, if the person is able to defend themselves they should have the opportunity to be able to say if they want to stay in the situation or not instead of just assuming that because the call was made, that they have to be taken away from that situation.

This comment was responded to by Jason who noted that "there needs to be some better checks and balances and a more in-depth investigation before they start taking people away from their house." Jennifer agreed and added "I was just going to say...You need to make the person part of the treatment plan and um, there's more repercussions from taking elderly people out of their homes than children." Suzanne in the southern social workers group was also searching for a balance when she said to one of the group members:

> Gabrielle, you made a lot of points about human rights and what people are allowed to do in their life, and mandatory reporting takes away from that so how do we find a balance between people being able to make their own choices and … having to report things that may not need to be reported?

Vivian expressed that she has had past experiences where she would have liked the opportunity to report. She noted that there was "no place to go [and] even if you did report something it wasn't taken seriously where now there is at least a vehicle and yeah, the system isn't perfect and yeah the idea is that we want the better good." One respondent spoke of both benefits and problems of mandatory reporting at the same

time saying it is "a blunt instrument. It doesn't seem to solve a whole lot … although at times you really need a blunt instrument and in those instances I am very, very glad it exists." But then she continued with what she perceived as a negative, suggesting that "it lets people off the hook without a need to find better services. It lets them off the hook with a false certitude."

Pamela acknowledged that many mandatory reporting obligations are generated by the government. Although the government allows flexibility in how these policies are enacted, government bodies will always supervise colleges to be assured that they are serving the public interest. In the absence of less restrictive policies "government uses the legislative and regulatory powers which are often seen as cannons or big hammers for small issues because those are the only tools they have."

Evelyn, who was a strong advocate of expanding the mandatory reporting protocol into the area of school bullying, had come to see an alternative perspective and noted, "some of these rules or some of these things that have been put in place to help take on a life of their own and then they become the abusers in some instances—the rules become the abusers." She wanted a review of policies to ensure their current suitability. Dr. Woodcock admonished that "as often as possible we should go carefully, very carefully when we are fooling around with people's rights."

Alice, a victim of an inappropriate professional relationship, still did not want to see an expansion of mandatory policies, responding to the question "So what would you like to tell policy makers?" with a simple "That we are not ready." From Alice's perspective, self-determination sat high on her list of needs. Reflecting her desire to

retain her autonomy, she suggested that when dealing with those identified as the victim in abusive situations, "we shouldn't put them in the third person category. Help them. Help them to have a voice. To make decisions based on the proper accurate information. Help them to be autonomous." She expressed her fear that had there been a mandatory report made, her relationship would have been found out and that she and her family would have had to face public humiliation upon disclosure: "I was dreading that. I thought what if this gets into the papers. My family who knows nothing about this, my kids ... I was under such stress." She felt that she had been able to mitigate the damage by having ownership of her own information and control of its dispersal.

Closing the Gaps and Strengthening the System

In response to my asking for suggestions to put forward to policy writers, Sarah called for changes and asked for them to be "very nuanced and anything that is too cut and dry does not work...something that is not somewhat nuanced I think becomes very, very problematic." Dr. Forman stated, "Well, I think it is a work in progress. You can hardly think of this as a quality system. There is a whole lot of work that needs to be done and a whole lot of areas where there are major gaps." Dr. Forman continued to express her concern regarding the numerous "gaps" in the system and noted:

> There are gaps in the therapeutic relationship, there are gaps in the relationships between professionals and how they handle each others' indiscretions or whatever, there are gaps at the point of reporting, the challenges there, there is that big black gap that we talked about.

Her actual recommendation, however, follows from this discussion and came in response to the question of what she would like to add for the policy writers. She suggested that we address these gaps by considering that "the idea of mandatory

reporting is something that has a great deal of potential, that needs a lot of work to make it work properly, [and] which we are probably not applying ourselves to in any major way." Many agreed with Dr. Forman who suggested that these policies must be explored more completely prior to further implementation. She expressed dissatisfaction with what she perceived to be mindless servitude when "we apply it because we are checking off our boxes and they seem to apply."

Dr. Shannon identified further examination into the impacts of a policy prior to implementation as a prerequisite for a new mandatory reporting obligation stating, "To apply it to a new group, I think there needs to be some education first about what is involved." Peter also made recommendations regarding new mandatory reporting applications. He suggested that mandatory reporting could successfully be applied to new applications if they were very clearly delineated and only would impact those who were unable to care for their own well-being. He also spoke of gaps and inadequacies in the system and noted that he preferred a proactive system of resources that "rather than looking at a policing situation ... would offer parenting programs that don't currently exist, it would offer social supports and housing to those with limited income, it would offer nutritional programs for children and families, and breakfasts at the schools. Housing rather than shelters."

Many respondents did not want to see mandatory reporting obligations increased without further research. Sarah, stating that she did not feel that mandatory reporting obligations should be expanded at this time also suggested a review of the mandatory reporting protocol as it presently exists:

It strikes me that what probably needs to be happening though is that there needs to be attention to what currently is in existence and see what is working and what is not working and what can be revised in some way to ensure it goes beyond policing of the professional and also serves the interest of the college.

She then suggested implementing public consultations to address concerns of those who argue that these have been absent saying, "I think there should be public consultation. I don't think that these things should be... [established in the manner] similar to zero tolerance."

Fearing that recrimination could become an issue, Dr. Woodcock asked for the implementation of greater infrastructure, suggesting that mandatory reporting provides conciliation for a lack of services. He voiced his concern that communities would develop their own unspoken and possibly vigilante rules rather than accommodating what they feel are ineffectual and culturally irrelevant existing policies. Pamela also spoke of the gaps and saw the need for change and the need for government to have measurable variables to support the change. She agreed that the policies may be ineffectual as they presently exist, but asserts that government does not change what it perceives to be working, nor will it alter policies without a reasonable expectation of improved results. From her political position, she was able to delineate the process:

Policy makers need decision support before they implement a policy where they have not done the evaluation of the results and have the evidence to say whether it is effective or not. And what you really want to do is start with what's the outcome you want and then work backwards.

We know you can only improve what you measure and if they don't have any indicators for measures of success and results then, um, they're deceiving the public about what protection they are putting in place, however, government will continue to do that unless the professions themselves partner with government to produce the evidence and results...

207

But, for sure the government will use the regulatory authority, which is reporting. And for sure government will use legislative authority if regulatory authority doesn't work.

As each of the interviews concluded respondents, in agreement with Pamela, were no longer content to rely on "decision makers [to] make better decisions when it comes to how to implement the intent of the public policy."

CHAPTER 5: DISCUSSION OF THE FINDINGS

Discussion of Overarching Themes Emerging from the Data

To review, the purpose of this research was to question whether mandatory reporting policies are perceived as fair and equitable and whether their usage can be broadened to provide protection to a wider range of vulnerable populations. To gather this information a diverse group of interview participants were asked about their knowledge, experience, and thoughts regarding the mandatory reporting protocol. Because of the limited knowledge of mandatory reporting, however, I found that I was compelled to participate in the interviewing process more actively than initially anticipated. For this reason an active interviewing style was employed that supported engaging the participants in the "discursive ebb and flow [of active interviews] that ideally resembles the informal structure of everyday talk" (Hathaway & Atkinson, 2003, p. 164). This allowed for the building of trust and the space for respondents to safely risk voicing their tenuous thoughts. Revisiting the themes explored in the findings will provide the opportunity to reconnect with the literature and shape the theoretical framework that act as a lens through which to contextualize this information.

The themes that emerged from the individual and group interviews will be considered and together with the "Shifting Horizons of Meaning" a comprehensive foundation is built providing a unique insight for future policy development and evaluation. From the interviews five overarching themes emerged:

1. Limited Knowledge of Mandatory Reporting Hinders Critical Review
2. Mandatory Reporting is Perceived as Inadequate

3. Mandatory Reporting is Perceived as Oppressive

4. Mandatory Reporting is Perceived as Morally and Ethically Unsound

5. A Call for Multidisciplinary Review and Input Prior to New Implementations

Whereas the previous section followed the development of new horizons of thought and the discussions that transpired the following section analyzes the overarching themes that emerged from the interviews. Horizons, those learned perceptions and standpoints that form the lens through which each individual perceives their world are learned through variables such as history, culture, and gender. They are the judgments and prejudices that each individual carries with him or her and are used to evaluate each new situation the individual faces. As each respondent's perspective broadened, the starting point of their initial judgments would impact the scope and depth of their final horizon. Although a pattern was noted in the shifting of these horizons, each individual's perspective is unique unto them.

Themes, on the other hand, are the broad ideas and perceptions that were distilled from the words and discussions of all the respondents in total. They do not represent the view of any one person but do represent common thoughts of all who participated. Whereas an individual's horizon is unique to them, the overarching themes represent a compilation of ideas that represent the thoughts of all respondents. The previous section considered the words of the respondents that shaped the themes and following is the discussion of the overarching themes that emerged from this data.

Theme 1: Limited Knowledge of Mandatory Reporting Hinders Critical Review

The first of these themes is the significant lack of knowledge that respondents had regarding the mandatory reporting policies and how this limited knowledge impacted their critical review of this policy format. This lack of knowledge crossed all areas of the policy usages; all professional and non-professional respondent populations, and was seen equally in both northern and southern Ontario. Respondents were unsure of the uses of the mandatory reporting protocol; they were unaware of the variances that related to professional regulations, and they were not clear as to their own obligations. The lack of knowledge was further evidenced by misunderstanding, wrong information, confusion, and assumptions regarding the mandatory reporting protocol. When the interviews began it was necessary to establish the baseline of knowledge that the participants held and to recognize that the participants' initial views were based on this limited foundational knowledge.

Limited general knowledge of mandatory reporting.

Mandatory reporting, as has been noted, is a topic that has received very little research or attention yet has been advanced unilaterally as a policy that provides needed protection and is "on the side of angels" (Nelson, 1984). Challenging this policy suggests complicity with abusers and a lack of concern for the vulnerable. Mandatory reporting obligations frequently appear as a response to a tragic situation (Nelson, 1984; Swift, 1999). These obligations are hastily implemented as an urgently needed intervention that will thwart further tragedies. Their urgency and the desire to avoid future disaster, further stifles opposition to these policies. They are often enacted

211

quickly and with little public awareness. These factors have contributed to the vagueness of this type of policy and to the lack of critical inquiry into the topic. This, in turn, has enabled the implementation of additional mandatory obligations with no public challenge. As a result, many respondents had limited information about this policy protocol and simply trusted that it was an effective practice.

Mandatory reporting is a policy format that, in its simplicity of form, belies its true complexity. It is a powerful policy protocol that impacts the rights and behaviours of both those mandated to make a report and those who are the subjects of a report. Yet very little is known about the breadth of impact this policy format holds. Respondents were first asked about their general knowledge and awareness of the term "mandatory reporting." While most stated that they were familiar with the term, it became apparent that both the individual and group interviews reflected the same lack of knowledge. Although they had received information on the topic of mandatory reporting in the initial recruitment letters and again as an introduction to the interview process, many were unclear or had a limited understanding of the mandatory reporting concept and, as such, were unable to satisfactorily define it. As it appears to have never before been researched as a policy protocol and it is rarely spoken of, mandatory reporting is a topic that eludes the public and professionals alike.

Although respondents' many attempts to define the concept of mandatory reporting all had elements of accuracy, most focused on the legal aspect of the process rather than on the essential element of mandatory reporting, the fact that because of the mandatory nature there is an absence of discretion. Many respondents confused the choice to not submit a required report with the right to use personal discretion, not

212

recognizing that they did not have that choice. That those who are mandated to report but do not, risk being cited for professional misconduct, is an example of crucial information that was missing. This partial knowledge, misinformation, and lack of awareness hinder a cogent exploration of the issues, allowing mandatory policies to continue to advance unchallenged.

Confusion was not only about the term mandatory reporting but also about the personal obligation that many of the respondents hold as regulated professionals. There are many different mandated obligations and because they are implemented through different legislation, there is a great deal of confusion around these protocols. As indicated, the one obligation that respondents consistently had some knowledge of was the mandatory reporting obligation related to child welfare. Even there, however, there was a lack of clarity. Child welfare, the application that was most consistently recognized, was at times used synonymously and equated with the term mandatory reporting. Many respondents when first asked about their knowledge of mandatory reporting protocols declared that they did in fact know about them and then went on to describe the child welfare usage. Because this use has been so widely advanced as the primary intervention tool in cases of child abuse mandatory reporting as a whole, has taken on an aura of a successful protection approach.

Many spoke of mandatory reporting as an approach to protection that alleviates professional responsibility. The regulated professionals spoke of mandatory reporting as a means of diffusing decision making and sharing the obligation with others. Supervisors and colleagues were suggested as consultants prior to submitting a mandatory report. Although no one was overly fond of becoming involved in a reporting

213

situation there was no concern about the approach itself as it was seen as undoubtedly providing protection.

Non-regulated professionals also accepted mandatory reporting without question. Although I had anticipated that some respondents from the client focus group who had personally felt the impact of a mandatory report might deem mandatory obligations to be unjustifiably intrusive, I was misguided as those who spoke of being investigated expressed similar positive views as did the others interviewed. Although some who had felt the impact of a mandatory report expressed strong negative emotions about the experience, they all seem resigned to relinquishing control of life if they fit into a marginalized group such as "lone-mother", "sole-caregiver" or "poor immigrant". Even though Ngozi, for example, suggested that she felt the allegation of child abuse that her family faced was the consequence of a subjugating attitude, she did not question the veracity of a policy that began with a confrontational investigation as opposed to a supportive, empowering intervention. This lack of critical evaluation has allowed mandatory reporting to continue to be replicated in new and diverse applications.

Confusion regarding mandatory obligations and professional duties.

Not adequately understanding the mandatory obligations engendered a perfunctory acceptance of this policy. Confusing mandatory reporting with other professional duties, as noted below, made it even more difficult for respondents to evaluate whether these policies were accomplishing their goals in an equitable manner. As the interviews continued it became apparent that confusion, misinformation, and lack

of knowledge was not unique to the general mandatory reporting protocol, but was also prevalent in other aspects of professionalism.

Confusion with codes of ethics. One area of confusion that arose was the delineation between mandated reporting policies and codes of ethics. Codes of ethics describe moral obligations, rules, and values that a professional must know and abide by. These are moral obligations that, if violated, may result in disciplinary actions from the appropriate professional college. These obligations are, however, not included in the actual legislation and therefore from a legal perspective are not mandatory.

Confusion with duty to report. Reporting obligations and subsequent impacts were not the only topics of limited knowledge and understanding. It was common for participants to equate mandatory reporting with various other obligations, some of which relate only to child welfare. One such area of confusion was the duty to report. The term "duty to report" refers to a responsibility directly related to the reporting of child abuse and is set out in what is known as *Bill 6*, Ontario amendments to the (1990) *Child and Family Services Act* s.72(1). There are two general categories of reporters: specified professionals who are mandated to report and the general public who have a duty to report. This duty to report is a moral obligation on the public as members of the community. Because not reporting does not hold a penalty for the general public, for the general public it is not a mandatory obligation but rather a communal duty. A mandatory report implies a consequence for non-compliance.

While professionals and the public have the same moral duty, the *Child and Family Services Act* places a greater responsibility on specified regulated professionals

to recognize and report child abuse. The reporting obligation for these professionals has been raised from a moral duty to a mandatory obligation where failure to report is punishable by law. Very few of the respondents who were in professions that are regulated and obligated to make mandatory reports knew the difference between these two distinct levels of responsibility and frequently used the terms "duty to report" and "mandatory reporting" synonymously.

Confusion with duty to warn. Not to be confused with the duty to report, the "duty to warn" is a second concept that was often wrongly equated with the "mandatory reporting" obligation. The duty to warn obligation places the responsibility on a professional to inform third parties or authorities if a client poses a threat to himself or others. Although in some work settings a professional may carry this obligation, it is not a legislated, mandatory reporting obligation.

While clients generally have the right to confidentiality the duty to warn is one of the few exceptions that can compromise this right. It is especially relevant in cases when the client threatens a criminal act or to harm a third party. This regulation is often associated with its precedent setting name as the Tarasoff decision. Many of the respondents confused these duties and obligations and used the terms indiscriminately.

One respondent suggested that they had the mandatory reporting obligation to report "child abuse and suicide." Suicide ideation initiates a duty to warn, but is not a mandated report. Because the duty to warn is an ethical obligation rather than a mandated one, it is not written in the *Social Work Act* or any other legislation governing professions. The mandatory reporting obligations, however, are incorporated into

216

appropriate legislation. It is through this legislation that they are mandated and become law.

When these various concepts are confused with the mandatory reporting obligations and when mandatory reporting obligations are confused with various other concepts it makes it very difficult to complete a comprehensive evaluation of these mandatory responsibilities. The respondents' limited comprehension of the mandatory reporting protocol in total elucidated the gaps and misinformation justifying the lack of critical review.

Figure 4

Legal, Moral and Ethical Duties

NAME OF RESPONSIBILITY	WHO HAS RESPONSIBILITY	WHAT GETS REPORTED	CONSEQUENCE OF NOT REPORTING
MANDATORY REPORTING	Identified regulated professionals	Report whatever the mandating legislation names	Penalties for non-compliance are dependent on the obligation
DUTY TO REPORT	General Public	Only relates to issues of child welfare including abuse, neglect and domestic violence with a child witness	There is no penalty as it is a moral duty on the general public
CODE OF ETHICS	Regulated professional from the identified profession that the code of ethics is associated with	Nothing Code of ethics have no relationship to reporting	Since there is no connection here with a reporting duty there are no consequences related
DUTY TO WARN	Identified professionals	If someone poses a credible danger to themselves or others there is an obligation to intervene to avert the action	May be found guilty of negligence and risk being sued by family of the deceased.

Respondents' Knowledge of Specific Applications of Mandatory Reporting

Mandatory reporting policies are elusive in that they are often hard to define, subtle in their impact, and ambiguous in their meaning. When misinformation and the respondents' conflicted emotions regarding their mandatory obligations are combined with the general obscurity of the policies, a critical review of mandated obligations is further hampered. For the interview discussions, therefore, accurate information regarding the mandatory reporting policies was an important component.

Notwithstanding the lack of public attention or evaluation, the mandatory reporting protocol has been applied to or considered for many different populations. The interview participants all had various levels of knowledge of the topics to which the mandatory reporting obligations were applied, but none had given any thought as to the impact the application of a mandatory obligation to the issue would engender. The active interviewing process is evident as I, as interviewer, provided the accurate information and they, as respondents, went through the critical thinking process that shaped their views. Respondents' knowledge evolved through the interview and often it is their shared thoughts as they went through the process, rather than their actual knowledge, that are relevant. As they gained knowledge regarding the mandatory reporting policies and the issues related to this topic, they themselves began to question this policy format. The shift in thinking that was occurring is evident in Dr. Anderson's comment, "And what then? What are the obligations...the road to hell is paved with good intentions but [you must] dig below the surface." For this discussion to be meaningful, it is necessary to clarify the mandatory reporting obligations that Ontario social workers do and do not hold.

Mandatory Reporting and Domestic Violence

The first of these applications considered is that of domestic violence. There are in fact three possible contexts in which the mandatory reporting obligation can be applied to domestic violence.

i. Mandatory reporting of domestic violence where a professional is mandated to report to an identified body any domestic violence that they become aware of.

ii. Mandatory reporting of domestic violence when the domestic violence occurs within the sight or hearing of a child witness.

iii. Mandatory reporting of domestic violence when knowledge of domestic violence is revealed in a place of work.

All three of these were discussed with the interview respondents. While social workers in Ontario do not currently have the first of these obligations, in Ontario we do have both the second and third of these duties. As a result, although we do not have a definitive ruling regarding the reporting of domestic violence, Ontario has managed to bypass this by applying the reporting of domestic violence through other legislations.

Mandatory reporting of domestic violence. Mandatory reporting of domestic violence obligates a professional to report to an identified body any domestic violence that they become aware of. In Ontario, as noted, we do not have this obligation. It does exist in many North American locales, but has often generated controversy when implemented. In some states, once applied, it was quickly rescinded because of the complications it created (Ferris et al., 2001; Sullivan & Hagen, 2005). In asking the respondents whether they had heard of the mandatory reporting of domestic violence, there was frequently either a lack of information or a partial awareness of information.

Most respondents were unaware of the discourse surrounding this topic and simply answered that they had not heard of mandatory reporting of domestic violence.

Mandatory reporting of domestic violence with a child witness. Domestic violence that occurs within the sight or hearing of a child witness is meant to generate a mandatory report. Child witness issues, dealt with through the Child and Family Services legislation (1990) as a child welfare issue, acknowledge the detrimental impact of domestic violence on children. Although, as indicated, there are controversial issues inherent in mandating the reporting of domestic violence, the province of Ontario, by applying it to child welfare, has implemented this obligation through this alternative route.

While not well informed of the nuances of mandatory reporting, many of the respondents were knowledgeable of the dynamics of domestic violence and were more able to discuss this topic. They expressed their views on the intersection of mandatory obligations and domestic violence. Ngozi expressed the fears that many alluded to. She suggested that as presently implemented this mandatory report obligation places women who are victims of domestic violence and who are also responsible for protecting the well-being of their children in a position of double jeopardy. Because these concerns regarding domestic violence are implemented through child welfare channels, the only course of action that the child welfare authorities have is to remove the children from the offending situation. Many reflected the fear that mothers who risk losing their children to child welfare authorities will for these reasons be silenced and hindered in their ability to seek help to stop the domestic violence or to acquire a secure future for themselves and their children. They cannot obligate the abuser or the victim of

the domestic violence to vacate the residence. Their responsibility is to protect the children from potential abuse. This obligates the non-offending parent, most often the mother, to leave the home with the children or to relinquish the children to the authorities. Although through the courts the victim of the abuse may possibly be allowed to return home and seek financial support, this is not guaranteed. It also may not be quick.

Mandatory reporting and domestic violence in the workplace. The third reporting obligation regarding domestic violence is the mandatory duty to report domestic violence to an employer or superior when knowledge of domestic violence is revealed in a place of work. This is a legislated obligation under the _Work Place Safety Act- Bill 168_ (Government of Ontario, 2009). On June 15, 2010, the _Ontario Occupational Health and Safety Act Work Place Violence Law_ came into effect. Although much of this law is not relevant to this discussion, one section is very pertinent and not well known. Clause 32.0.4 of the legislation states:

> If an employer becomes aware, or ought reasonably to be aware, that domestic violence that would likely expose a worker to physical injury may occur in the workplace, the employer shall take every precaution reasonable in the circumstances for the protection of the worker"
> (Bill 16 _Occupational Health and Safety Amendment Act_
> _(Violence and Harassment in the Workplace)_ 2009).

This legislation obligates workers who become aware of co-workers' current experiences of domestic violence to report this knowledge to supervisors, even if this information was shared and received in confidence. The intent of this is to protect the employee and other workers from potential violence that might enter the workplace. This new regulation does not merely apply to violence that takes place in the workplace,

but rather, under the premise that spousal abuse occurring in the home may carry over into the workplace, it mandates the reporting of any knowledge of domestic violence experienced by any worker.

In spite of the fact that "mandatory reporting without the woman's approval creates a situation in which she may potentially feel victimized by the agency or advocate to whom she has appealed for help," (Lewis, 2003) this workplace violence law, as it is commonly referred to, has made knowledge of current domestic violence a mandatory report for co-workers and supervisors. Although most respondents were unaware of this application, even those few who knew about the new law such as Kevin, in the northern Ontario First Nations' group or Desmond, from the northern Ontario social workers group were unaware of this aspect of the application. Desmond was employed in occupational safety, and although he knew much about aspects of the new *Bill 168* legislation, even he was unaware of the implication it held for situations of domestic violence. This is indicative of how these laws become implemented with little or no public debate or awareness.

While there were many heartily voiced concerns related to this policy, the need to now report domestic violence in the workplace has been implemented with the barest of notice. As noted, many of the respondents were aware of the new workplace safety laws and had heard about the intention to protect workers from abuse while in the workplace, but there had been so little public discussion that not one of the respondents had grasped the true implications of this new policy. Prior to these interviews, no one I spoke to understood that workplace could be translated to mean for example, school, courthouse or agency; and none had recognized that friends

sharing personal information in the lunch room could suffice as domestic violence "revealed in a place of work." It was not until they were given this additional information could they begin to see the inherent dilemmas. Because of the lack of a true understanding of the mandatory protocol, even as the respondents could understand the dynamics of domestic violence and of child abuse their limited knowledge about mandatory reporting had curtailed their ability to review this policy.

Mandatory Reporting and Elder Abuse

The next area of discussion on the interview guide was that of elder abuse. Again, this was an area of limited knowledge. That is understandable considering we do not have mandatory reporting of elder abuse in Ontario other than in nursing homes and long-term care facilities. While many initially suggested that there was a need for the mandatory reporting of elder abuse the competing issues quickly surfaced when the interview participants were asked to define such terms as vulnerable, elder and competence. It became apparent that we can not apply a mandate that requires reporting to seniors without first clarifying the meanings of these terms and establishing a definitive way with which to assess competency.

Harbison (1999) suggests that in a culture that values youth and beauty, elder mistreatment may, in part be due to low valuation. She discusses the impact of a dominant discourse that "understands older people as frail, vulnerable, dependent and incapable" (p. 3) and suggests there are six models of intervention identified in the literature. Of significance to this discussion is her delineation of the "Child Welfare Model" where she describes the impact of mandatory reporting. Harbison (1999) speaks of her concern that mandatory reporting of elder abuse presumes incompetence and

takes the decision making power away from the older person, simultaneously forcing legally mandated interventions.

Although everyone decried elder abuse and many initially lauded the idea of implementing legislation to make this activity a mandatory reporting duty, the mood changed when they began to consider issues of competence and question the potential secondary impacts of this regulation. Although I had anticipated that the participants themselves would have raised the issue of assessing competence, I was surprised that no one did until I asked further questions about how they would define the term "elder."

Some spoke of the contentious issues in mandating the reporting of elder abuse. The northern Ontario social workers focus group had an interesting dialogue regarding this issue, which indicated a general frustration. In a hospital setting where there is, in fact, mandatory reporting of elder abuse, although the respondents did have knowledge of their mandated obligations, they had not thought any further about the obligation as they had accepted it as a futile process.

Mandatory Reporting of School Yard Bullying

The topic next for discussion in the interview guide was that of school yard bullying. Various Southern Ontario school boards have had representatives attempt to implement this mandatory reporting obligation to no avail.

Some such as Evelyn had been actively working toward the implementation of such a policy. John also spoke in favour of the mandatory reporting of school bullying. Both Evelyn and John equated bullying with intentional victimization and wanted it to be dealt with sternly. After having discussed certain issues relevant to the previous

mandatory applications, other respondents were not confident that a mandatory report approach would serve the intended purpose of stopping bullying.

Sarah was one who was doubtful and with the additional knowledge she had gained through the interview process suggested that she saw bullying as involving a lack of tolerance, but that an equally intolerant "zero tolerance policy" response was an inappropriate reaction. This appeared to correspond with the views of other respondents, many of whom equated mandatory reporting of school bullying with a zero-tolerance approach. Believing that an inflexible approach to the problem would risk wrongly identifying too many children, most called for a strengths-based approach that advanced social skills.

Interview respondents had very limited knowledge of the mandatory reporting protocol as it would impact these potential applications and, in fact, until the interviews were held, it appears that no one had ever given the topic much thought. Lack of knowledge resulted in lack of inquiry. Mandatory reporting in general had been accepted blindly as a beneficial policy that to many, appeared to mean the problem was being dealt with. During the course of the interviews, as their horizons of understanding expanded, they were beginning to recognize that this was not the case.

Theme 2: Mandatory Reporting is Perceived as Inadequate

The second overarching theme that emerged was the belief that, because of its inherent simplicity, mandatory reporting policies are rigid and inflexible and as such, cannot bend to accommodate variables, making them inadequate to address systemic inequities. Although respondents had entered the discussions with little knowledge of

225

the topic, through the active interview process they became more aware and actively engaged. Respondents ultimately came to the conclusion that when mandatory reporting intersects with various demographics, the burden of mandated reports often seem to fall more heavily on already oppressed populations. Without the opportunity for professional discretion and the flexibility to consider other approaches sensitive to multiple truths they believed that mandatory reporting was inadequate as a support for both the reported and the reporter and may in fact further oppress and marginalize those involved in a report.

Patterned behaviours (Giddens, 1993) are those routinized socially structured and culturally patterned behaviours that we mindlessly engage in on a day to day basis and pass on to the next generation. They are supported by the social institutions such as the family or the school and become taken for granted as the only reality (Berger & Luckmann, 1967). Mandatory reporting had been implemented for the purpose of identifying child physical abuse. Without evaluating its effectiveness it has been maintained in the same format and reapplied to other purposes in a template-like fashion with the assumption that it would succeed at protecting other populations. As a patterned behaviour it has been implemented often without challenge.

While some respondents had a remote awareness of the intricacies of systemic inequities, for others power imbalances were part of their lived reality. As such, they had difficulty in seeing alternatives and positions of lesser power appeared to be accepted as their unacknowledged norm. Research, shared with the respondents says that demographics of gender, sexual orientation, residential location, and culture appear to all impact an individual's vulnerability and that this, in turn, may suggest that some

226

people appear to be treated unfairly by social systems such as schools, courts, and police. The inadequacies of mandatory reporting protocols in fulfilling their purpose of providing protection to those in need are discussed under four factors that increase the risk of marginalization. These are:

- Feminist Issues
- Residential Locale
- Sexual Orientation
- Cultural Variables

Respondents were asked to discuss the impact "difference" would have on mandatory reporting regulations. They were asked if they thought that mandatory reporting would impact people differently based on these variables. Each of these topics of discussion will now be considered.

Mandatory reporting impacts women differently than men. In exploring the impact of mandatory reporting as it intersects with gender it quickly became apparent that it was not gender per se that was impacted differently by mandatory reporting, but rather that being a female appeared to have the same impact as being a member of any other oppressed population. Although none of the respondents actually stated that it was only women who were impacted more significantly, it appeared to be assumed by the participants that women were in vulnerable positions.

John was one who took "gender" to mean "women" and suggested that the establishment of mandatory reporting regulations often appear to be designed to control the behaviours of women. Because females appear to be more frequently the assumed victim in need of protection, they often lose their freedom of autonomy. While

respondents were quick to speak about protecting the vulnerable, no one questioned the competence of the individual. Jacquie, of the client group reflected the views of other respondents when she called for increased usage of mandatory reports. She spoke of an intellectually competent older woman living in a potentially abusive situation and suggested that this woman should not be provided the right of autonomy because if an individual is living in less than optimal conditions they were clearly not competent to make personal care decisions. Although the question put to the respondents was whether mandatory reporting would impact people differently based on gender, this question was not addressed as anticipated. Most respondents approached the discussion of gender accepting vulnerable women as powerless, but did not challenge the policies that support this imbalance.

Systemic social conditions that exist and maintain oppressive policies often remain invisible, sustaining power imbalances and supporting marginalization. Recalling the earlier discussion, claims makers are those individuals who advance their personal issue of self-interest as a social problem. They do this by presenting the issue as a statement of warrant, an explanation justifying why this unfair problem needs attention (Coltrane & Hickman, 1992). Mandatory reporting policies appear to be implemented in the same manner with little public debate and accepted without reservation.

Possibly best referred to as a false consciousness, many respondents seemed to have accepted, without recognizing it, that women are weak and vulnerable and unable to make good choices for themselves. Many of the respondents appeared to accept the corollary that women tend to be weak; weak women do not make good choices; and, women who make poor choices are weak. This attitude reflected a suggestion made

earlier that associated women with children. In this manner the linking of weakness, women, and poor choice is complete so that treating women in a childlike manner seems justifiable. Yet it is paternalistic to assume that women cannot make informed personal choices (Ferris et al., 2001).

There are some commonly cited reasons to oppose the mandatory reporting of domestic violence. Many respondents understood both the dynamics of domestic violence and the reasons to oppose making it a mandatory report. They recognized that due to structural inequities, women often do not have the financial backing or support to be able to leave the residence and attain adequate housing, food, and child care. Research (McFarlane, 1999; Sullivan & Hagen, 2005) shows that women in situations of domestic violence are at heightened risk of increased violence in the three months following leaving the family home. Because of existing structural inequities, abused women's options are limited and they most often are the ones obligated to leave the home in situations of spousal abuse.

Kelly, who described her own experience of domestic violence, believed that reporting, mandated or otherwise, was unable to help her as her experience had shown that until she could prove assault, there was nothing that could be done. The stories of both Isla and Kelly epitomize the helplessness of women and yet neither questioned why this was so and neither directly addressed the impact that a mandatory report would have. Although the difficulties inherent in making domestic violence a mandatory report became evident, very few speculated as to why it was accepted that victims were seen as female and abusers as male; and why resources that are available, such as food banks and women's shelters, rather than affordable legal services and day care,

are not designed to empower women. Interventions implemented to "protect" women historically do so by removing them from their home, rather than holding abusers accountable

While participants did not contemplate why it was this way, many did recognize that there were potential risks to women that would result by making domestic violence a mandatory report. Ultimately, while everyone did appear to see gender as a factor that would have a bearing on the likelihood of a mandatory report being made, they accepted women as weak and did not challenge the corollary that women would be the ones to feel the greatest brunt of these reports.

Mandatory reporting impacts people differently based on their residential location. Residential locations such as urban or rural or a segregated, insular community that was based on a specific feature was another variable considered as one that may have a bearing on mandatory reporting behaviours. Dr. Jordan, a social planner, found this variable relevant to her way of thinking. She firmly reiterated her position that mandatory reporting policies impacted some more than others, making it a regressive action, and stated that it was her belief that marginalized populations were more likely to be reported. She appeared aghast at the policies and insisted that mandatory reporting is another way of blaming the victim for their marginalized status.

The respondents in the northern Ontario social worker group interpreted the concept of residential location in different ways and spoke first of the fact that although we are all members of the same professional college, the Ontario College of Social Workers and Social Service Workers, and impacted by the same professional

legislation, they did not feel that the college and its mandates represented their northern realities. While most agreed that we could not make laws that were population-specific, comparing this situation to the debate regarding adopting Sharia law in Canada (Razack, 2007), many contemplated discretionary regulations that reflected their own northern issues.

Noting that the mandatory reporting of sexual relations with a client in their community risked leaving them being ostracized from their colleagues, the social workers acknowledged that although the identity of the reporter is ideally not revealed, living in a small community may further compromise anonymity. The suggestion was that in a community of a limited number of social workers it may become obvious and easy to determine who made the report. Having to work with a person that you have just reported, or who has reported you might prove to be very difficult. The awkwardness and stress of the situation would, furthermore, fall on both the reported and the reporter and may engender feelings of distrust, betrayal, and anger. For this reason, many respondents indicated that they would be reluctant to report in any case, but would not report at all unless they could see a particular benefit and were confident of a guarantee of confidentiality. This was a particular concern of many of the respondents of a marginalized status within the small community as their communities were further bounded and more enmeshed than others, making confidentiality even more of an issue.

When speaking of segregated or specialized communities, sexual orientation as a variable was also addressed. The area of exploration questioned whether mandatory reporting has a regressive impact on people of the gay (LGBTQ2) community as

231

opposed to those of the straight community. The respondents did not identify a difference based on sexual orientation but rather, the response was much the same as it was for any other small or insular community.

Mandatory reporting impacts people differently based on their sexual orientation. Respondents did not see justification for segregating this variable from the issues of culture or residential location. They saw the issues as being and responding in much the same manner with similar complexities.

Mandatory reporting impacts people differently based on their culture. Respondents felt that the impact of culture would be most relevant when considering familial interrelations. They related it to parenting style and domestic habitation relationships.

Mandatory reporting as it intersects with parenting style and cultural diversity.

Many respondents expressed the concern that hegemonic attitudes would result in people of non-Euro-Western cultural backgrounds experiencing a higher risk of being the subject of a mandatory report than those of a Euro-Western heritage. Dr. Anderson was one of these. He accused mandatory reporting laws of justifying systemic racism, suggesting that the impact of being legally charged and tried and possibly convicted in the Canadian system may have more significant implications for individuals of non-Euro-Western backgrounds. Residents of other countries often view the police and the courts as something to be feared and avoided. Being implicated into the system is a source of humiliation and familial shame. Dr. Anderson felt that there was also the

secondary concern that as a result of drawing unfavourable attention upon him or herself, the individual may also face negative repercussions from their own community, including the risk of being shunned.

Respondents were now recognizing that issues of oppression become compounded. Razack speaks of the mutual impact on "both the colonizer whose eyes commit the act of violence, and the colonized who is erased by the colonial gaze. Both are depersonalized" (Razack, 1998, p. 4). Ngozi described her own feelings of being objectified and essentialized and subsequently misjudged based on biases. She spoke of the depersonalization of marginalized populations that lead to their over representation in the child welfare system (Trocmé et al., 2001) and echoed Razack's (Razack, 1998, p. 4) depiction of the moment of encounter "when the 'white man's eyes break up the Black man's body.'"

Mandatory reporting as it intersects with domestic relations and cultural diversity.

Recognition that "inegalitarian familial relations are manifest in abusive situations" (Dominelli, 2004) led to questioning whether adults living in families of different cultural beliefs should be free to make the choice to live in circumstances that by Euro-Western standards may be viewed as inadequate or abusive. Behaviours that Euro-Western standards may regard as neglect or corporal punishment, once widely accepted in North America, may still be accepted in some cultures as the norm because "[w]hen people come and settle in Canada they can bring their traditions and forcefully follow them"(Muhammad & Patel, 2007). This topic did not ever reach a satisfactory

consensus as, while no one was comfortable suggesting that child abuse, domestic violence or criminal behaviour was acceptable, no was willing to suggest that establishing a rigid hegemonic system of familial standards was more appropriate.

Mandatory reporting as it intersects with school bullying and cultural diversity.

Mandatory reporting, when considered over the many dimensions of difference, appears to be too limited in its flexibility and its breadth of accommodation to adequately provide meaningful protection to a diverse vulnerable population. Recalling Ngozi's observation that assumptions are made about the individual based on the essentialized perspective of stereotypes, respondents believed that in a situation of bullying, a child of a marginalized family background is more apt to be identified as the aggressor as per the fitting stereotypes and viewpoints. Bullying in the schools continues to be a concern yet reports mandating the identification and naming of child bullies have not been implemented in Ontario schools. Instead programs teaching social skills, empathy and communication have been implemented as an approach to schoolyard bullying.

Theme 3: Mandatory Reporting is Perceived as Oppressive

While power and knowledge are sometimes used as the combined elements of social control and oppression (Foucault, 1977a) some suggest that these are also the components of professionalism (Freidson, 2001). When viewed this way, these two factors establish an inevitable hierarchy between those with power and knowledge and those without. Foucault speaks of morally disturbing power relations inherent in social practices. He focuses much of his attention on issues of power and its role in the construction of knowledge, noting the circularity of the relationship in that "power and

knowledge directly imply one another" (Foucault, 1977b, p. 27). This third theme explores mandatory reporting's role in this social acceptance of the conferring of both professional control and resultant oppression.

In a society that Bauman suggests is fear based and self-serving and where policies such as mandatory reporting turn the reporter into a government-sanctioned agent of the state (Bauman, 2001), policies that enforce social responsibility must be prepared to address two challenges. These are the challenges of "knowing the *content* of our responsibilities and the challenge of finding the *motivation* to discharge them" (Thunder, 2009, p. 563). Prior to the interview conversations, many of the respondents were unaware of the content of their responsibilities. Once they had this knowledge, they questioned their motivation to accept the power that accompanied it and were reluctant to discharge these responsibilities.

Many respondents were unaware of the nuances of mandatory obligations and began the interview process believing that mandatory reporting was a reliable way of protecting the weak and vulnerable. Mandatory reporting, however, can be seen as a policy that appropriates power so that "those who do not have power become subjugated and marginalized" (Dominelli, 2004, p. 40). Respondents, uncertain as to the many applications to which mandatory reporting had been affixed and with their limited knowledge, believed that mandatory reporting obligations succeeded in achieving their intended purpose. Discussions examined the factors that impacted an individual's ability to control their own environment and retain personal autonomy. Mandatory reporting was seen as a policy that, by its intrusive and involuntary nature, negatively impacts the personal autonomy of individuals. Although human rights proponents discuss high-claim

priorities and entitlements owed to each person and include personal freedoms in those most important to protect (Orend, 2002), very few respondents initially gave pause to consider the infringement that mandatory reporting obligations impose on these freedoms.

As noted above, Dominelli (2004) suggests that power and subjugation exist as a dichotomy so that not having power results in subjugation and marginalization. Many respondents did not initially see that an invariable consequence of "having power" is that the other party in the interaction does "not have power" resulting in an inherent yet hidden power imbalance. It was more common, when interview participants were asked thoughts on expanding mandatory reporting obligations to other purposes, for first responses to overlook the power relations.

As interviews began and multiple applications of mandatory reporting were raised many respondents had not recognized the potential impact to the rights of the alleged victim. Many made the assumption that an allegation of abuse equated the determination of abuse, which, in turn, justified unsolicited outside involvement. They did not address how mandatory reporting would provide an assist in this matter, but did assume that the benefits would justify any intrusion on the rights of the victim.

As the interview process unfolded and respondents' thinking continued to be challenged, faults in the system were exposed. Respondents recognized that the implementation of a mandatory reporting obligation did not mean that it was unquestionably justified or beneficial. As many respondents accepted a less rigid stance, power was identified as a fluid concept. Simultaneously, it was noted that the

lack of personal power that left people vulnerable did not equate with an inability to make competent choices nor should it negate the right to self-determine. Because these policies are implemented with such limited understanding, this intervention does not always reflect the wishes of the client or the perspective of the general population.

Professional Power Used as a Recursive Social Practice Becomes Oppressive

Whereas the respondents began the interviews seeing mandatory reporting policies as a positive or at least an innocuous approach to protection, they came to question this protocol as intrusive and oppressive: intrusive because with little justification mandatory reporting policies allowed professionals the right to intrude into the life of another; oppressive because they recognized that marginalized populations were more often the subject of a report than were those of mainstream Euro-Western context and, as well, because they were aware that mandatory reports serve a social control function of reinforcing Euro-Western behaviours and values.

Thunder (2009) was previously noted suggesting that professionals must know the content of their responsibilities and then find the motivation to discharge these responsibilities. As the respondents learned the content of their responsibilities they also were obliged to find the motivation to carry them out. To do so, it fell to them to understand how these policies continue to be implemented without general appreciation of these negative qualities of intrusion and oppression. In order to recognize the ways that power and knowledge have been subtly implicated into mandatory reporting protocols there was a need to deconstruct these policies. In the course of this

237

deconstruction the passage of time as it plays out as a recursive social practice, integral to Giddens' theories (Giddens, 1993), came to be recognized as a component of power. Giddens, as noted, defines recursive social practices as patterned, habitual behaviours that we mindlessly engage in as part of our normal routines (Giddens, 1993). His theory of structuration attends to studying the ways in which social systems are produced and reproduced in social interaction (Giddens, 1984). Because oppressive practices, if not exposed, are able to continue existing over periods of time as reproduced recursive social patterns, the passage of time must be addressed as a precept of legitimating oppressions.

When social practices are able to continue across time and space they form what Giddens refers to as the "duality of structure" (Giddens, 1993). He explains the duality of structure, in simplified terms, as the result of completing a behaviour in the way anticipated by the social rules that provide structure and organization to practices, so that the behaviour is comprehended in its full intent by another, who then responds with the anticipated action. This, in turn, contributes not only through the action, but by the reproduction of the entire behaviour, to the patterning of the behaviour. This behaviour then continues to be repeated unaltered, over time. It is in this manner that customs, traditions, trends, and fads are able to not only exist but to spread in popularity.

Giddens (1993) identifies the rules and patterned routinized behaviours as together providing the sense of predictability and safety needed to maintain an ontological security, thus making the world manageable. Relating structuration theory to mandatory reporting policies, by routinely applying the mandatory protocol in template fashion to new and different applications, these patterned reporting behaviours become

recursive social practices. They are easy to apply to various new purposes and easily implemented requiring minimal discretionary input and thus providing a sense of ontological security. When mandatory reporting formats are applied, however, as a reproduced pattern to a new purpose they are completing the pattern of the original mandatory reporting obligation, but now applying it to a new population and relocating it in a new time period. While the original applications, designed for the purpose of intervening in child abuse, were suitable for a medical model in the modern time period, this same format is not so relevant for adult populations in today's postmodern world. Because patterned behaviours and rules contribute to an ontological security by allowing the user to feel safe in repeating the familiar behaviour, mandatory reporting protocols allow professionals to maintain a level of comfort that does not make space for the critical review of policies. Without the reassurance that these policies have the ability to provide more beneficial results than negative consequences they risk contributing to the advancement of legitimated oppressive practices.

Unanticipated Secondary Consequences of Mandatory Reporting Contribute to Oppression

Mandatory reporting is meant to protect the vulnerable. When mandatory reporting is applied as a template or used as a recursive social practice without thought to what Giddens (1993) in his structuration theory refers to as unanticipated secondary consequences, it repeats and sustains power inequities and vulnerabilities. Respondents, however, realized that qualities of power and vulnerability are not static concepts, but rather attributes that any individual might acquire or lose with the passage of time and, thus, questioned a policy that does not allow for this fluidity.

239

Used in a template-like fashion, mandatory reporting does not have the capacity to be adapted to accommodate multiple truths or a postmodern sensibility. Because mandatory reporting had initially been implemented to protect children, when it was applied in a static fashion to other populations a first unaccounted for consequence was that all vulnerable people became inadvertently infantilized and treated as children. All people who were perceived to be vulnerable were assumed to also be incompetent to self-determine.

Developmental stages of human development bestow and deny both power and vulnerability so that while there was little dispute regarding the need for protection of a child, the point in time at which a child became mature enough to self-determine or the point in time when an adult became a senior in need of outside intervention, became an important topic of discussion. As the interviews progressed and respondents saw developmental milestones as culturally determined, cultural factors were recognized as possible variables in age-related issues. To illustrate this point, while it is disapproved of in Euro-Western societies, child labour is seen as a familial necessity and responsibility in other cultures. While someone under the age of thirteen in North America would be deemed a child, other cultures perceive them to be small adults who have not yet reached their full physical capacity. Considered in this manner, respondents began to see age as a social construction that attributes different meaning to age-related terms such as "child," "youth," and "elder." The ages at which children are perceived to be mature and ready to take on adult responsibilities and when senior adults are perceived as unable to provide adequate self-care were recognized as being, in part, dependent on the cultural context in which they exist. As Peter noted:

We always agree about competency of children, it is something we think of regarding children...but even that is questionable. There are some 13-, 14-year-olds that can be deemed to be pretty competent individuals, pretty mature individuals and some older teenagers who at18, 19, can seem quite immature.

With the recognition that meanings of the age-related terms are dependent on their context, respondents also began to realize that competence or incompetence cannot arbitrarily be attached to age-related categorizations. Mandatory reporting is designed to protect the vulnerable, but how we define vulnerable must be a more definitive determination or else we suffer the unanticipated secondary consequences of further oppressing vulnerable populations. While issues of difference were previously noted as contributing to mandatory reporting protocol's lack of flexibility and thus its inadequacies, other unaccounted for consequences also leave many vulnerable residents feeling misunderstood, powerless, and oppressed.

Mandatory Reporting Legitimates Systemic Oppression

Along with Giddens' structuration theory, critical theories have guided this work. Mullaly (2002) suggests that oppression is systemic and is produced and reproduced in everyday social practices in ways that serve the dominant group. His call for critical review of these systemic practices is compatible with Giddens' views of structuration and the importance of recursive social practices. Anti-oppressive theory provides the ability to acknowledge the duality and paradoxes inherent in the convergence of professional legislation and social work that have integrated to influence the mandatory reporting protocol. This is especially relevant when considering the impact of professional power.

The power that the social worker holds over the client is due to the professional status. Professionalism is a position of considerable privilege (Freidson, 2001). In the social worker-client relationship, power is placed in the hands of the worker and as a result of the inherent dichotomy, the client is situated in the position of the vulnerable, disempowered, silenced individual who risks marginalization (Brown et al., 2005; Carniol, 2000; Hick et al., 2005; Mullaly, 2002; Pease & Fook, 1999) as "a condition achieved when we acquiesce to the power of dominant groups in society because their power is accepted as 'natural'" (Carniol, 2000, p. 20).

In deconstructing this issue of professional power, it became necessary to consider the definition of the term "vulnerable." Vulnerability, the sense of susceptibility or weakness, was a term that was frequently used but rarely defined. As noted previously when respondents were asked to define the word, the definition of vulnerable shifted from "a vulnerable person is one who is vulnerable to harm" to "... somebody who is at risk of harming themselves or of harming others" or as defined by Toni from the affinity group a vulnerable person is a person who is "not living a normal life [of] contributing to society in any way, shape, or form." Also as noted, more felt as did Dr. Woodcock who suggested that "…we are all very vulnerable. We are a stroke away." As respondents came to realize that at times we can all assume either role, the disparity between the powerful and the vulnerable lessened. Sarah at this point made the aforementioned comment that "social work is a strength-based profession" noting that even though her colleagues may be more confident in people's ability to change she thinks "that people are not necessarily vulnerable throughout their life."

As the interviews continued, respondents began to speak of mandatory reporting as an oppressive practice that gave professionals license to intervene with vulnerable populations. In deconstructing this issue of professional power, it became necessary to consider the definition of the term "vulnerable." Vulnerability, the sense of susceptibility or weakness, was a term that was frequently used but rarely defined.

Respondents began to see vulnerability as being directly related to the variables of difference that were previously considered such as gender, sexual orientation and residential location. Foucault et al. (2003) speaks of subjugated knowledges which he defines as the historically "devalued, misinterpreted, and omitted" (Brown et al., 2005, p. 11) histories of those on the margins. While all the respondents spoke of the gendered power imbalance, this discrepancy was especially noted in the experiences of the women respondents of minority status. Supporting Razack's suggestion of an additive model of oppression that puts forth "racism plus sexism produces a doubly oppressed woman" (Razack, 1998, p. 12), these female respondents continued to be even more noticeably pushed into the vulnerable margins and silenced before they could be heard. Speaking of social institutions they described their sense of invisibility and enforced vulnerability. Mandatory reporting obligations appeared to serve the purpose of creating further oppression for this population. The women respondents who had been racialized described their increased fear of being misunderstood and being named in a mandatory report that might impact their ability to parent their children.

Anderson (2003) speaks about autonomy, vulnerability and gender. As she defines it, mandatory reporting precludes autonomy, the idea that individuals are authors of their own lives. Anderson continues to speak of "how this conception of the

243

ideal of autonomy misrepresents the reality of individuals' lived experiences and imposes a gendered identity which subordinates women to a masculine narcissism." (Ibsen as cited in Anderson, 2003 p.1). While respondents acknowledged that having autonomy does not guarantee resilience, it was agreed by most that without autonomy an individual does become increasingly vulnerable. There was, however, also the recognition that while a person living in poverty, for example, may have full autonomy to live their life as they choose, they may be vulnerable to all of the inherent negative impacts of poverty. Furthermore, an individual who does not have the right to make their own life choices does risk becoming vulnerable. Most respondents saw autonomy and self-determination as integral to human dignity and a personal right that should not be violated indeterminably.

How the Term "Client" is Defined May Legitimate Oppression

Integral to every aspect of social work is the concept of client and this is no less true than in the mandatory reporting protocol. The profession of social work cannot be constructed without the concept of a client as the recipient of social work services. Although the client role is what gives life to professional power, the term is not clearly defined. Clients are not a homogeneous group and may have interests that vary significantly (Dominelli, 2004; Ife, 2001). The term "vulnerability" has implications that lead to the question of how to define the term "client" and this, in turn, gives rise to the issue of how long the status of client continues after the therapeutic relationship has terminated. "When, if ever, does an individual cease to be a client? The answer to this question has important and broad implications affecting practice standards and variations in views of appropriate professional behaviour" (Mattison, Jayaratne, &

Croxton, 2002, p. 55). The meaning of the word client lacks consistency amongst social work regulative bodies as well as across other regulated professions. For example, in some professions a client ceases to be a client when they are no longer in need of the professional's services, and in some Canadian provinces a social work client ceases to be a client 24 months after the termination of the counselling relationship. In Ontario, however, clients in the care of Ontario social workers remain clients forever. The justification for this lies with their regulatory college who see the power that a therapist holds over a client as enduring and permanent. While all participants agreed that this power did exist as long as the client was involved in the counselling relationship, no one agreed that this power should necessarily exist for the rest of the client's life.

The length of time that a client retains the status of client is relevant for a number of reasons. The first relates to the question of whether a professional and a person who has been in the role of this professional's client are free to enter into a sexual relationship, and if so, when. This is especially relevant in light of the fact that a sexual relationship with a client that does not meet the time restrictions is a reportable offense that can have serious repercussions for the professional. Believing that social work professionals hold power over their clients, the Ontario College of Social Workers and Social Service Workers states in the OCSWSSW *Standards of Practice Handbook*, "Behaviour of a sexual nature by a College member toward a client represents an abuse of power in the professional relationship" (Ontario College of Social Workers and Social Service Workers., 2000, Principal 8). The *Standards of Practice Handbook* further states that the power over the client, for the social worker who has provided counselling services, endures forever. Although everyone interviewed saw compelling reasons to

245

set time restrictions, no one supported a permanent prohibition. Many respondents had been under the understanding that the time frame was two, five, or seven years. Respondents interpreted this permanent prohibition to mean that if the professional permanently holds power over the client, the corollary would also hold true that the client remains in the vulnerable role forever.   The term "client" in the social work standards of practice is defined as anyone to whom the social worker has ever provided counselling or psychotherapy. None of the respondents initially recognized the implications of the Ontario social work definition of client as all had envisioned client to refer to a current status.

As noted the Ontario College of Social Workers and Social Service Workers states that sexual behaviour by a College member toward a client represents an abuse of power in their relationship and that this is an on-going status. This is not the same however, in other regulated counselling professions. To illustrate, the Ontario psychologist's client retains the status of client for two years after the termination of the professional relationship, yet the Ontario social worker's client, retains the title of client forever. While all respondents agreed that there were times they would be placed in positions of greater or lesser power, it followed therefore in their view that if one person in a relationship holds greater power, the other must be situated as vulnerable.

While it became evident that power and vulnerability were not static concepts but instead, attributes that shifted with time, there was confusion as to why in the Ontario social work standards a client was not able to ever leave behind the status of client in this consummate ban on sexual relationships between a former client and social worker.

As the discussions continued and respondents came to see vulnerability as not static but rather, a condition frequently found amongst those living in marginalized situations as the result of poverty and disadvantaged circumstances (Melton, 2005), many expressed similar feelings to those of Dr. Jordan who recognized the recursive nature of a forever time limit. They also expressed the thought that a permanent relationship ban between a social worker and their client was unwarranted and challenged the idea of the power-vulnerability dichotomy existing as a permanent status.

Respondents began to see this permanent limitation as an oppressive restriction on clients and their attending social workers who are forever banned from entering into a relationship without the risk of a mandatory report and the resultant consequences. They voiced the opinion that especially in segregated communities this policy has very restrictive repercussions. At this juncture in the interviews, mandatory reporting's role in legitimizing systemic oppression was questioned. Respondents saw the forever limitation as oppressive and mandatory reporting's policing role as legitimizing this oppression.

There is yet another complicating nuance to this policy. While professionals regulated under the Regulated Health Professions Act report across their regulated professions, so that for instance a nurse may be obligated to report a pharmacist, social workers in Ontario are only mandated to report other social workers regulated by the Ontario College of Social Workers and Social Service Workers. Furthermore, Ontario social workers are only protected from retaliatory proceedings if a mandatory report proves to be vexatious when reporting social workers registered in the Ontario College.

247

Any member of the Regulated Health Professions is protected when reporting any member of any profession governed by the Regulated Health Professions Act. These issues add to the general confusion but also compromises social worker confidentiality when a report is made.

The variation in the definition of the term client also has implications for the social work mobility regulations established in 2007 that allow "a Social Worker who is registered in one Canadian jurisdiction [to] have his/her qualifications recognized in another Canadian jurisdiction" (Colleges of Social Workers for Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec, Saskatchewan, 2007). Recalling that each province has their own regulations and time frame, it is unclear how an Ontario social worker who enters a in to sexual relationship with a client in Ontario will be dealt with if they move to another province. Alternately, if a social worker from another province legally enters into said relationship but then begins practicing in Ontario, how will this be dealt with? Respondents discussed all of these variables and found it all very confusing. To help clarify, the various provincial mandatory reporting obligations of Canadian social workers may be seen at Figure 2, page 70.

Theme 4: Mandatory Reporting is Perceived as Morally and Ethically Unsound

This fourth overarching emergent theme suggests that the mandatory reporting protocol is seen as morally and ethically unsound in a number of areas. Although the interviews began with many suggesting that they thought mandatory reporting was sufficient as a tool in the business of protection, as the discussions and the critical

review continued to inform understandings, attitudes continued to shift. Many saw this protocol as yet another structure in an inadequate and inherently oppressive system. When they realized that many of the mandatory obligations conflicted with their personal and professional ethics they again questioned the adequacy of this policy to meet the social responsibility of providing safety, security, and protection to the members of society. Interview participants tried to find a balance that would enable them to fulfill an ethical obligation that conflicts with their own ethical beliefs.

Personal and Professional Ethics

Our personal ethics are made up of our beliefs about how people should behave towards one another, our beliefs about social justice, human rights, obligations to others, family, community, religion, culture, and all other aspects woven into the fabric of our being. We adopt our ethical views from our society and our socializing experiences.

Professional ethics are an extension of personal ethics, but are dictated by a professional code of ethics and defined by the specific profession. Interview participants found mandatory reporting policies often appeared to conflict with their understanding of professional ethics regarding concepts such as those of confidentiality and self-determination or autonomy. Much of the debate inherent in the discussion of mandatory reporting centres on questioning whether it is more important to encourage individualism or community collectiveness. This is reflective of the debates that surround discussions of utilitarian ethics which propose that the ends justify the means; or deontological ethics that suggest that moral behaviour is one's duty to be carried out

as an obligation to society. Mandatory reporting tries to balance these purposes and reports are implemented to serve the social good by protecting the vulnerable from harm while at the same time holding abusers accountable. Child welfare agencies implemented mandatory reporting obligations as a means of holding society's professionals accountable for the safety of its children and to mitigate risk by standing as a reflection of societal values. Regulated colleges implemented mandatory reporting as a means of demonstrating protection of the public from unscrupulous colleagues rather than for protecting the profession itself. Workplace harassment legislation is designed to protect the workplace environment as opposed to the recipient of the inappropriate behaviours. Mandatory reporting may well address these objectives, but in protecting the public, issues of individual rights of confidentiality and self-determination risk becoming compromised for the collective benefit.

Respondents found these ethical dilemmas confusing and disturbing and difficult to reconcile. Presented as simple and inexpensive policies that care for those in need many initially voiced support for these mandatory reporting protocols but acknowledged that they had been reticent to actually implement them. Some interview participants were unsure of reporting obligations or of what constituted a reasonable level of concern to require reporting. They cited lack of clarity regarding the policy demands and doubt in the positive impact of the mandatory protocol as reasons.

Mandatory Reporting and Confidentiality and Self-determination

Issues of confidentiality and self-determination were important to the topic of mandatory reporting. Nowhere were they more frequently raised than when discussing

250

incidents of sexual relations with a client. Recalling that there does not need to be a complainant, respondents questioned the ethicality of breaching confidentiality in order to make a report against the wishes of a client. Knowing that the client who was involved in the relationship does not need to be named, they nonetheless cited issues of loyalty and betrayal and questioned the ethicality of reporting social work colleagues and friends.

Confidentiality is one of the most important tenets of social work (Banks, 1995) and paramount in the therapist-client relationship (Ross & Roy, 1995). Many clients would not enter counselling without the assurance of confidentiality (Leslie, 2004). The courts have corroborated this, stating "only if confidentiality was assured would clients feel free to disclose their innermost thoughts. And only if their innermost thoughts were disclosed would therapy be successful" (Lens, 2000, p. 274; Leslie, 2004). But, when confidentiality is breached and a report is made because it is mandated rather than because it is seen to be in the best interest of the client, and when this report inhibits the social worker's ability to intervene effectively with the client, this would appear to conflict with values of enhancing client functioning and client self-determination. Many of the respondents noted this as a paradox. With the loss of confidentiality, clients lose control over their lives while the professionals who exercise control over others (Dominelli, 2004) continue in a hegemonic relationship.

While respondents felt confident in their ability and would have no hesitancy in reporting if a client wanted support in making a report, they felt that it was merely intrusive, demeaning, and a breach of confidentiality to the client to report in situations where the client did not support the concerns.

Universality or Cultural Relativism

The varying respondent viewpoints that arose are representative of many of the debates (Blaskett & Taylor, 2003; Melton, 2005; Tippett, 2007) surrounding mandatory reporting obligations in that while protecting some; they also compromise the rights of other individuals. Amira's story illustrated this point of conflict. She did not want her children to know she had been jailed, but her husband told them repeatedly. She still did not speak out because in her culture the man has the right to do as he pleases with his wife. The largely male-dominated legal system further silenced her. Her culture, she said, was all that she had and reporting her abuse would result in her being left with no income, no home, and because they would support the male, no community support. She did not speak up in her own defense partly because of her lack of fluency in English, partly because of the fear of police, and partly because she had been raised to accept the abuse by the men in her life. Furthermore, in spite of any community support she might be able to garner with regard to her personal situation, she would be shunned by the community if she aired her problems outside the community boundaries.

"A free society requires a citizenry that is capable of taking personal responsibility for bettering their lot, and voluntarily promoting and protecting public goods" (Thunder, 2009, p. 559). Mandatory reporting is a policy format that is intended to achieve these goals. In order to be able to effectively accomplish this, it must be a policy stance that does not have a more significant impact on some populations than on others. While some respondents had an awareness of the nuances of systemic inequities, for others power imbalances were part of their lived reality. As such they had

difficulty in seeing alternatives, and positions of lesser power appeared accepted as their unacknowledged norm.

Questioning whether we should treat everyone the same in spite of their differing views or if rules should be adapted to suit the specific population, the competing themes of universality and cultural relativism emerged. Issues of diversity, raised first when discussing power and demographics, were also relevant in the discussion of ethics. Ethical aporias surfaced when the values and beliefs of the identified subject of a report did not mirror those of the Euro-Western value system.

Where respondents initially believed that equality was best achieved by implementing reporting obligations to protect many vulnerable populations, they later suggested that the mandatory reporting protocol is oppressive to any areas of difference as they impact those who are already disadvantaged by poverty and oppression more significantly than they impact those who are part of the mainstream. While respondents respected the rights of self-determination and confidentiality as important, many mandatory reporting policies appear to take these rights away from both the reporter and the adult who becomes the subject of a report. Dworkin suggests that "in a nation, individual rights, to the extent they are recognized and actually enforced, offer the only possibility of genuine community in which all individuals participate as equals" (Dworkin, 1994, p. 61). While accepting that in North America individualism and competitiveness are promoted as desirable values, respondents all acknowledged that this is not a universal perspective (Pack-Brown & Williams, 2003; Briskman & Noble in Pease & Fook, 1999). They wanted the conferring of individual rights to allow for other standpoints. Interview participants wanted the opportunity, as long as those impacted

253

were competent, to be allowed to acknowledge this difference even if this obligated them to support client choices with which they did not agree and that might appear abusive.

Another ethical issue was raised. Respondents believed that people living in marginalized circumstances are more likely to be named in a mandatory report largely because their marginalized status is disrespected and devalued. It was their common belief that people who were already oppressed were more likely to have their behaviours interpreted by outsiders as reportable behaviours. As they had with issues of sexual relations with a client, respondents suggested that inter-group reporting was another area that would be impacted because of conflicted feelings of loyalty and betrayal.

Mandatory Reporting and Empowerment

Everyone agreed that the fear of losing your children and your community as a result of a mandatory report would serve to further silence women. Amira and Ngozi both expressed the view that providing assistance in a format that meets the care provider's needs and regulations rather than the needs of the recipient sustains the hegemonic view suggesting that the provider knows what is best for the needy individual. This response is patriarchical, demeaning, and infantilizing.

Encompassed in client self-determination and competence is empowerment, another social work goal. "Empowering clients has been seen as a way of moving towards a more egalitarian social order," (Gutierrez & Lewis, 1999, as cited in Dominelli, 2004). Mandatory reporting obligations were seen by respondents as being in conflict

254

with values of empowerment. The Canadian Association of Social Workers lists respect for the inherent dignity and worth of persons as its first core social work value and principle (CASW, 2005, p. 4). This principle acknowledges the *Canadian Charter of Rights and Freedoms* (1982) as well as the *United Nations Universal Declaration of Human Rights* (1948). In the subsequent discussion of this social work value, the CASW notes that each person has the right to self-determination that is consistent with that person's capacity and the rights of others. It also discusses the right to make choices based on voluntary, informed consent and acknowledges limits to self-determination if the individual is at risk of self-harm or harming others. The National Association of Social Workers (NASW) refers to self-determination as "an ethical responsibility to clients" (Taylor, 2006, p. 2). Yet mandatory reporting obligations frequently are seen to impinge on this value. In the interviews, while wanting to support and offer protection to people in need, respondents felt that offering protection by reifying the societal values expressed through the mandatory reporting obligation and holding them regnant over the wishes of the client was an act of legitimated oppression.

The Negative Impact of Mandatory Reporting Increases with the Number of Oppressive Intersections

Intersectionality is defined as "the relationships among multiple dimensions and modalities of social relations and subject formations"(McCall, 2005, p. 1771). Coming from feminist theory, this theory holds that the classic conceptualizations of oppression do not act independently of one another but instead interrelate, creating a system of oppression that reflects the "intersection" of multiple forms of discrimination. Respondents spoke about what they perceived to be benefits or concerns regarding

255

mandatory reporting. Those who lived in the northern communities and those who were members of racialized or insular communities spoke of the cumulative impact of multiple oppressions and the inadequacy of mandatory reporting obligations to deal with these situations. In both Doris' and Carlotta's situations, these women were experiencing the triple impact of being women, of a First Nations culture, and residents in very isolated communities. They both acknowledged a high incidence of abuse, alcoholism, and paternalism within their isolated settings. Neither of them had a strong voice in their community. As a result, many northern respondents felt that the mandatory obligations as they presently exist are ineffectual and especially so within their traditions that do not follow Euro-Western paths.

Amira also experienced the multiple intersections of oppression. As noted she was not the subject of a mandated report yet had the same experience once the abuse came to the attention of the police. She suffered the indignities of being a woman, whose culture holds women subservient, a mother of four, abused, destitute, and a member of a visible minority with language barriers. Had she or her husband actually been named in a report made by an outsider, her abusive husband would have become enraged at the intrusion.

It was the feared impact to the alleged victim that made most interview participants reluctant to accept one universal mandatory reporting approach. The internal conflict of the reporter that accompanies the making of a mandatory report is evident in the words of Elizabeth who spoke of her experience of women who defy their traditions and culture. She finds that the women are unlikely to be able to return to their homes or to their families. They are obligated to survive on their own and, thus,

mandatory reporting in these situations does not just cut the woman off from the abusive man but rather, from everybody in her life.

Mandatory Reporting and Blowing the Whistle

As the respondents acquired more knowledge they became more likely to see mandatory reporting as inadequate and oppressive. Many of them likened mandatory reporting, especially the mandatory reporting of a sexual relationship with a client, to the concept of whistleblowing.

A whistleblower is defined as someone who brings wrongdoings and corrupt practices that are harmful to the public interest and that are occurring in business or government to the attention of superiors or outside sources (Ravishankar, 2003). A significant difference between whistleblowing and the mandatory obligation to report errant colleagues is that whistleblowing is not mandated and so those who do not report misbehaviours cannot be held responsible for not doing so. Although whistleblowing may deal with corporate issues of global concern such as dumping of toxic waste into waterways, much of the trepidation and related dilemmas that arise regarding whistleblowing are similar to those that present themselves when challenging the mandatory reporting obligations. The concerns with whistleblowing that are relevant to this discussion include issues of loyalty and fear of repercussion.

Bok speaks of whistleblowing and states that "loyalty to the agency and to colleagues comes to be pitted against loyalty to the public interest" (as cited in Johnson, 2003, p. 27). Respondents expressed the concern that especially in the mandatory reporting of sexual relations with a client, mandatory reporting and the resultant

consequences are the same as those noted with whistleblowing. To clarify, they expressed concern only if the intimate relationship met all the following criteria: the relationship was with a former client; occurred after the therapeutic relationship was over; happened after the passage of a specific, prerequisite period of time; and there was not a complainant. No one supported sexual relations with a client concurrent with the therapeutic relationship and no respondents felt a loyalty to colleagues who had violated that obligation.

One of the prevailing concerns with whistleblowing is that of repercussions and retaliation for betraying confidentiality and being disloyal to colleagues because "whistleblowers are usually ostracized and punished by their former friends and colleagues, and almost certainly by their agencies" (Johnson, 2003, p. 28). Sometimes known as "truth tellers" (Gualtieri, 2004) and sometimes referred to as a "snitch" (Ravishankar, 2003) whistleblowers, in spite of safeguards meant to prevent it, are often intimidated and harassed and frequently lose their jobs. In order to address the fears and encourage the reporting of information, laws have been written to ensure the well-being of the whistleblower.

The United States' Sarbanes-Oxley legislation (2002) is meant to ensure corporate accountability and transparency and has impacted employment law by persuading whistleblowing when certain wrongdoings are noted in specific corporate settings. The province of Ontario in 2003 implemented the *Budget Measures Act,* known as *Bill 198*, which closely duplicates the *Sarbanes-Oxley Act.* Although Sarbanes-Oxley and *Bill 198* are intended to expose financial fraud and waste in corporate settings rather than the individual misdemeanors of mandatory reporting, many of the

258

respondents likened mandatory reporting to whistleblowing and unwittingly mirrored the discussions inherent in Sarbanes-Oxley.

Whistleblower laws, such as Sarbanes-Oxley (2002) in the United States, and Bills198 and C-13, an *Act to Amend the Criminal Code* in Canada, are meant to prevent the career-destroying consequences that respondents feared. In conjunction with *Bill 198* Canada has *Bill C-13* (2004). While *Bill 198* encourages whistleblowing, *Bill C-13* amended the Criminal Code of Canada to provide protection for whistleblowers by making it a criminal offence for an employer to hold reprisals against those employees who do blow the whistle.

The comparison that respondents made between mandatory reporting and whistleblowing is not an uncommon one. Tippett (2007) notes that "statutes that force employees to blow the whistle to government agencies or law enforcement officials are exceedingly rare," but then equates mandatory reporting and whistleblowing stating that doctors, teachers, and social workers are mandated to report suspected child abuse to state child protective services. Her connection reflects the attitudes of many of the interview respondents suggesting that "scholars have been strongly opposed to making whistleblowing mandatory. Punitive approaches to whistleblowing are viewed as an affront to civil liberties and have been compared to Nazi Germany, Stalinist Russia, and McCarthyism" (Tippett, 2007, p. 10).

Regulating Moral Behaviour for the State

As has been suggested, policies not only impact societal conditions, but also connect people while maintaining order (Longoria, 2005, p. 126). Mandatory reporting in

this way serves a function of moral regulation. Respondents, while recognizing the stated purpose of mandatory reporting protocols, also questioned if regulating behaviour was the real intent of these rulings.

Mandatory reporting policies, when used in template fashion and applied to different purposes, appeared inadequate to provide protection while remaining potentially oppressive and controlling in their efforts to serve to regulate behaviours of the general public. This suggested to respondents that there might be other benefits to justify these regulations, which led to discussion regarding moral regulation. As Tessa of the northern Ontario social workers suggested, "We are covering our own ass." Lisette responded "We have lost the original intent."

Described as existing, "like some ancient 'fear of God,' moral regulation works within us so that we become part of the working of the state" (Adams as cited in Glasbeek, 2006, p. 2). Interview respondents were asked their thoughts about the ability of human rights as defined in the Charter to exist concurrently with mandatory reporting obligations. In responding to this line of questioning participants noted that while mandatory reporting is ostensibly implemented to protect the vulnerable, mandatory policies regulate behaviours in ways that reflect community standards (Landau & Osmo, 2003; Parsons, 1995; Yelaja, 1978) but that may not accurately represent all standpoints. This suggested the secondary purpose of mandatory reporting is that of regulating the moral behaviour of those who are disadvantaged, marginalized, poor, and oppressed.

When discussing Charter rights and mandatory obligations, the issues of balancing communal and individual rights arose many times. Much of the literature repeats the theme that "the dilemma involves not only the freedom of the individual versus the good of the individual, but also the freedom of the individual versus the good of society" (Landau & Osmo, 2003, p. 351). It is a difficult balance and one that many respondents addressed. Lisette suggests the difficulty respondents had in finding this balance when she asks rhetorically, "I think [human rights] is something we aspire to because without that what do you have? … Mandatory [reporting and human rights], well you couldn't say those two in the same breath in all honesty."

Respondents compared mandatory reporting to other morally regulated behaviours. The issues identified, such as smoking or seat belt usage, have undergone significant shifts in public attitude over time. After much study and research delineating the risk factors and high dollar costs inherent in these behaviours, many people over time found that their views on these issues had changed so that they now appreciated the implementation of these legislative restrictions and guidelines. This is reflective of the manner in which recursive social behaviours alter public morés that, in turn, impact the consequential shift in societal values, eventually resulting in new policy stances that reflect the current norms. Issues of smoking and seat belt usage are two of many concerns in which the government has stepped in to allegedly protect possible sufferers while regulating their morality (Hunt, 1999). Some skeptics would suggest that in current economic times the true motivation for this intrusion into private life is the excessive cost to the universal health care system that accompanies the failure to comply (Pellegrino, 1999). Whatever the reasoning, the added benefits to the individual and the community

provided by many of these obligations, is evident and proven. This is not the case with mandatory obligations that have not been evaluated or researched. While most issues of moral regulation do not generate the submission of a mandatory report comparative cost factors may be indicative of the possible hidden agenda of report policies. The response of this group of respondents may also measure the level of distrust that the general public has toward moral regulations that turn them into policing agents of the working state.

The voluntary reporting of child abuse, precursor to mandatory reporting, was first seen in the 1960s. At that time in history social welfare was beginning to be perceived by many as "a system of bureaucratic moralization and disciplinarity" (Hunt, 1999, p. 193), which would explain the shifting of the responsibility for the well-being of children to the medical community. When reporting of child abuse became mandatory in the 1980s, this moralization and disciplinarity had shifted to a time of even more radical conservative politics and neo-liberalism. The neo-liberal politics represented the New Right, or Thatcherism, and was a time in which "issues of moral reform became deeply imbricated in the shift of social problems into the arena of state action" (Hunt, 1999, p. 192; Parton, 2006; Teeple, 2000). Many respondents recognized the burden of this shift of responsibility that is firmly embedded in mandatory reporting obligations and questioned whether mandatory reporting could in fact effectively protect the vulnerable or if, as in child protection, it might be "known to lack a grounding in valid empirical assumptions and indeed to have terrible unintended effects" (Melton, 2005, p. 10).

Reminiscent of Foucault's conception of the panopticon, the prison in which the prisoner can be seen at all times, resulting in the prisoner eventually internalizing the

262

watching and policing himself (Foucault, 1977a), moral regulations are applied via mandatory reporting obligations and have the ability to implicate individuals into the increased surveillance or policing of both themselves and others. Social workers who also have the duty to report others who meet the criteria of the specific mandated obligation, must as well report themselves when necessary, closely emulating the panopticon concept, not only of being watched or watching others but also of self-surveillance.

Theme 5: A Call for Multidisciplinary Review and Input Prior to New Implementations

The fifth overarching theme emerged well into the interview process. Respondents were spontaneously asking questions, sharing thoughts and telling stories about the mandatory reporting protocol and their experiences related to it. They were no longer simply accepting the assumption that mandatory reporting succeeds in the anticipated and publicized manner. They were now seeing that "mandatory reporting of abuse automatically takes control of decision making out of the [older] person's hands" (Harbison, 1999, p. 10). Respondents put forth a call for a proactive approach to protective services. They recognized inadequacies in the existing system and wanted the benefit of interdisciplinary perspectives injected into these policies to provide what Elizabeth referred to as "a very rich tapestry—not just one colour." The regulated professionals sought recognition for their education and experience that would allow them discretionary leeway respecting what Sandra suggested was their "capacity to say 'I think I can work with this family and help them without reporting'." The non-regulated respondents did not want their interventions to result in what Doris referred to as

263

"vindictive" and oppressive consequences. They sought reassurance that they could request guidance from qualified professionals and yet would not be obligated to contravene their ethical morés in a system that Sandra called "punitive and condemning" as opposed to "a restorative approach." Ultimately, the fifth overarching theme that emerged across all interviews, whether individual or group was the call for public discussion, review, and input prior to the implementation of these seemingly benign policies.

Coltrane's reference to warrants, the statements used to explain why a social problem needs attention, has been discussed previously, but Coltrane (Coltrane & Hickman, 1992), in adapting what is also referred to as the Toulmin argument (Toulmin, 2003), prefaces his discussion of warrants with a discussion of what he refers to as "grounds." He defines grounds as the "numeric estimates of the so-called 'problem'; definitions, examples, and numeric estimates that may very well be false; horror stories and an 'injustice frame' that outline the fact that there is a problem" (Coltrane & Hickman, 1992, p. 406). With reference to mandatory reporting, a ground would be, for example, a comment that suggests that incidents of child abuse are rampant and happening all around us every day. It would be accompanied by a horror story of the frequency of abuse that has occurred in both urban and rural areas all over North America, but these alleged facts would not and could not be substantiated. It would be like the statements made by Kelly of the affinity focus group when speaking of school teachers who "are dealing with [child abuse] all the time." The warrants, such as the comment made by Southern Ontario social workers' group member Suzanne, "If you are reporting it you are stopping the abuse; you're stopping whatever the problem is," would

264

then be introduced, which would suggest that any reasonable person would want to follow the course of action suggested and would imply that this course would lead to being "on the side of angels" as suggested by Nelson (Nelson, 1984). Nelson then presents the "conclusions" or the "potential actions that claims makers assert are necessary to rectify the social problem" (Coltrane & Hickman, 1992, p. 406). In my example, this would be the need to establish a mandatory reporting obligation to deal with the identified specific crime. Petra, when asked about elder abuse and mandatory reporting, stated that "if it hasn't been [made a mandatory report] it should be." This use of claims makers rhetoric (Coltrane & Hickman, 1992) is similar to the means of "political agenda setting for social problems" that Nelson (1984) refers to in the title of her book. Grounds, warrants, and conclusions are outlined as issues in the following format:

- Grounds are declared: "Abuse is happening everywhere and all the time and is committed by everyone and people of all ages are being hurt and even killed."

- Warrants are then used to rally the caring community to insist that this injustice be dealt with: "All caring citizens must take responsibility for the abuse that is happening. We must demand immediate action. We must rally and write legislation and bring this issue to the attention of the public and the state."

- Conclusions are then suggested: "We need everyone, especially identified professionals, to fight for this new bill and be watching, intervening, and making reports in order to be an ethical professional, a loyal co-worker, a good citizen, and a caring community member."

In this way, the words "mandatory reporting" have emerged as a statement defining social welfare protection in a format that is suitable for what the Euro-Western society identifies as a caring community. Because the obligation to report is conferred on specific professionals, the mandatory reporting obligation becomes an icon or symbol of professional status. "Symbolism is often integral to social welfare policy

265

development" (Parsons as cited in Longoria, 2005, p. 128) in that concepts such as collaboration or rationality become imbued with enhanced legitimacy (Longoria, 2005, p. 128) but without commiserate evidence of effectiveness. By establishing policy through the use of the rhetoric of grounds, warrants, and conclusions as described and by "casting their personal troubles as pressing social problems" (Coltrane & Hickman, 1992, p. 400), mandatory reporting as a policy stance has become a symbol for protecting the vulnerable.

During the research interviews, what kept resurfacing was that although there is no definitive research suggesting that mandatory reporting is successful in attaining the stated goal of protection for the vulnerable, it has nevertheless been accepted as a symbol of goodness. Interview participants noted the paradox. As Pamela stated "whether it really does [protect] or not, we don't know because it really hasn't been evaluated, [however, it] "gives the public some confidence that there are vehicles in place that can help the vulnerable." Respondents identified inconsistencies and requested evaluative processes to assuage their doubts regarding the efficacy of mandatory reporting. Mandatory reporting as a policy approach had been designed in haste for one purpose. Much like the Procrustean bed where the individual who is to lie in the bed is made to fit the size of the bed, in an attempt to make one-size-fit-all it has since been reapplied to many functions without any true evaluation or adaptation.

As reviewed in Chapter 4, The Discussion, six significant topic areas emerged that respondents felt were of relevance to policy makers regarding future or existing mandatory reporting obligations. To review these were issues of:

266

- Professional discretion
- Client discretion
- Education and resources
- Public consultation
- Checks and balances
- Closing the gaps and strengthening the system

Whereas they were each discussed previously as the unfolded in the interviews, theoretical aspects will now be considered and presented.

Professional Discretion

Many individual and group respondents, including professionals in both the southern and northern social work focus groups, felt that rather than implementing mandatory policies, future policy planning should incorporate professional discretion. Although the concept of a mandatory obligation precludes the luxury of utilizing discretion, many individuals nevertheless indicated that they do in fact use their own ethical values and judgments in decision making.

The choice to not report and ignore those incidents that they felt could be better dealt with, was something that many of the more experienced professionals admitted to. Many of the non-professional status respondents also stated this would be their approach. The problem with this, however, is the surreptitious stance they felt force to adopt and respondents' expressed concern that they would be cited for failing to submit a report. They spoke of the OCSWSSW with trepidation as upholding a policing function and articulated their reluctance to seek consultation or supervision as they fear being found out or obligated to make a report against their professional judgment.

Client Discretion

It became evident that the dominant discourse understands people living on the perceived margins as being vulnerable and unable to fully participate in decisions regarding their own lives (Harbison, 1999). How vulnerability is constructed, shapes the approach assumed in proffering assistance and may provide an infantilizing function. Allowing the client or identified "victim" of a mandatory report the personal discretion to self-determine and attain maximum autonomy were popular suggestions that surfaced. Providing clients with flexible options and the opportunity to participate in the outcome, respondents felt, would lessen the punitive impact and instead may increase the ultimate benefits of the mandatory report.

Many of those impacted by domestic abuse and who came to the client focus group as residents of a shelter for victims of domestic violence, stated that they would have appreciated a report being made on their behalf identifying their abuser because they thought it would have been vindicating if a neutral party, through the submission of a report, had also identified the behaviour that they were experiencing as abusive. They conjectured that someone else reporting on their behalf would relieve them of the responsibility and give credibility to their claims. When they gained a clearer understanding of the intent and the workings of mandatory reports they realized that this use to provide supporting documentation could better be attained in other ways that did not impede their rights of autonomy.

When asked for final thoughts, many respondents spoke out against the mandatory reporting protocol and called for review. Members of the client group

268

questioned the benefits of outside intrusion and delineated practical reasons such as fear of abuser retaliation commenting that "[the abuser] might get angry or, you know..." Another individual participant suggested the system needed reevaluation because ours is a piecemeal approach and that "the structure of how people are cared for is siloed so we are not forming teams to care for an individual."

The final discussion of many respondents returned to the topic of the forever aspect of the ban on sexual relations with a client. Recruitment to the client focus group had had the single requisite that each member had at some time been the client of a professional mental health care provider. Some of these clients had sought counselling to help them deal with current issues and stressors of daily living and others were dealing with recent or past traumas. As a group they did not feel that they remained vulnerable indefinitely to their social worker and did not agree with Ontario's forever prohibition. They felt denied the right of autonomy and personal discretion. They saw this as an example of mandatory policies that although intended to protect them, the clients, they did not want. Respondents now spoke openly of concerns and doubts that they felt were incorporated into mandatory reporting protocol.

Education and Resources

As interviews progressed and participants began to critically review the issues, the topics of education and resources were often prevalent in the discussion of mandatory obligations. Mandatory reporting obligations held in isolation were perceived to be punitive policing and not seen as an effective policy format. For the mandatory reporting process to have any chance at efficacy, respondents believed that there was a

need for further education and resources. Professionals, they suggested, should have more support from government and legislative bodies to allow them to receive clear dissemination of their reporting obligations and a good understanding of ethical decision-making processes to ensure well-based judgments.

Respondents felt that clients must have a better understanding of their rights in the mandatory reporting process. Resources such as daycare, shelter, adequate financial support, and employment must be available to clients in order to back the mandated report recommendations. "Offers of help, based on principles of the individual's autonomy and rights to make decisions for themselves, would therefore focus on ensuring that she has full information about options open to her" (Harbison, 1999, p. 4). Recalling Gidden's description of resources as that which "make the exercise of power possible" (Giddens, 1993, p. 11), respondents agreed and identified capital resources, authority, and the agents who are able to affect change as integral components in supporting those who need assistance. Follow-up was seen as important, but in the absence of supporting resources the respondents felt that the mandatory reporting process was not only futile but self-serving. (Harbison & Morrow, 1998).

Public Consultation

Noting the lack of public debate in policy setting, participants suggested that the mandatory reporting process would only be effective if both the clients and the professionals were involved in the policy making process. As such a broad spectrum of respondents hailing from diverse geographical, cultural, professional and lifestyle

locations enhance the input and outcome. Pamela asked for the involvement of as many stakeholders as possible in order to increase public understanding and awareness during the policy development process. This would address the concern that these policies are so often implemented with no public input or awareness.

Checks and Balances

After much discussion and critical review, many respondents were drawing attention to disparities in the mandatory reporting protocol and calling for schemes to drive parity. The phrase "checks and balances" came up many times, as did the issue of human rights and the need to balance the rights of the individual with the societal need to protect the vulnerable. Some respondents mentioned the benefits in the mandatory reporting obligations even while also viewing the problematic issues. They wanted the flexibility in the system that would allow them to retain the beneficial aspects of a mandatory obligation. Designing a system that allows for public input in the best format possible, that would encourage the desired level of autonomy and protection while allowing for consultation and guidance without the loss of personal decision making and input will allow a balance and a failsafe structure.

Closing the Gaps and Strengthening the System

Not only did respondents call for more input by those who were impacted by mandatory reporting policies, they also called for more interfacing between policy makers and the community in general. Public and political information sessions about successes and failings of mandatory reporting obligations, further opportunity for public input prior to implementation of new applications, as well as a comprehensive research

program to evaluate successes and failings of existing policies were suggestions in response to the question asking what to tell policy makers.

Although respondents were able to identify issues of conflict and struggle ensconced in the mandatory reporting obligations, all had been content to trust the system to do what was right. They saw mandatory reporting as a fait accompli and felt hopeless in discussing change as they did not believe the protocol would be altered. Pamela, however, was able to provide an optimistic perspective, suggesting that changing an ineffectual policy is not an irreconcilable hurdle.

CHAPTER 6—SUMMATIVE DISCUSSION

"My prayer is not for myself.

It is for you. It is for him.

It is for everybody" HT

Mandatory reporting was first implemented as an attempt to draw attention to the physical abuse of children who were being seen through hospital emergency departments. Although 40 years later many still laud Kemp's work for having "clearly stood the test of time" (Leventhal, 2003, p. 544) while having "vastly underestimated the extent of the problem" (Leventhal, 2003, p. 545), others have suggested that Kemp had misjudged the severity of this problem by greatly overestimating the frequency of its existence, suggesting that the mandatory reporting protocol was inappropriate from its inception (Melton, 2005). What is certain is that the frequency of reports of child abuse have escalated (Leventhal, 2003; Trocmé et al., 2001) and whether this is because of increased awareness, increased frequency of child abuse, or because reporting has become a mandatory obligation remains unclear. What is also certain is that there is no obvious correlation between the frequency of abuse and the increase in the number of reports.

In spite of the fact that it cannot be established that child abuse has decreased as a result of mandatory reporting obligations this policy protocol has been applied and reapplied in template like fashion to a wide variety of purposes. In some situations, such as in the case of domestic violence, when implemented, those who it was meant to benefit asked that it be repealed (Smith & Parsons Winokur, 2004) stating that rather than offering protection, it has put them at increased risk. Mandatory reporting programs

have rarely been assessed after they have been implemented other than to interpret an increase in reports as an indicator of success. An increase in reports measures the compliance with new information gathering tools but has no relationship to the success of the obligation. The two questions necessary for outcome evaluation: "Is the program (or policy) having the desired effect?" and "At the desired level of cost?" (Pancer & Westhues, 1989, as cited in Westhues, 2006, p. 155) remain unanswered.

Although there appears to be nothing that unilaterally can uphold the belief that mandatory reports accomplish their goals of reducing abuse or protecting the vulnerable this protocol continues to grow in function in part because, although it has not been evaluated it is assumed to be successful. It is further assumed that the benefits of this response to perceived inappropriate behaviours outweigh any negative consequences that might result, thus justifying any collateral damage.

The idea of compelled reporting was first seen in the positivistic times of the 1960s modernity where there was the belief that with enough effort, all truths could be found and all problems could be solved. That era after World War II was a time of optimism. Four decades and many world disasters later, attitudes have changed. We now live in a time where the media continues to report issues of fear, risk, anxiety and paranoia. The world economic markets are unstable. People fear losing their employment and their homes and crime rates are perceived to be rising so that depression, anxiety and paranoia are amongst the most relevant mental health issues of the day (Health Canada Editorial Board Mental Illness in Canada, 2002). Early in the 2000s, and especially peaking with the September 11, 2001 9/11 attacks, what became referred to as the War on Terror began solidifying a decade of fear and suspicion.

274

(Klein, 2007). Marketing for personal insurance and protection devices such as home alarms and in-car locks both promoted and benefited from fear on a small scale while airport, crowd and other public building security was increased on a grander scale. Citizens were encouraged to watch for suspicious looking strangers in our midst while the sought for community became a "burglar-free and stranger-proof 'safe environment'... [of] isolation, separation, protective walls and guarded gates" (Bauman, 2001, p. 114) rather than the bonded and caring environment of communities past.

Whereas the time between1950 to 1980 came to be referred to as the Keynesian welfare state (Finkel, 2007) during which Canada developed a comprehensive social security system, at that point in time Milton Friedman's opportunistic thinking surfaced. Originally a supporter of Keynesian thought, Friedman became the main opponent of Keynes' ideas (Klein, 2007). Friedman promoted a free market economy and privatization, seeing disasters as questionable opportunities to further shift the burden of the poor and the vulnerable back to the public. Friedman's thinking became the dominant influence of North America's neoliberal economic direction, continuing beyond his 2006 death (Klein, 2007). Social programs that cost little, appeared grand and handed the responsibility for caring for the vulnerable back to the public, were a welcome reprieve (Klein, 2007).

Mandatory reporting is a policy option that has grown and thrived in these historical times of loosening bonds of community and increasing mistrust and suspicion. It is a policy stance that supports the idea of distrusting those around you and reporting rather than providing opportunities and resources. Mandatory reporting alerts society to those behaviours deemed to be undesirable. It then acts as a deterrent to these

275

behaviours by conscripting responsible citizens to become involved as caring individuals in the lives of others in their community "exacting discipline by continuous surveillance" in what Bauman (2001, p. 32) refers to as panoptical power. Although the consequences of mandatory reporting may be very costly, these costs do not fall to the governing body who implement the policy but rather, are shifted to those who deal with the aftermath. Being that it is very economical to implement, mandatory reporting not only shifts the responsibility of policing back to the community, it also allows government bodies to appear to be dealing with the issues with minimal financial obligation. Implementation of new mandatory reporting obligations are so easily applied that they are instituted practically unnoticed conscripting neighbours, professionals and co-workers alike into 'watchers' so that "today I fear that we are in fact waking up to a surveillance society that is already all around us." (Thomas as cited in Klein, 2007, p. 339).

Society is recognizing that vulnerable individuals are not a homogeneous group and that poverty, often the cause of the vulnerability, can be both situational and provisional. Anyone can become vulnerable and public policy may be better designed to accommodate the individual needs of these people. Adding further complexity to the situation, even though Canadians from as far back as the 1974 Lalonde Report (Lalonde, 1981), are known for their attempts at finding an equitable balance between individual and collective health care rights, Canada tends to advance Euro-Western principles of individualism, competition, and independence (Briskman & Noble, 1999; Mullaly, 2002). This is reflected in the positivistic view of the medical model which upholds the mandatory reporting protocol within an individualistic framework (Harbison,

1999, p. 3). As such, these values are reified above communal rights, upholding the belief that when a choice must be made, "individual rights should prevail" (Ignatieff, 2001) p. 167). This situates Canada along the independence-interdependence continuum as leaning towards individuality with other Euro-Western countries and social policies are written to reflect these values. This increases the concern that behaviours that demonstrate opposing values of familial conformity, cooperation and dependence risk becoming misidentified as controlling and abusive. Policies that appear just to one component of the populace may in this way become oppressive to others.

In and of itself, mandatory reporting as a policy direction does not proffer help, resources or hope of rising above the problem but rather is often punitive, appearing to seek retribution as opposed to remediation. Mandatory reporting, if it is going to continue to be used, has the potential to provide protection and reveal gaps in services and resources. This approach is a better fit with the social work code of ethics. Social work believes that people do want to have impact in their lives and do want to be able to self-determine and have their voices heard in addressing systemic problems. How we measure the success of mandatory reporting programs is subjective and so assessment must be done by speaking to those it impacts. This research was designed to begin the evaluation process by gathering the views of people such as those 50 individuals who participated in my study, to assist in the understanding of the impact of this policy mode.

Discussion of Major Findings

The goal of this research was threefold. The first intent was to discover the level of awareness various community stakeholders had of mandatory policies and explore their knowledge about this policy stance. Second was to gather views and stimulate discussion with these individuals regarding the perceived potential of these policies to provide benefits of protection in an equitable manner to a broader faction of vulnerable people. The third goal was to give a voice to the wide range of individuals who are impacted by mandatory reporting protocols. Many of those impacted by mandatory reporting obligations are ones whose voices are silenced. The recommendations here would ameliorate their ability to have their voices heard and to allow them the opportunity to influence future policy direction.

In order to meet these goals, interview discussions focused on five broad areas and explored the respondents' knowledge, personal experience, views, and spontaneous thoughts and comments regarding the mandatory reporting protocol. Interviews ultimately considered whether mandatory reporting obligations can become an integral tool in the building of strong and inclusive communities or if they in fact represent an empty promise of smoke and mirrors that "conjure up the 'experience of community' without real community, the joy of belonging without the discomfort of being bound" (Bauman, 2001, p. 69).

Because mandatory reporting has had so little comprehensive research it seemed prudent to explore the views of the wide range of people this policy format impacts. As it is applied with very little fanfare and minimal public debate it appeared

doubtful that those impacted would be fully aware of the effect and the power that these policies hold. This research was designed to explore my belief that knowledge of the mandatory reporting protocol was very limited and that this restricted knowledge crossed all education, gender and cultural lines. Gathering information from a wide spectrum audience seemed likely to ultimately afford the best opportunity to inform policy for change in the implementation of mandatory policies. The variety that was incorporated into the personal and professional histories of the respondents brought about a greater level of trustworthiness and richness to the data that would have been unavailable with fewer intersections. The varied perspectives including those of medical, legal and political further enriched the data by accessing the many facets of knowledge that the respondents brought to the interviews. This in turn provided further direction for the discussions and the subsequent evaluation of these policies. As anticipated, all respondents had a limited knowledge and understanding of the mandatory reporting protocol.

To assist in exploring whether limited knowledge was a generic concern or unique to some populations it was necessary to have a diverse group of respondents. In order to achieve the diversity I sought, I not only had respondents from many walks of life, I also introduced the two formats of individual and group interviewing. This allowed me access to a broader and more diverse group of individuals who were able to discuss their views openly in the venue that seemed appropriate to their needs. Individuals, some of whom might be easily identifiable and who preferred a more confidential setting were able to participate in individual interviews. Group sessions, alternately, were more suitable to those individuals who preferred to attend with others and participate in a

group discussion that alleviated the pressure on them to speak. When the shifting patterns, spoken of previously as horizons, occurred across both the individual and group interviews this supported the belief that it was not the interview style that could be attributed to the change in attitudes. I began the research wanting to explore whether respondents, through critical discussion, would hold firm to the belief that mandatory reporting was a just and fair policy format or if they would come to see it as impinging on the rights of either or both the reported and the reporter. The findings support the belief that whether potentially impacted as a reporter or as the named individual, this diverse group of respondents had a limited and abridged knowledge of the mandatory reporting protocol. The findings also supported the belief that when given the opportunity for critical review along with accurate information regarding the mandatory reporting protocol, views did shift and all participants began to see this policy format as restrictive and potentially oppressive.

Recognizing the need for a balance, philosophical discussions of ethics considered which of the values of individuality or community should be given priority in policy setting. The theme that emerged from this aspect of the discussion suggested that respondents saw mandatory reporting as reifying the Euro-western values of independence and competition, sustaining power inequities and serving as a means of policing the already oppressed. After consideration, respondents expressed an underlying lack of confidence in mandated reporting policies and suggested that as they thought about it more, they had come to view reporting as oppressive. Comparing mandatory reporting to a witch hunt or big brother, mandatory reporting came to be viewed as a tool of moral regulation and likened to a panoptical approach that obligates

the observer to discretely observe. This role of watcher that resulted from the mandatory reporting requirement vaulted respondents into a position they were not comfortable assuming. The panopticon approach was seen as conflicting with those cornerstones of the social work profession, the values of confidentiality and autonomy.

When discussing government initiatives and political activity questions of economics are integral. As noted previously, mandatory reporting policies are inexpensive to implement and shift the burden of responsibility for the protection of others from the government to the mandated reporter. By allowing the professionals no real discretionary power, mandatory reporting protocols appear to support a neoliberal sensibility of Fordist efficiency (McQuaig, 2001) serving the bureaucratic needs as opposed to the needs of the populace. Many respondents spoke of the need for the provision of resources and infrastructure. These would curtail much of what is perceived as abuse, making mandatory reporting unnecessary for all but the most serious of cases. The linkages between systems of oppression and abuse were frequently noted, especially by those respondents whose professional background was social work.

Many respondents felt that poverty was often either mistaken for abuse or the precursor to abuse. Supporting this premise, a recent Reuters' story noted that as the economy has worsened, incidents of child abuse have increased (Joelving, October 19, 2011, reuters.com/newsagency , Thomson Reuters). Considering elder abuse, Harbison (2008 p. 2) suggests that senior's victimization is often in part based on what she refers to as "low valuation" that reflects society views the elder based on their current income. Inadequate housing and poor food is often mistaken for elder abuse suggesting that

281

elder abuse and allegations of elder abuse may also be linked to poverty. Canada does not have a poverty line but rather, a low income cut-off (LICO) (Statistics Canada. Census Division & Burch, 1990). Looking at the number of people living below the LICO, and knowing that the use of food banks in Ontario in the year between 2008 and 2009 increased by 19%, (Edwardh, Hildebrandt, & Lau, 2011) suggests that families are less able to provide for their children. Poverty can leave children hungry, responsible day care unavailable, and clothing inadequate and as such often presents as neglect resulting in mandated reports. Similarly, poverty can also lead to inadequate elder care and poor living conditions, again presenting as abuse. As a reactive response, mandatory reporting appears to run counter to professional codes of ethics, including that of social work and further promotes the neoliberal agenda of Milton Friedman economics. In Ontario racialized poverty exists especially amongst immigrants and members of racialized communities (Ornstein, 2006). These in turn present multiple systemic barriers to full and equitable participation in social life. Poverty and a significant reduction in government support for the human services sector have created a harsh environment (Ornstein, 2006) for this population and has resulted in inadequate housing, unemployment, overcrowding and stress, all of which are precursors frequently misidentified as abuse (Swift & Callahan, 2009).

As respondents further reflected, many felt that mandatory reporting obligations serve as an element of social control and oppression. Due process, those legal rights that are owed and guaranteed to each individual, often appear to be lost in the enactment of a mandatory report so that mandatory reporting presents as an impingement on the rights of competent adults. Respondents were not happy to be

conscripted into the role of what they referred to as a snitch and many suggested that they would not fulfill a mandatory obligation unless they believed that the benefits to the identified victim would outweigh the negative impacts, even though this would put them in the situation of having violated the law by committing a provincial offense. By the end of the interviews the theme that emerged saw respondents viewing mandatory reporting as a policy protocol that served the bureaucracy rather than the population and many were not prepared to be implicated in supporting that stand.

Mandatory reporting of sexual relations with a client was an area where respondents seemed most conflicted and the topic generated much discussion. Sexual boundary violations were consistently defined in similar ways that included the inappropriate use of the therapist's unequal power relations (Halter, Brown, & Stone, 2007) for the therapist's personal gain. Yet while everyone agreed that boundary crossing concurrent with the professional relationship was highly improper, unethical and not ever to be tolerated, no one agreed with a forever prohibition on future potential relationships.

When discussions of sexual relations with a client surfaced, many respondents brought up the issues of transference and countertransference and the role of these psychoanalytic phenomena in counselling. Because of these and other power issues it is generally accepted that clients are perceived to be vulnerable to their attending therapist. Even while agreeing that a relationship and therapy cannot ethically exist concurrently, all of the respondents agreed with reported findings that state that a post-termination sexual relationship could potentially be acceptable (Halter et al., 2007). Many spoke of having personal knowledge of relationships that would fall under this

rubric and were adamant that they would not report these under any circumstances unless they felt that there had been a coercive abuse of power. Some of the concerns that were raised included the belief that a forever ban suggested that those who had been clients were unable to ever improve their social functioning and "get better" and that past clients should be afforded the right to self-determine and to be seen as competent. Some suggested 24 months as a possible appropriate wait time before such a relationship was suitable. Others suggested waiting up to 60 months after the final professional contact before a sexual relationship would be a possibility. These suggestions are both in keeping with literature (Halter et al., 2007). As noted, however, no one agreed with a unilateral forever restriction.

While respondents were unanimous in their dislike of mandatory reporting as a template that they perceived as inadequate they did see potential in the concept if it was used as an avenue to access resources. Many felt that it would be appropriate to mandate a discussion with the alleged victim to assess abilities, competence and thought processes while discussing available alternatives that the individual could choose to explore. They saw mandating at this level as being similar to a checklist that provided them with both, the reassurance that opportunities had been proffered and the accountability that they had assessed the situation. Picturing a step-like process many felt that a clearly outlined and mandated series of actions that would allow the identified individual the opportunity to maintain integrity and maximum self-determination while ensuring access to information and alternatives, better fit respondent's personal ethics. Many respondents suggested that they would not take issue with the mandatory aspect of reporting if they were assured of the beneficence of the action. Dr. Anderson

expressed this by stating that mandatory reporting would be more appealing to him if it resulted in "I am going to report you...but this is what will happen or I know this will open this door for you [because] if I report this then this will be available." Many respondents, acknowledging that it would require a greater commitment from government for funding, agreed that mandatory resources as opposed to mandatory reports, an approach not in keeping with a neoliberal Conservative regime, would be a better way to approach allegedly abusive situations while placing the responsibility in the hands of the government rather than the public.

Respondents were asked the thoughts and feelings that transpire both before and after their making a mandatory report. It appears that those who have had to report have felt conflicted and restricted in their decision making. Some respondents stated that they would seek consultation and supervision thus apportioning the burden of the decision making amongst others. Many suggested that they would not seek guidance from anyone if they felt that the report was not warranted for fear of being obligated to follow through with a report against their better judgment. While being guided through a critical review of mandatory reporting the more aware respondents became of the mandatory reporting protocol and its various applications, the more conflicted they became regarding their own willingness to use it and the more they spoke of perceived injustices and alternatives. Many spontaneously related their own personal stories and experiences and appeared to use these as a way to process information and critically explore the issues.

Although the final question posed to respondents asked about their concluding thoughts and the recommendations that they would like to have passed on to the policy

writers, I had not anticipated the in-depth suggestions and discussions that followed. Many spoke of issues needing to be responded to with a structural as opposed to what they perceived to be a siloed or disjointed approach. All agreed that mandatory reporting obligations that presently exist in Ontario should be reviewed and re-evaluated and that future obligations should receive public review. There was a general call for more public awareness as new obligations were considered and implemented. Many respondents were quite adamant that their voice be heard. They expressed their belief that policies that mandate the reporting of the life choices of others feel potentially unjust and marginalizing. Respondents again reiterated the earlier analogy of feeling incorporated into a witch hunt or that 'big brother' was watching them.

To give voice to those who are silenced it is necessary to uncover subjugated oppressions that exist in the fabric and recursive patterns of our daily lives. Mandatory reporting obligations are dealt with in a fragmented fashion focusing on their specific purpose rather than holistically as a policy option that must be evaluated. This enables power inequities and moral regulatory functions to be sustained and pass unnoticed. Razack (1998) speaks of how the legal and educational systems oppress non-white women and how she is pitied as a victim of her oppressive culture. Those of privilege then feel justified in saving her, even if it is against her will, justifying this intrusion by suggesting that she does not recognize her own oppression. The legal and educational systems, arguably our most integral structures, Razack (1998) suggests, continue to implicate themselves into the lives of all community members and "other" those who are not a part of the dominant group. Mandatory reporting protocols by entering the legal

policies of our workplaces, our homes and our schools, have been inculcated into lives of every person and family who has availed them self of any of these systems.

Using scaffolding techniques and critical exploration the research interview respondents gained a better grasp of the mandatory reporting obligations. With this new understanding they expressed the belief that mandatory reporting echoed the subordination that Razack speaks of. As a policy stance mandatory reporting maintains gendered power inequities and situates those of privilege, most frequently men, as the saviours of those it calls vulnerable again echoing the paradox contained in the metaphor of inviting the petroleum industry to design our furnaces (Evans and Stoddart, 1990). The responsibility to identify child abuse had originally been placed in the hands of the male dominated medical system and this belief that mandatory reporting sustains androcentric values and systemic oppressions completes the pattern of what Giddens refers to as the recursive social practices that legitimate oppression.

Strengths of the Research

A most compelling feature and major strength of this research is its uniqueness due to the breadth and originality of the topic. Because there is little if any existing research or previous discussion of this topic, a multifaceted, multidisciplinary and historical perspective were all necessary components to enable a comprehensive grasp of the issues. These many and varied disciplines allowed the topic to be adequately deliberated and subsequently evaluated from a holistic viewpoint rather than seen in the fragmented piecemeal way it has previously been dealt with. This allowed me to achieve my goals of discovering the level of knowledge, and gathering the views and

thoughts of a broad range of individuals all of whom were impacted in some way by mandatory reporting policies.

Another of the strengths of this body of work is the diversity incorporated within the group of respondents. Profession, gender, sexual orientation, culture, residential location, age, and education are all variables that were considered and successfully integrated into the process. My original thought to only include the views of social workers did not meet my personal criteria of wanting to understand the many different ways that people can understand and be impacted by mandatory reporting obligations. The many standpoints afforded by the diversity of the participants resulted in a much richer and more meaningful end product.

The incorporation of this number of participants translated to another positive feature. Because of the large number of respondents and because I produced and analyzed all the transcripts myself I was able to immerse myself in the data of this large population so that the emerging pattern of the shifting horizons of thought was able to be noted. This pattern would not have been as evident without a large group of participants to follow. Gadamer (2004) speaks of the ability to bring past understanding together with present new knowledge as the fusion of horizons that he suggests moves the person to a new level of understanding. As the respondents gathered new knowledge and critically shaped their understanding of the dilemmas inherent in mandatory reporting, their horizons were further advanced to a new point of understanding. My closeness to this rich data afforded me the insight to note this pattern as I read through the many pages of transcriptions. Had there been multiple transcribers this shifting understanding would likely not have been noted and had there

been multiple analysts, while there would have been the added benefit of increased trustworthiness from the triangulation I again question whether the pattern would have been recognized. This pattern was not clearly discernable and was only made visible after analysis and many readings of all the transcripts.

Being able to firmly put forward the idea that complaints about the use of the mandatory reporting protocol are infrequent, not because they are supported but rather, because they are not understood is a further strength of this research. These were not the views of a small group of people but rather, of a large and diverse group of 50 men and women from northern and southern Ontario, urban and rural communities, and different cultures and professions. Since this information has never before been gathered, it adds the strength of conviction to the end product of the research. It also became apparent that when these respondents were provided with additional information that improved their understanding of this topic, they no longer mindlessly supported the mandatory reporting protocol as unilaterally redeeming. This work provides a starting point for further discussions and continued research and increases the chance that policy makers will reflect upon the suggestions this research is now able to provide.

This research demonstrates the lack of understanding that continues to plague the mandatory reporting protocol in its many uses. In one regard this limited knowledge serves the bureaucratic agenda in that no one questions or challenges the mandatory reporting protocol. If, however, the goal is to implement policies that are relevant and equitable and intended to protect the vulnerable, encouraging public input prior to implementation is needed. This research has been able to demonstrate the value of

incorporating an educational component and critical thinking to this process. Recalling Gidden's concept of the duality of structure producing, not only the reproduced pattern but also resulting in "unintended outcomes of social practices" (Giddens, 1993, p. 13) this research highlights the need to attend to those unaccounted for and unanticipated results. As a further strength of this research therefore, the teaching strategy of scaffolding information has been demonstrated to be a process that can educate and guide policy development to attain shifting horizons of understanding. This in turn leads to robust and well developed social policies. The knowledge gained in this research can serve as an intentional means of providing both the educational component and the critical evaluation needed to shape future protection schemas.

Limitations

Inevitably there have been limitations attached to this research. The first of what may be considered a limitation is the absence of an advisory council. The suggestion to incorporate a panel of advisors was made early in the process and was my initial intent. Since this topic was complex and had to my knowledge never been researched before the idea of an advisory group was very appealing in order to assist with the planning of the research. For a number of logistical reasons the idea of an advisory committee had to be forgone even though it may have been able to provide additional insight and guidance.

Some of the strengths of this research also became implicated in the limitations. Although the benefits of carrying out all the interviewing, transcribing and data analysis by myself was previously discussed, because of the large product produced this

process took much longer than anticipated. That time would become an issue quickly became evident during the first interviews. As indicated previously mandatory reporting has been presented as a valence issue (Nelson, 1984) of no concern. This attitude continues today. Conducting the interviews in such a manner as to respectfully engage the respondents in critical thinking so that they were able to come to their own recognition of the conflicting values without unduly influencing their thoughts was a carefully calculated process that took more time than anticipated. As the interview respondents came to their new level of understanding each individual and at least one respondent from each focus group spontaneously related a clarifying story that illustrated their view of the impending dilemma. This was also time consuming and unaccounted for in anticipating the timing of the interview processes.

Although focus group respondents would not have been invited to participate in a second interview as they were not accessible to me either for reasons of distance or of anonymity, member check interviews with the individual respondents were not held, primarily because of the time factor. Having taken up more time than anticipated with the initial interviews it felt intrusive to ask for yet more of the respondents' time. In an attempt to mitigate the effect of the absence of member check interviews each respondent who participated in an individual interview received a copy of their own interview transcript in order to clarify, change or add to any comments that they had made. Only a few participants, however, gave feedback from their transcripts. Since this process of requesting feedback was non-directive and done through electronic mail, an actual face to face second interview with a specific format would have likely produced a more trustworthy result.

One of the most difficult aspects of researching the broad concept of mandatory reporting is related to its many different applications. Although it has the same name in many instances, the obligation to report, the responsibility to carry out the obligation and the consequences of not fulfilling the obligation fall on different segments of the population, impact different groups and have different end results. While in theory the concept of mandatory reporting has much commonality in its applications, in practice each application presents differently. These differences rendered the ability to research the concept of mandatory reporting in general terms much more problematic. Because of this variance, it is very difficult to disseminate the information to the interview respondents in a comprehensive manner allowing them grasp the nuances of this policy format.

A final limitation is found in the sample size. Although there were fifty people spoken to, this in total is a small sample size. Furthermore, in an effort to incorporate a wide range of perspectives no one population or profession had significant input adding an additional limitation. As such generalizations cannot be made regarding views of mandatory reporting.

Recommendations Stemming from this Research

As a result of this research a number of recommendations have unfolded. These recommendations fall into two categories, recommendations for future related research and recommendations for policy makers writing protocols for mandatory reporting policies.

Recommendations for future research

Mandatory reporting as a protocol in its entirety is a topic that has not previously been researched in a comprehensive fashion and so there was no guidance as to how to go about exploring this topic. Now that the initial research has been completed, it is important to outline some recommendations for future research. As indicated, one of the biggest difficulties faced was in knowing how to transmit the information needed to the respondents so that they were able to discuss the topic and make informed decisions. My suspicions proved true in that none of the respondents had a comprehensive view of mandatory reporting obligations. Since the information has never before been presented in anything other than a piecemeal format, respondents were unaware of the conflict surrounding these policies and unsure of their own personal obligations. Because of the manner in which mandatory reporting obligations are discussed all respondents made the assumption that to some degree these obligations met their stated and intended goals. Wanting to give respondents accurate and factual information while not wanting to inadvertently shape their views resulted in my asking questions and requesting clarification until the conflicting issues surfaced. This required a great deal of interviewing skill and patience and resulted in an interview time that was longer than anticipated. After each interview was completed the interview guide was reviewed and minor alterations were made as needed so that the process would flow more smoothly with the next respondents resulting in evaluations that were more relevant to the situation at hand. With the knowledge gained from this research, subsequent research will be able to start with the newly adapted interview guide. This would avoid much of

the initial speculative process and immediately provide respondents with a better grasp of the topic area.

Speaking previously of the liberal paradigm, it was noted that Christiano (2009) suggested that power is legitimate only if it is based on popular sovereignty, the protection of basic rights and liberties of individuals, and the rule of law. Pawlitza (2011) suggests that we make assumptions regarding the rule of law. It is these assumptions that guide this next recommendation for future research. Rule of law is the fundamental principal that "no one is above the law—no government, and no individual" (Pawlitza, 2011, p. 1). Pawlitza states her belief that in Canada:

> We take the rule of law for granted. We take as a 'given': That we cannot be convicted of a crime without a fair trial; that we cannot be threatened to give a false confession; and that our laws must give each of us equal rights and protection—no matter our religion, our sex, or the colour of our skin

Being able to take the law for granted in this way is a luxury and a privilege. Being able to trust that our laws will benefit the people and that the rule of law will be adhered to allows for the populace to live freely in a democratic society without the need for constant overseeing of new laws and policies. It also, however, precludes critical thinking.

Much of this exploration of the mandatory reporting protocol has been focused on unanticipated secondary consequences and the shifting of power. As has been noted, respondents did not have knowledge of this topic and had in fact, assumed that it fell under the umbrella of the rule of law and those fundamental rights such as the right of a fair trial and the right to equal treatment. Believing that mandatory reporting regulations protect the vulnerable and concur with the rule of law, accounts in part for respondent

position when this research began. The first horizon saw respondents distancing themselves from a topic they knew little about. They trusted that our laws are equitable and just and had not ever considered any ethical quandaries imbedded in the mandatory reporting rulings.

With the new knowledge of the shifting horizons of understanding these different horizons would be intentionally incorporated into the interview process so that questions would be designed to more specifically encourage the critical thinking process. Because respondents had not been exposed to the discourse around mandatory reporting obligations much of the initial interview time was spent in a dialectic process of asking questions that took respondents back and forth through the issues. Questions such as "what did you think of before", "what would you think of next?" and "in light of what you said, explain why would you think that?" were asked until the incipient dilemma was revealed. In future research, and since it has been determined that knowledge of this topic is limited I would recommend beginning the interviews by presenting respondents with information regarding the present uses and some of the conflicts embedded in each. This presentation of information would best be attained by beginning each area of discussion with a statement of the issue and a brief vignette that delineates the issue. This would allow the respondents the opportunity to immediately engage with the material making the interviewing process more efficient allowing time for further follow up interviews.

Since defining terms seemed to also become a necessary part of the interviews, I would be more direct in asking respondents to define certain relevant terms early in the interview process allowing me to then work with those definitions through the interviews

rather than waiting until the conflicting messages arose and then questioning the intended meanings. Again, this would make the process more efficient by providing more direct access to the information and would result in interviews that better fit in the originally intended timeframe. This in turn would present the opportunity to hold both, member check interviews and follow-up interviews. While member check interviews would increase the trustworthiness of the information, follow-up interviews offer other benefits.

Follow-up interviews would provide a method of evaluation. Once it has been satisfactorily established that there is both limited information and misinformation regarding the mandatory reporting protocol further research must focus on the design and implementation of policies that are efficient and effective to their purpose. As noted, respondents' thinking shifted in what has been referred to as their horizons of understanding. Each subsequent level of thinking reflected a new degree of understanding and a more critical review of the topic. By the end of the interviews most if not all respondents were adamant that mandatory reporting obligations had to be reviewed and that new protocols must be considered holistically before implementation. For future research, follow-up interviews would provide the opportunity to evaluate whether incorporating an educational component into the research was sufficient to allow the respondents' views, which had been altered during the process, to sustain the change or if attitudes returned to the pre-interview level of non-critical acceptance. This would provide guidance for best practice methods of injecting information to be presented to those evaluating mandatory reporting protocols. Finding the best way to

review existing and potential policies would ensure future efficacious social policy protocols.

Finding a means to encourage respondents to adopt a proactive approach would be yet another ambition of subsequent research. Follow up interviews would provide the added opportunity to note whether respondents had had further thoughts on the positive and negative attributes of the mandatory reporting protocol. If so, assessing whether their views had shifted to the level that might precede action would be warranted. Many of those who participated in the interviews are in fact in positions where they may have the opportunity to effect policy change. It would be relevant to know if this was a path that they might be encouraged to pursue and if so, how to encourage this proactive response.

The knowledge of shifting horizons gained in this research recognizes respondents' evolving thinking from an unquestioning acceptance of inchoate policies to a nuanced recognition of the need for further review. Finding how to benefit from the knowledge of these shifts so that they could be intentionally enhanced would be a further benefit to future research. As was previously noted, moral judgment does not preclude moral action (Crain, 2000) and so incorporating an advocacy component into the research that would help respondents review new mandatory reporting obligations from a critical perspective and become active in future evaluative processes would provide an additional positive outcome. In this way future mandatory reporting policies could shift so that rather than being tools of social order, they could become critical components in the building of our social safety net. Or in the words of Sandra "the hope would be to restore health ... rather than to assign blame and condemnation."

297

Recommendations for policy writers

Further research on the mandatory reporting protocol and the attitudes various stakeholders hold regarding these policies is beneficial. This knowledge is only useful, however, if the recommendations are then applied to future mandatory reporting obligations in order to make them more germane and current to the needs they are meant to address. Although generalizations cannot be made from this sample size, qualitative research does not seek a representative population and the large number of respondents and the diversity incorporated into the group of interview respondents involved in this research suggests that the feelings of others would be similar. This indicates that this research can function as a guide for future endeavours.

Mandatory reporting regulations instituted with little or no public discussion and limited education as to their appropriate usage or impact, risk being oppressive practices that compromise human rights. Vulnerability frequently appears to be connected to the absence of autonomy and the respondents consistently viewed instituting responsive resources that increased autonomy as preferable to mandatory reporting. Respondents in this study believe that mandatory reporting laws do not impact everyone in an equitable manner and that they have a more detrimental effect on those who are already marginalized. In order to assist policy writers and policy makers, it is important to gain the views of a diverse group of individuals who can aide in the efforts to rectify the present situation by carrying out further research such as this study. Many of the respondents in this research are educators, social workers, legal pundits or political representatives and consultants. These are the people who in fact can direct and lead change in the area of policy. With education through policy review

sessions such as this interview process and with further research, professionals can assist the policy makers and work to changing the way policies are implemented.

Respondents in this research endeavour recognized the need for a more comprehensive way of critically examining existing and future mandatory social policies that impact the rights of many populations. In order to access a broad spectrum of those impacted by a pending policy, both focus groups and individual interviews would be carried out. Using knowledge gained in this research to benefit future policy development, community consultations or policy institute sessions similar to the interviews that were held for this research, would be held to duplicate the process that my respondents travelled. With knowledge of the stages of horizons of thought, and recognizing that the understanding evolves along a path similar to the process of moral developmental, guiding interview respondents through the process of shifting horizons can be achieved. Using this knowledge will allow the respondents, from any walk of life, to critically evaluate and write flexible and relevant policies that can accommodate difference without marginalizing those impacted allowing them, as Dr. Anderson said "ownership, autonomy and choice."

Interviews, using the knowledge of "horizons of thought" development, will use a questioning process that travels back and forth through time in a similar fashion asking questions such as: "what would you think about before you made the report?"; "what would you think of after you made the report?"; "how do you think the impacted person may feel before a report is made?"; "how do you think they may feel subsequent to the report?" This method of questioning appeared to enable the respondents to enter and more quickly travel the critical review process, developing empathy and becoming

aware of multiple perspectives and multiple options. When interviews begin, it would be beneficial to recognize that at the first horizon respondents need reassurance and must be given the confidence that they do have relevant information to share. This is done by using information that they do know and sharing new information with them in a non-threatening manner. By recognizing and acknowledging the different horizons those leading the discussions can formulate questions to move the discussion along through the process with intentionality to the final point, that of the "aha!" moment of a new perspective. At that level of thought new policies that are rich and nuanced will serve the intended purpose with much more vitality and flexibility.

To accomplish the intent outlined above an active interviewing style is recommended as an approach that offers the same flexibility and breadth as the interviews themselves. The interviewer must be actively involved in the respondents' responses so that the direction of the interviews does not move so quickly as to be intimidating nor begin so slowly as to be insulting. The interviewer must be prepared to respond with accurate information to any question that the participant may ask so that the interviews become a discussion that educates as well as establishes boundaries to draw the respondent back when the topic goes off on tangents.

Respondents' call for mandatory resources

Although respondents saw a role for a reporting mechanism when dealing with children, by the completion of the interviews most did not agree with mandated reports where competent adults were concerned. Everyone suggested that for them to support mandated reporting they wanted it to offer assistance to the identified individual rather

implicating them in punitive or subjugating consequences. Respondents felt they could support mandated reporting in those cases only if contemporaneous with any report came their ability to offer assistance to the indentified individual. Most felt that mandatory reporting was unsuitable if there was nothing of benefit to provide the individual other than the ensuing punitive or subjugating consequences that routinely flow from these reports. The respondents in this research came to feel that mandatory reporting obligations shifted the burden of responsibility for the well being of others to the reporters. The idea of mandatory resources was one that was stated in the spirit of shifting the burden back from the reporters to the governmental agencies that these respondents felt should provide support and guidance.

Under the current scheme the interview participants who were regulated professionals felt they did not have the ability or the authority to access suitable resources to offer the assistance necessary to justify their making a report. Respondents suggested that governmental agencies, the police, Children's Aid Society, and regulatory colleges needed to shift their focus away from solely identifying and punishing abusers. The focus should be instead on education and training to assist professionals in identifying and assessing risk and allowing them the option to use their discretion and professional judgment in deciding when to report. Knowing that mandatory reporting is often implemented after a tragic event (Ontario Association of Social Workers, 2000) many felt that mandatory reporting protocols are frequently applied in haste replicating what Solomon (2005) refers to as the government's attitude of "apathy, apathy, apathy, panic, panic, stupid law" (Solomon, April 27, 2005).

Respondents' call for increased personal security in making a report

Fear of reporting was a prime concern expressed by many of the respondents. Many were unsure of the obligations they held and this further heightened their fear of reprisals. As discussed previously, some of the pending concerns involved fear of fines for not reporting; fear of wrongly reporting; conflicted feelings regarding the breach of confidentiality and fear of retribution from colleagues and coworkers who perceived reporting to be an issue of disloyalty. Respondents felt the need to ensure that for those who do report, reporting is a safe endeavour. Although in the U.S. there is the whistleblower law known as Sarbanes-Oxley and in Canada there is Bill C-13, which is the Canadian version of the whistleblower law, many respondents had no confidence that reporter anonymity would be protected making them feel unsafe to make a report. They feared the aforementioned negative and potentially serious consequences to both the reported and the reporter. Respondents likened whistleblower laws to restraining orders that are only effective after a crime that contravened the law has been committed and were not convinced that these laws would benefit them when faced with the aftermath of a mandatory report. Respondents expressed concern that the consequences of the report to the allegedly vulnerable individual may be graver than the situation being avoided. Ultimately, all respondents wanted reassurance that their personal safety would be guarded in making decisions regarding the reporting of possible wrongdoings.

Respondents call for relevant services rather than punishment

As respondents' perspective began to shift, many now referred to inherent problems. They began contemplating repairs to the system that did not incorporate what one referred to as "tattling". Dr. Anderson recommended "I would really like to see a paradigm shift from 'complaint and discipline', to continuous 'quality improvement'" while Dr. Jordan stated, "this isn't an argument against interventions; it's an argument about what we've got in place to make meaningful interventions and right now we have a social safety net that is completely frayed, if not entirely dismantling itself." Respondents were more inclined to support mandatory reporting policies that had the potential to provide protection and identify gaps in services rather than those offering a punitive stance that reports misdemeanors and engenders feelings of distrust and despair.

Final Recommendations

As a result of this research and the subsequent analysis my final recommendations are those that do not directly emanate from any one interview or individual but rather emerged from the many suggestions and discussions of the respondents.

A Need for Better Education Regarding the Mandatory Reporting Policies

The first of these recommendations suggests that if mandatory reports are to continue, professionals who are mandated to report must be better educated regarding what is reportable, who one reports to, the process of reporting and what the possible repercussions and alternative outcomes may be. There remains a vast lack of accurate knowledge even amongst those who are obligated to make reports.

Professional Discretion Based on Education, Training and Experience

Should be Recognized

A further recommendation is that professional discretion should be reflected in the protection of the vulnerable and the system should reflect the skills and knowledge of the professional. If it is determined that a mandated process is required, the mandatory aspect should be reflected in the responsibilities of the professional so that the professional is obligated to attend to certain criteria such as a mandatory obligation to speak to the individual; a mandatory obligation to present and review resources available with the individual; or a mandatory obligation to assess the individual's level of competence and ability to self-determine. This would place the element of choice into the hands of those who are competent while lessening the potential negative impacts of mandatory obligations on those who may be vulnerable but still able to exercise personal autonomy.

Mechanism for Collaboration in Reporting

Another recommendation would be to incorporate a critical thinking aspect into the making of a report. Reporting panels or committees would be struck so that the decision regarding an appropriate response would not be made by one individual who may not understand the obligation and/or who may be inexperienced or prefer to avoid the burden of the responsibility without support. This research has demonstrated how questions can be designed to embrace the critical thinking process and how this process can be utilized to educate, evaluate and creatively respond to protection issues.

Alternate Approaches to Provide Protection Considered

Along with evaluating new mandatory reporting applications, other methods of protection can be explored. One approach that should be considered is an alternative dispute resolution approach that would mediate a settlement that reflects the wishes of all parties involved rather than involve the submission of a mandatory report. This would not be as litigious or as conflictual as a mandatory report and would be more likely to result in a settlement that all parties would be prepared to abide by. Agencies such as the Children's Aid Society rather than assuming a confrontational stance would be able to work cooperatively with all parties including with vulnerable populations as part of a resource team to mediate a positive result.

Unanticipated Secondary Consequences Must be Accounted For

Impairs ability to seek guidance. When considering final recommendations some residual issues must be mentioned as potential pitfalls for consideration. The first of these is that while everyone I spoke to agrees that there should never be a sexual relationship with a client concurrent with the professional relationship, no one agreed with an indiscriminate perpetual ban. Respondents suggested that this stance was "silly" and would result in social workers avoiding the college for fear of being obligated to report something they preferred to ignore. Everyone suggested that alternative approaches to protection of the vulnerable would remove the fear of seeking assistance for all parties.

Misuse of mandatory reports. Domestic violence with a child witness is an example of a mandatory report that is frequently misused. Seen in divorce cases involving custody and access, men and women who are seeking to gain sole custody of the children and exclusive possession of house sometimes want to increase their chances of legal success. Now that domestic violence with a child witness generates an automatic mandatory report it is not uncommon for one of the parties to fabricate a scenario suggesting domestic abuse. Police are called and they are obligated to report the incident to the child welfare authorities. This fabrication often results in the one spouse being criminally charged easing the way for the other to gain control of the children and the assets.

Gives false sense of confidence. Mandatory reporting has been insinuated into the Workplace Safety Act. The impetus for this usage was based on a situation that occurred in Windsor, Ontario where a physician killed his ex-lover, a nurse who worked at the same hospital where he was employed. Mandatory reporting of the abuse that had occurred outside the work environment would not have been successful in averting this murder, since it was also the physician's place of employment. Mandatory reporting in similar situations would provide a false sense of security to everyone involved. The target of the violence would not be protected once he or she left the work environment. The aggressor cannot be restrained prior to having committed an offense and so he or she would not be able to be banned from public spaces. The individual who is obligated to make the report may be putting him or herself in the line of danger by provoking the aggressor and all staff and employees at the place of employment have been charged with the protection of the alleged victim. In situations such as this, professionals need a

range of stronger regulations such as restraining orders, and police protection at their disposal to protect alleged victims from the threat while not shifting the burden of protection to others who are not qualified and who do not have the power needed to provide this security.

Mandatory reporting polices need regular review. As a further recommendation, I would like to suggest that mandatory policies that are instigated be reviewed, discussed and reevaluated at regular intervals. These policies to date are rarely if ever reviewed. As simple, inexpensive and seemingly benign policies, they garner special status allowing those of privilege to assume the position of protecting those they unintentionally subjugate. Evaluation models must be developed to study and clarify the impacts of these policies individually and as a whole. Logic model guides such as the Kellogg Logic Model Development Guide (W. K. Kellogg Foundation, 2001) below, or ones such as those utilized to evaluate child protection policies (Azer, Mehanna, al-Sharmani, & Ali, 2010) may be utilized to direct the assessor through an evaluation process leading from inchoate concepts to specific outcomes.

The Kellogg Model begins by establishing goals such as those that the mandatory report is intended to accomplish such as offering women in situations of domestic violence alternatives. It moves to the activities and resources needed to attain the goal, such as alternative, affordable housing, and educational opportunities. It then evaluates possible outcomes, both positive and negative that might be a result of or interfere with a mandatory report and lastly, considers the ultimate outcome desired, such as productive, safe women who are able to raise their children in a healthy and stimulating environment. What is critical to the Kellogg model in the development of

mandatory reporting policies is that this model builds in the evaluation methods and a time frame for the evaluation process.

Figure 5: Kellogg Logic Model Development Guide
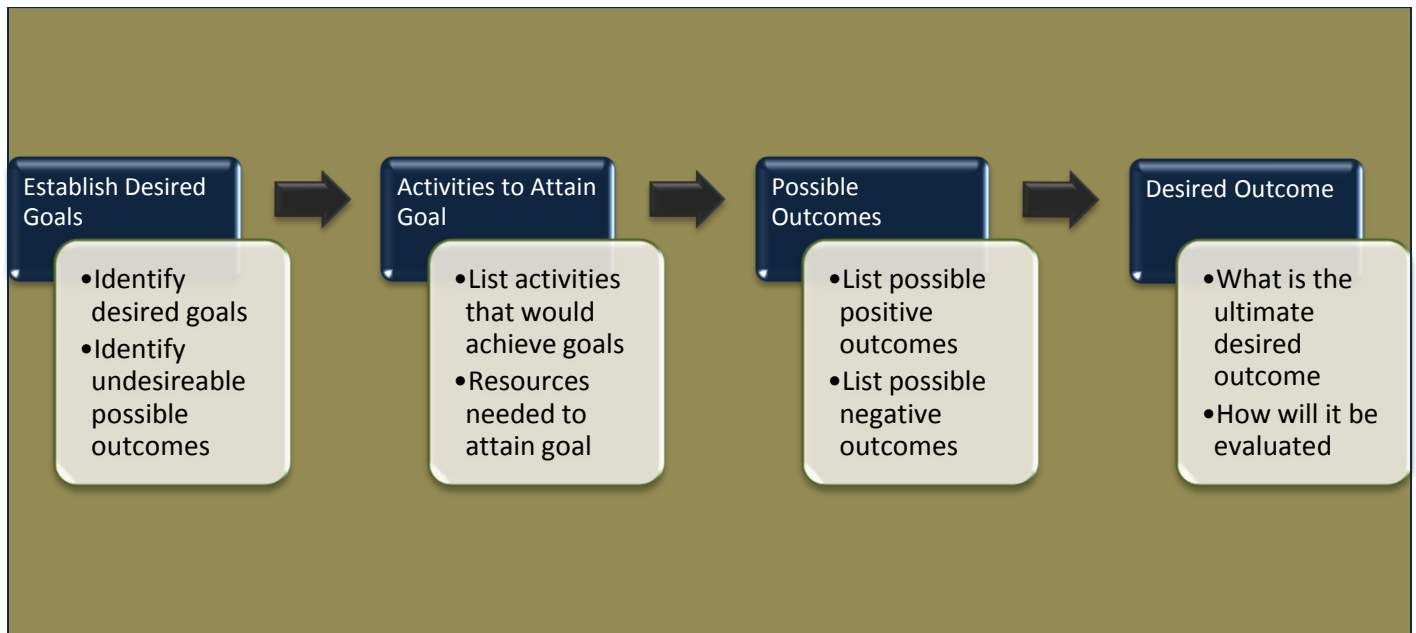
Emergent theory for policy creation. It is my belief that people can make good choices for themselves and they should have the opportunity to be involved in decisions made that will impact their lives. Furthermore, I believe that it is important to acknowledge this ability so that individuals are empowered rather than decimated by the system. Individuals do not need to have specific education or the same education as others in order to be able to engage in critical thinking that will shape policies. This research has demonstrated some of the conflicting areas of information and has delineated challenging ethical dichotomies. With the direction provided by this research individuals from various walks of life can be given guidance and the opportunity to go

through similar critical thinking journeys that the respondents of this research traveled that will assist them in forming opinions relevant to the topic.

Understanding the concept of the shifting horizons and being able to identify them as the interviews progress will alert those leading the process that clarity in understanding is being attained. In this way new policies developed can be built by scaffolding information and understanding so that the positive impacts, unintended secondary consequences and potential misguided intentions can be noted and addressed prior to inadvertent systemic failings. Policies implemented should reflect the voices of those they are meant to assist and should maximize the functioning and autonomy of those who may be at increased risk. By not including the alleged victim in the implementation process there is an assumption of their inability to competently make good judgments and self-determine so that the right of autonomy is removed. Including as full a spectrum as possible of respondents in the planning and implementation stage will ensure multifaceted, well thought out and robust policies that can meet their intended goals. The path from the original research question to the final recommendations may be seen in Figure 6, a summation of the entire process.

Mandatory reporting policies may in fact appear to be a simple and inexpensive policy approach but hidden in the unassuming demeanor, is in fact a very powerful format that has the ability to take away many basic human rights. Future mandatory reporting obligations should not be implemented until the new function is fully explored and this process of evaluation has been completed. Public discussion based on full and complete information will add richness to the discussions and should be held allowing the voices of all relevant parties to be heard whenever possible. A policy format such as

309

the mandatory reporting protocol which has the power to impact so many varied aspects of everyone's daily life must not be implemented in silence and in haste. Before allowing this policy stance to shift the burden of protection to those who are unable to assume it, it is time to ask "whose needs are being met through the promotion and maintenance" (R. A. Longoria, 2005, p. 132) of the mandatory reporting protocol.

CONCLUSION

"My father had just died. We were forced to move because the soldiers were near. Our wagon had been confiscated. During the week of mourning, my brother had a dream. Our father came to him and said 'near me is a wagon; come and get it.' As my brother approached the wagon he saw a figure and was afraid, but thought 'I wasn't afraid of my father when he was alive, I don't need to fear him now.' That wagon saved our lives." HT

I began this dissertation with the words of Cohen (1992) telling us that in anything we create there is always a crack, a crack of imperfection that allows the light of hope to enter. Many years ago in Russia my father's family, in their grief at the loss of their father, was led to the wagon that offered them escape and provided them with renewed hope for a future. This research has exposed many cracks in the mandatory reporting protocol yet these failings, when recognized, can provide direction for new and better ways to build strong, inclusive communities that allow even the most vulnerable to live with dignity.

I would like to leave the last thoughts to John, a respondent who offered what may be the most compelling reason for carrying out this research:

> The state can't raise kids and everyone it delegates to raise kids usually does a second-class job and it would be cheaper to intervene in the well-being of the family. We are starting to understand that. We are starting to understand that in all kinds of ways. We are starting to understand that allowing the justice system and the police to deal with homeless people ...

and emergency wards to provide them with medical and social care is the single most expensive way of dealing with the [problem] ... [We are starting to understand that] using child reporting as a response to poverty [is] more expensive. If we applied some resources to that family we'll probably do a better job. And as Jews, we do understand that.

He continued to explain that that is why those of conscience embrace the concept of *tikkun olam*, Hebrew for the obligation to "repair the world" through social action and the pursuit of social justice. *Tikkun olam* implies that each person has a hand in working towards the betterment of his or her own existence as well the lives of future generations. *Tikkun olam*, a concept central to Jewish living, forces people to take ownership of their world. *Tikkun olam*, a repeated and anticipated pattern of behaviour that has been passed down through the generations to all people of my faith resurfaces here, returning me to the question that first led me on this journey. Quoting the famous reference attributed to Rabbi Hillel, a scholar who lived over 2,000 years ago, I ask:

If I am not for myself, then who will be for me?

And if I am only for myself, then what am I?

And if not now, when?

Epilogue

Mere months after beginning this doctoral journey, my father died in his 100th year. Travelling back from closing up his home there it was. White and undulating, covering the full expanse of the windshield—flying along with us—a large bird. Was it the underbelly of a hawk or the white of a snowy owl? I guess I will never know for sure—but it doesn't matter. Just as his father before him, he came back to show us the way. I always knew he would come back, that he would continue to take care of us and with his few words of acknowledgement he would still be proud. "You did good."

Figure 6: *A Critical Review of the Mandatory Reporting Protocol*

RESEARCH QUESTION
Are mandatory reporting policies fair and equitable and can their usage be expanded to provide protection to a wider range of vulnerable people?

Knowledge and thoughts

Balancing protection and rights

Empower those impacted

MANDATORY REPORTING
STARTED WITH ONE SPECIFIC PURPOSE FOR VULNERABLE CHILDREN

ACTIVE INTERVIEWING STYLE
Individual
Focus groups
N=50
Active style because needed active input Critical thinking process
Compared to ethical development

Moved to many purposes and now is often considered as first line of defense and not publically discussed

HORIZONS

THEMES

1. Limited Knowledge of Mandatory Reporting Hinders Critical Review

2. Mandatory Reporting is Perceived as Inadequate

3. Mandatory Reporting is Perceived as Oppressive

4. Mandatory Reporting is Perceived as Morally and Ethically Unsound

5. A Call for Multidisciplinary Review and Input Prior to New Implementations

1. Qualifiers and Limitations: "This is Not My Field

2. The Fight Between "Good" and "Bad

3．From Accepting the Tradition to Recognizing Other Perspectives

4. Not All Interventions are Created Equally

5. Protection or a Tool of Social Order?

6. Multiple Perspectives and Shifting Meanings

7. Alternative Knowledge, Ownership, Autonomy, and Choice

8. Developing a New Perspective

RECOMMENDATIONS

Recommendations for policy writers
• Follow similar process for writing and evaluating policies

Recommendations from Respondents:
• Call for mandatory resources
• For increased personal security in making a report
• Relevant services rather than punishment

Final Recommendations
• A need for better education regarding the mandatory reporting policies
• Professional discretion based on education, training and experience should be recognized
• Critical review and public discussion is needed before new mandatory reporting applications are implemented
• Alternate approaches to provide protection considered

Unanticipated Secondary Consequences Resulting from Mandatory Reporting Protocols
• Interferes with ability to seek consultation
• Misuse of mandatory reports
• Gives false sense of security
• Mandatory reporting polices need regular review

312

References Cited

Ainsworth, F. (2002). Mandatory reporting of child abuse and neglect: Does it really

make a difference? *Child & Family Social Work, 7*(1), 57-63.

Alexander, B. (2008). *The globalization of addiction: A study of poverty of the spirit*.

Vancouver, British Columbia, Canada: Oxford University Press.

Alisa Smith, J. D. & Parsons Winokur, K. (2004). What doctors and policymakers

should know: Battered women's views about mandatory medical reporting laws.

Journal of Criminal Justice, 32(3), 207-221.

Alvesson, M., & Sköldberg, K. (2000). *Reflexive methodology: New vistas for qualitative

research*. London: SAGE.

Anderson, P. S. (2003). Autonomy, vulnerability and gender. *Feminist Theory, 4*(2),

149-164.

Anglin, J. (2002). A theoretical framework for understanding group home life and work.

Child and Youth Services Review, 24(1/2), 49-59.

Appelbaum, P. (1999). Law & psychiatry: Child abuse reporting laws: Time for reform?

A Journal of the American Psychiatric Association, 1(50), 27-29.

Azer, A., Mehanna, S., al-Sharmani, M., & Ali, E. (2010). *Child protection policies in

Egypt: A rights-based approach* [Cairo Papers in Social Science]. Cairo, Egypt:

American University in Cairo Press.

Bala, N. (1983-1985). "The children's act: A consultation paper"--child welfare reform in Ontario? *Canadian Journal of Family Law, 4*, 233-243.

Bala, N. (1999). Reforming Ontario's child and family services act: Is the pendulum swinging back too far? *Canadian Family Law Quarterly, 17*, 121.

Banks, S. (1995). *Ethics and values in social work*. Houndmills, Basingstoke, Hampshire: Macmillan.

Bauman, Z. (1993). *Postmodern ethics*. Oxford, UK, Cambridge, Mass.: Blackwell.

Bauman, Z. (2001). *Community*. Cambridge, UK: Polity Press.

Bell, L., & Tooman, P. (1994). Mandatory reporting laws: A critical overview. *International Journal of Law and the Family, 8*, 337-356.

Berger, P. L., & Luckmann, T. (1967). *Social construction of reality: A treatise in the sociology of knowledge*. New York: Anchor Press/Doubleday.

Bergeron, L. R., & Gray, B. (2003). Ethical dilemmas of reporting suspected elder abuse. *Social Work, 48*(1), 96(10)-106.

Berlin, F., Malin, H., & Dean, S. (1991). Effects of statutes requiring psychiatrists to report suspected sexual abuse of children. *American Journal of Psychiatry, 148*, 449-453.

Bessner, R. (1999-2000). The duty to report child abuse. *Canadian Family Law Quarterly, 17*, 277-326.

Black, N. M. (2009). *Blood money: A grounded theory of corporate citizenship Mynamar (Burma) as a case in point.* Unpublished Doctor of Philosophy in Strategic Management, The University of Waikato, University of Waikato.

Blaskett, B., & Taylor, S. C. (2003). *Facilitators and inhibitors of mandatory reporting of suspected child abuse A research study* (Research. Australia: University of Ballarat.

Bledsoe, L. K., Yankeelov, P. A., Barbee, A. P., & Antle, B. F. (2004). *Understanding the impact of intimate partner violence mandatory reporting law*. United States:

Brendel, D. H. (2009). *Healing psychiatry: Bridging the science/ humanism divide.* Cambridge, Massachusetts, United States of America: MIT Press.

Briskman, L., & Noble, C. (1999). In Pease B., Fook J. (Eds.), *Transforming social work practice: Postmodern critical perspectives.* London: Routledge.

Brown, L., & Strega, S., (2005). *Research as resistance: Critical, indigenous, and anti-oppressive approaches.* Toronto, ON: Canadian Scholars' Press.

Brown, M. (2003). *Growing up black in Oakville: The impact of community on black youth identity formation and civic participation.* Oakville, Ontario: The Department of Canadian Heritage.

Bowen, G. A. (2006). Grounded theory and sensitizing concepts. *International Journal of Qualitative Methods, 5*(3), 1-9.

Burak, S. (1988-1989). The power of social workers: A comparative analysis of child protection legislation. *Canadian Journal of Family Law, 7*, 117-130.

Burck, C. (2005). Comparing qualitative research methodologies for systemic research: The use of grounded theory, discourse analysis and narrative analysis. *Journal of Family Therapy, 27*(3), 237-262.

Campbell, C. (2003). Anti-oppressive theory and practice as the organizing theme for social work education: The case in favour. *Canadian Social Work Review, 20*, 121.

Canada. Dept. of the Secretary of State. (1987). *Canadian Charter of Rights & Freedoms.* [Ottawa]: Dept. of the Secretary of State of Canada.

Canadian Network for the Prevention of Elder Abuse. (2008). *Canadian network for the prevention of elder abuse.*, 2008, from http://www.cnpea.ca/

Canestrari, A. S., & Marlowe, B. A. (2010). *Educational foundations : An anthology of critical readings* (2nd ed ed.). Thousand Oaks, Calif.: Sage Publications.

Carniol, B. (2000). *Case critical: Challenging social services in Canada* (4th ed. Rev. & Expanded ed.). Toronto: Between The Lines.

CASW. (2005). *Canadian association of social workers code of ethics.* http://www.casw-acts.ca

Charmaz, K. (2006). *Constructing grounded theory: A practical guide through qualitative analysis.* London ; Thousand Oaks: SAGE.

Chertkow, J. P. (1979). Child abuse: The legislative response in the province of Ontario. *Child Abuse and Neglect, 3*, 623-632.

Christiano, T., & Christman, J. (Eds.). (2009). *Contemporary debates in political philosophy.* West Sussex, United Kingdom: Wiley-Blackwell.

Clark, D. W. (July, 2001). Domestic violence screening, policies, and procedures in indian health service facilities. [J Am Board Fam Pract] *The Journal of the American Board of Family Medicine, 14*(4), 252-258.

Clark, J.,Ph.D., Modgil, C., & Modgil, S. (1990). *Anthony Giddens : Consensus and controversy.* London ; New York: Falmer Press.

Cohen, L., & De Mornay, R. (1992). In Campbell D. (Ed.), *Anthem.* Canada: Columbia.

Mutual Recognition Agreement on Labour Mobility for Social Workers in Canada, (2007).

Coltrane, S., & Hickman, N. (1992). The rhetoric of rights and needs: Moral discourse in the reform of child custody and child support laws. *Social Problems, 39*(4), 400-420.

Cowles, L. (2003). *Social work in the health field* (2nd Edition ed.). New York: The Haworth Social Work Practice Press.

Crain, W. C. (2000). *Theories of development: Concepts and applications* (4th ed.). Upper Saddle River, N.J.: Prentice Hall.

Crain, W. C. (1985). *Theories of development : Concepts and applications* (2nd ed ed.). Englewood Cliffs, N.J.: Prentice-Hall.

Creswell, J. (2007). *Qualitative inquiry & research design: Choosing among five approaches* (2nd ed.). California: Sage Publications Inc.

Dakin, E. K. (2004). Older women's perceptions of ethical dilemmas in adult protective services: An exploratory study, Dissertation Abstracts International, vol. 65-01A,p.

Delaronde, S., King, G., Bendel, R., & Reece, R. (2000). Opinions among mandated reporters toward child maltreatment reporting policies. *Child Abuse & Neglect, 24*(7), 901-910.

Denzin, N. K., & Lincoln, Y. S. (2003). *Landscape of qualitative research: Theories and issues* (2nd edition ed.). Thousand Oaks, Calif.: Sage.

Denzin, N. K., & Lincoln, Y. S. (2005). *SAGE handbook of qualitative research* (3rd ed ed.). Thousand Oaks, Calif.: Sage Pub.

Denzin, N. K., & Lincoln, Y. S. (2008). *Landscape of qualitative research* (3rd ed.). Los Angeles: Sage Publications.

Dominelli, L. (2004). *Social work: Theory and practice for a changing profession.* Cambridge, UK: Polity Press.

Duncan-Daston, R. S. (2003). Ethical dilemmas in social work education: How do schools cope when legalities and ethics collide around the disclosure of sensitive student information? , Dissertation Abstracts International, vol. 64-05A, p.

Dworkin, R. (1994). *Life's dominion: An argument about abortion, euthanasia, and individual freedom* (1st ed.). New York: Vintage Books.

Dye, T. R. (1978). *Understanding public policy* (3d ed. - ed.). Englewood Cliffs, N.J.: Prentice-Hall.

Edleson, J. L., Gassman-Pines, J., & Hill, M. B. (2006). Defining child exposure to domestic violence as neglect: Minnesota's difficult experience. *Social Work, 51*(2), 167-174.

Edwardh, J., Hildebrandt, T., & Lau, R. (2011). *Incomes and poverty report Burlington.* Burlington, Ontario: Community Development Halton.

Evans, R. G., & Stoddart, G. (1990). Producing health, consuming health care. *Social Science Medicine, 31*(12), 1347-1363.

Final Report of the Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, (2002).

Ferris, L. E., Strike, C. J., Deslate, C., & Dykeman, M. J. (2001). Should Canadian physicians have a mandatory duty to report woman abuse? *Medicine & Law, 19*, 101-121.

Finkel, A. (2007). *Social policy and practice in Canada: A history.* Waterloo, Ont.: Wilfrid Laurier University Press.

Finkelhor, D. (1979). What's wrong with sex between adults and children? *American Journal of Orthopsychiatry, 49*(4), 692-696.

Finkelhor, D., & Zellman, G. L. (1991). Flexible reporting options for skilled child abuse professionals. *Child Abuse and Neglect, 15*, 335-337.

Forbes Smith, H., & Freeman, M. (2005). The mandatory reporting of torture by detention centre officials: An original proposal. *Human Rights Quarterly, 27*, 327-349.

Foucault, M. (1977a). *Discipline and punish: The birth of the prison* (1st American edition ed.). New York: Pantheon Books.

Foucault, M. (1977b). *Discipline and punish : The birth of the prison* (1st American ed. - ed.). New York: Pantheon Books.

Foucault, M., Rabinow, P., Rose, N. S., & Foucault, Michel,1926-1984. Essential works of Foucault. (2003). *Essential Foucault : Selections from the essential works of Foucault, 1954-1984.* New York: New Press.

Freidson, E. (2001). *Professionalism: The third logic.* Chicago: University of Chicago Press.

Gadamer, H. G., Weinsheimer, J., & Marshall, D. G. (2004). *Truth and method* (2nd, rev. ed. / translation revised by Joel Weinsheimer and Donald G. Marshall ed.). London ; New York: Continuum.

Giddens, A. (1984). *Constitution of society: Outline of the theory of structuration*. Berkeley: University of California Press.

Giddens, A. (1993). In Cassell P. (Ed.), *The Giddens reader*. Stanford, Ca.: Stanford University Press.

Giddens, A., Diamond, P., & Liddle, R. (Eds.). (2006). *Global Europe, social Europe*. Cambridge, UK.: Polity Press.

Giddens, A. (1976). *New rules of sociological method: A positive critique of interpretative sociologies*. New York: Basic Books.

Giddens, A. (1991). *Modernity and self-identity : Self and society in the late modern age*. Stanford, Calif.: Stanford University Press.

Giddens, A. (2002). *Runaway world*. London, U. K.: Profile Books.

Glasbeek, A. (2006). *Moral regulation and governance in Canada: History, context and critical issues*. Toronto: Canadian Scholars' Press.

Glaser, B. G., & Strauss, A. L. (1967). *Discovery of grounded theory: Strategies for qualitative research*. Chicago: Aldine Pub. Co.

Gordon, R. (2001). Adult protection legislation in Canada: Models, issues, and

problems. *International Journal of Law and Psychiatry, 24*, 117-134.

Adult Protection Act Discussion Paper, Dept. of Health, Government of Nova Scotia,

2004, (2004).

Government of Ontario. (1990). Child and family services act : Revised statutes of

Ontario, 1990, chapter C.11, office consolidation = loi sur les services á l'enfance

et á la. *Child and Family Services Act : Revised Statutes of Ontario, 1990,*

Chapter C.11, Office Consolidation = Loi Sur Les Services á l'Enfance Et á La,

Ontario Social Work and Social Service Work Act, 1998, S.O. 1998, Chapter 31 (1998).

Bill 168, Occupational Health and Safety Amendment Act (Violence and Harassment in

the Workplace) 2009, Bill 168, S.O. 2009 C. 23Cong. (2009).

Graham, B., & Thomas, K. (2008). Building knowledge-developing a grounded theory of

knowledge management for construction. *Electronic Journal of Business*

Research Methods, 6(2), 115-122.

Graham, J. R., & Al-Krenawi, A. (2000). Contested terrain: Two competing views of

social work at the university of Toronto, 1914-1945 . *Canadian Social Work*

Review, 17(2), 245-261.

Grundy, S. (1987). *Curriculum : Product or praxis?.* London; New York: Falmer Press.

Gualtieri, J. (2004). Should I tell when it hurts: Conflict and conscience in
    whistleblowing. *Canadian Corporate Counsel Association 2004 Annual Meeting,*
    Winnipeg. (August)

Guba, E. G., & Lincoln, Y. S. (1981). *Effective evaluation : Improving the usefulness of*
    evaluation results through responsive and naturalistic approaches (1st ed. - ed.).
    San Francisco: Jossey-Bass Publishers.

Gubrium, J., & Holstein, J. A. (Eds.). (2003). *Postmodern Interviewing.* Thousand Oaks,
    California: Sage Publications, Inc.

Gubrium, J. F., & Holstein, J. A. (2009). *Analyzing narrative reality.* Los Angeles: SAGE.

Guest, D. (1980). *The emergence of social security in canada.* Vancouver: University of
    British Columbia Press.

Guttman, O., & Lingard, L. (2010). Credentials as cultural capital: The pursuit of higher
    degrees among academic medical trainees. *Academic Medicine, 85*(10), S21-S24.

Halter, M., Brown, H., & Stone, J. (2007). *Sexual boundary violations by health*
    professionals--an overview of the published empirical literature No. April).
    London, U.K.: The Council For Healthcare Excellence.

Hamdan, A. (2009). *Muslim women speak: A tapestry of lives & dreams.* Toronto,
    Ontario, Canada: Canadian Scholars' Press Inc.

Harbison, J. (1999). Models of intervention for "elder abuse and neglect": A Canadian

    perspective on ageism, participation, and empowerment. *Journal of Elder Abuse*

    & Neglect, 10(3-4), 1-17.

Harbison, J., & Morrow, M. (1998). Re-examining the social construction of 'elder abuse

    and neglect': A Canadian perspective. *Ageing and Society, 18*, 691-711.

Harrison, J., MacGibbon, L., & Morton, M. (2001). Regimes of trustworthiness in

    qualitative research: The rigors of reciprocity. *Qualitative Inquiry, 7*(3), 323-345.

Hathaway, A., & Atkinson, M. (2003). Active interview tactics in research on public

    deviants: Exploring the two-cop personas. *Field Methods, 15*(2), 143-160.

Health Canada Editorial Board Mental Illness in Canada. (2002). *Health Canada: A*

    report on mental illness in Canada No. October. Ottawa, Canada: Health Canada.

Herberg, D. C. (1993). *Frameworks for cultural and racial diversity: Teaching and*

    learning for practitioners. Toronto, ON: Canadian Scholars' Press Inc.

Hick, S., Fook, J., & Pozzuto, R. (2005). *Social work: A critical turn*. Toronto: Thompson

    Educational Pub.

Holstein, J. A., & Gubrium, J. F. (1995). *Active Interview*. Thousand Oaks [Calif.]: Sage

    Publications.

Horkheimer, M. (1982). *Critical theory*. New York: Seabury Press.

Hugman, R. (2003). Professional values and ethics in social work: Reconsidering postmodernism? *The British Journal of Social Work, 33*(8), 1025-1041.

Hunt, A. (1999). *Governing morals : A social history of moral regulation.* Cambridge ; New York, NY: Cambridge University Press.

Hutchinson, A., & Lee, B. (2004). Exploring social inclusion in practice: Perspectives from the field. *Canadian Social Work Review/Revue Canadienne De Service Social, 21*(2), 119-136.

Hyman, A. (1997). *Mandatory reporting of domestic violence by health care providers: A policy paper.* The Family Violence Prevention Fund.

Ife, J. (2001). *Human rights and social work: Towards rights-based practice.* Cambridge, England: Cambridge University Press.

Ignatieff, M. (2001). In Gutmann A. (Ed.), *Human rights as politics and idolitry.* Princeton, New Jersey: Princeton University Press.

Joelving, October 19, 2011, *Child abuse increased as economy crashed.* reuters.com/newsagency , Thomson Reuters

Johnson, R., A. (2003). *Whistleblowing: When it works--and why.* Boulder, Colorado: Lynne Rienner Publishers, Inc.

Jordan, C., & Franklin, C. (1995). *Clinical assessment for social workers.* Chicago, Ill.: Lyceum Books, Inc.

Jorgensen, G. (2006). Kohlberg and Gilligan: Duet or duel? *Journal of Moral Education, 35*(2), 179-196.

Kalichman, S. (2005a). *Mandated reporting of suspected child abuse: Ethics, law, & policy* (2nd ed.). Washington, DC: American Psychological Association.

Kalichman, S. (2005b). *Mandated reporting of suspected child abuse: Ethics, law, & policy* (2nd ed.). Washington, DC: American Psychological Association.

Kalichman, S., & Brosig, C. (1992). Mandatory child abuse reporting laws: Issues and implications for policy. *Law & Policy, 14*(2 & 3), 153-168.

Kempe, C. H., Silverman, F. N., Steele, B., Droegemueller, W., & Silver, H. (1985). The battered-child syndrome. *Child Abuse and Neglect, 9*, 143---154.

King, Martin Luther,Jr.,. (1964). *Why we can't wait*. New York: New York : Harper & Row.

Kirby, S., Greaves, L., & Reid, C. (2006). *Experience research social change* (2nd ed.). Peterborough, Ontario: Broadview Press.

Klaperman Morrow, C. (1982). Sick doctors: The social construction of professional deviance. *Social Problems, 30*(1), 92-108.

Klein, N. (2007). *Shock doctrine : The rise of disaster capitalism*. Toronto: Alfred A. Knopf Canada.

Kohlberg, L. (1981). *Meaning and measurement of moral development*. Worcester, Mass.: Clark University Press.

Koogler, T., Wilfond, B., & Friedman Ross, L. (2003). Lethal language, lethal decisions. *Hastings Centre Report, 33*(2), 37-41.

Krugman, R., & Leventhal, J. (2005). Confronting child abuse and neglect and overcoming gaze aversion: The unmet challenge of centuries of medical practice. *Child Abuse and Neglect, 29*, 307.

Kuji-Shikatani, K. (2007). In Joint Centre for Excellence on Research on Immigration and Settlement (CERIS) (Ed.), *Using research for advocacy*. Toronto, Ontario: CERIS.

Labbé , J. (2005). Ambroise Tardieu: The man and his work on child maltreatment a century before Kempe. *Child Abuse & Neglect, 29*, 311-324.

Landau, R. & Osmo, R. (2003). Professional and personal hierarchies of ethical principles. *International Journal of Social Welfare, 12*(1), 42-49.

Lens, V. (2000). Protecting the confidentiality of the therapeutic relationship: Jaffee v Redmond. *Soc.Work, 45*, 273.

Leslie, R. (2004). Selected issues in confidentiality. *Family Therapy Magazine, January-February*, 43-45.

Leventhal, J. M. (2003). 'The battered-child syndrome' 40 years later. *Clinical Child*

    Psychology Psychiatry, 8(4), 543-545.

Levine, M., & Doueck, H. (1995). *The impact of mandated reporting on the therapeutic*

    process: Picking up the pieces. Thousand Oaks, California: Sage Publications.

Lewis, N. K. (2003). Balancing the dictates of law and ethical practice: Empowerment of

    female survivors of domestic violence in the presence of overlapping child abuse.

    Ethics & Behavior, 13(4), 353-366.

Lietz, C., Langer, C., & Furman, R. (2006). Establishing trustworthiness in qualitative

    research in social work: Implications from a study regarding spirituality.

    Qualitative Social Work, 5(4), 441-458.

Longoria, R. (2005). Is inter-organizational collaboration always a good thing? *Journal*

    of Sociology & Social Welfare, 32(3), 123.

Longoria, R. A. (2005). Is inter-organizational collaboration always a good thing?

    Journal of Sociology & Social Welfare, 32(3), 123-138.

Lonne, B. (2009). *Reforming child protection*. London ; New York: Routledge.

Macolini, R. M. (1995). Elder abuse policy: Consideration in research and legislation.

    Behav Sci Law, 13(3), 349-363.

Mathews, B., & Kenny, M. C. (2008). Mandatory reporting legislation in the United

    States, Canada, and Australia: A cross-jurisdictional review of key features,

    differences, and issues. *Child Maltreatment, 13*(1), 50-63.

Mattison, D., Jayaratne, S., & Croxton, T. (2002). Client or former client? implications of

    ex-client definition on social work practice. *Social Work, 47*(1), 55(10)-65.

Mayer, B. (1998). Dilemmas in mandatory reporting of domestic violence: Carative

    ethics in emergency rooms. *Nursing Connections, 11*(4), 5-21.

McCall, L. (2005). The complexity of intersectionality. *Signs, 30*(3), 1771-1800.

McDaniel, M. (2006). In the eye of the beholder: The role of reporters in bringing

    families to the attention of child protective services. *Children and Youth Services*

    Review, 28(3), 306-324.

McFarlane, M. M. (1999). Mandatory reporting of domestic violence: An inappropriate

    response for New York health care professionals. *Buffalo Public Interest Law*

    Journal, 17, 1-41.

McPhedran, M., Armstrong, H., Edney, R., Long, B., Marshall, P., & Roach, R.

    (November 25, 1991). *The final report of the independent task force on sexual*

    abuse of patients. Toronto, Ontario: College of Physicians & Surgeons of Ontario.

McPhedran, M., & Sutton, W. (2004). *Preventing sexual abuse of patients: A legal guide*

    for health care professionals. Markham, Ontario: Butterworths.

McQuaig, L. (2001). *All you can eat: Greed, lust and the new capitalism*. Toronto: Penguin/Viking.

Melton, G. B. (2005). Mandatory reporting: A policy without reason. [Mandated reporting: a policy without reason] *Child Abuse and Neglect, 29*, 9-18.

Mills, J., Bonner, A., & Francis, K. (2006). The development of constructivist grounded theory. *International Journal of Qualitative Methods, 5*(1), 25-35.

Ministry of Labour, Ontario Government. (2010). Preventing workplace violence and workplace harassment. *Fact Sheet, 2*(Mat)

Minnesota Advocates for Human Rights. (2000). Domestic violence in Ukraine.*December*, 1-51.

Mohr, L. B. (1969). Determinants of innovation in organizations. *The American Political Science Review, 63*(1), 111-126.

Morse, J. M., Noerager Stern, P., Corbin, J., Bowers, B., Charmaz, K., & Clarke, A. (2009). *Developing grounded theory : The second generation*. Walnut Creek, Calif.: Left Coast Press.

Muhammad, A., & Patel, S. (2007, November 3, 2007). Cultural 'honour' killing brought to canada. *The Telegram,* pp. Commentary.

Mullaly, R. P. (2002). *Challenging oppression: A critical social work approach*. Don Mills, Ont.: Oxford University Press.

Nelson, B. J. (1984). *Making an issue of child abuse: Political agenda setting for social problems.* Chicago: University of Chicago Press.

Newberger, E., & Bourne, R. (1978). The medicalization and legalization of child abuse. *American Journal of Orthopsychiatry, 48*(4), 593-607.

Ontario Association of Social Workers. (2000). Newsmagazine.*27*(1)

Ontario College of Social Workers and Social Service Workers. (March 15, 2005). *Submission to the ministry of community and social services: Review of the social work and social service work act, 1998*

Ontario College of Social Workers and Social Service Workers. (2000). *Standards of practice handbook* (1st ed.). Toronto: Ontario College of Social Workers and Social Service Workers.

Children's Act: A Consultation Paper, (1982).

Ontario. (19uu). Regulated health professions act, 1991 : Statutes of ontario, 1991, chapter 18 : Office consolidation = loi de 1991 sur les professions de la san&tacute;e. *Regulated Health Professions Act, 1991 : Statutes of Ontario, 1991, Chapter 18 : Office Consolidation = Loi De 1991 Sur Les Professions De La san&tacute;e,*

Ontario. (2000). Social work and social service work act, 1998 : Statutes of ontario, 1998, chapter 31, office consolidation = loi de 1998 sur le travail social et le.

Social Work and Social Service Work Act, 1998 : Statutes of Ontario, 1998, Chapter 31, Office Consolidation = Loi De 1998 Sur Le Travail Social Et Le,

Ornstein, M. (2006). *Ethno-racial groups in toronto, 1971-2001: A demographic and socio-economic profile.* Toronto, Ontario: Institute for Social Research, York University.

Pack-Brown, S. P., & Williams, C. B. (2003). *Ethics in a multicultural context.* Thousand Oaks, Ca.: Sage Publications.

Pal, L. A. (2001). *Beyond policy analysis: Public issue management in turbulent times* (2nd ed.). Scarborough, Ont.: Nelson Thomson Learning.

Parsons, D. W. (1995). *Public policy : An introduction to the theory and practice of policy analysis.* Aldershot, UK: Edward Elgar.

Parton, N. (2006). *Safeguarding childhood: Early intervention and surveillance in a late modern society.* Basingstoke [England]; New York: Palgrave Macmillan.

Pawlitza, L. (2011). Celebrating equality and the rule of law. *Ontario Lawyers Gazette, 15*(2)

Pease, B., & Fook, J. (1999). *Transforming social work practice: Postmodern critical perspectives.* London; New York: Routledge.

Pellegrino, E. D. (1999). The commodification of medical and health care: The moral

    consequences of a paradigm shift from a professional to a market ethic. *Journal*

    of Medicine and Philosophy, 24(3), 243-266.

Persaud, M. (2008). Ontario strategy to combat elder abuse

    building knowledge & networks to address elder abuse: Pathways to human

    rights. Paper presented at the *World Elder Awareness Day,* Ottawa. Retrieved

    from http://www.onpea.org.remote.libproxy.wlu.ca/en/Home.htm

Pope, K. S. (1994). *Sexual involvement with therapists: Patient assessment,*

    subsequent therapy, forensics. Washington, D.C.: American Psychological

    Association.

Ravishankar, L. (2003). *Encouraging internal whistleblowing in organizations markkula*

    *centre for applied ethics.*http://www.scu.edu.remote.libproxy.wlu.ca/ethics/

Razack, S. (1998). *Looking white people in the eye: Gender, race, and culture in*

    courtrooms and classrooms. Toronto, ON: University of Toronto Press.

Razack, S. (2007). The "sharia law debate" in Ontario: The legal

    Modernity/Premodernity distinction in legal efforts to protect women from culture.

    Feminist Legal Studies, 15, 3-32.

Renke, W. N. (1999). The mandatory reporting of child abuse under the child welfare

    act. *Health Law Journal, 7*, 91-140.

Riach, K. (2009). Exploring participant-centred reflexivity in the research interview. *Sociology, 43*(2), 356-370. doi:10.1177/0038038508101170

Robson, S., & Spence, J. (2011). The erosion of feminist self and identity in community development theory and practice. *Oxford University Press and Community Development Journal, Advance Access*(May 12, 2011), 1-14.

Roche, A., Fortin, G., Labbé , J., Brown, J., & Chadwick, D. (2005). The work of Ambroise Tardieu: The first definitive description of child abuse. *Child Abuse and Neglect, 29*, 325.

Rodgers, A., Vaughan, P., Prentice, T., Tan-Trres Edejer, T., Evans, D., & Lowe, J. (2002). *World health report, 2002*. Switzerland: World Health Organization.

Rodriguez, M. A., Sheldon, W. R., & Rao, N. (2002). Abused patient's attitudes about mandatory reporting of intimate partner abuse injuries to police. *Women and Health, 35*(2-3), 135-147.

Rolfe, G. (2006). Validity, trustworthiness and rigour: Quality and the idea of qualitative research. *Journal of Advanced Nursing, 53*(3), 304-310.

Ross, L., & Roy, M. (1995). *Cast the first stone: Ethics in analytical practice*. Wilmette, Il.: Chiron Publications.

Sachs, C. J., Koziol-McLain, J., Glass, N., Webster, D., & Campbell, J. (2002). A population-based survey assessing support for mandatory domestic violence reporting by health care personnel.*35*(2-3)

Seaman, J. (2008). Adopting a grounded theory approach to cultural-historical research: Conflicting methodologies or complementary methods? *International Journal of Qualitative Methods, 7*(1), 1-17.

Silverman, D. (Ed.). (2004). *Qualitative research: Theory, method and practice* (2nd ed.). London: Sage.

Solomon, R. (April 27, 2005). *Homewood Health Sciences Education Day,* Guelph, Ontario.

Statistics Canada. Census Division, & Burch, T. K. (1990). *Census of canada, 1986 - families in Canada.* 1990:

Stratton, S. [. S.]., & Yamasaki, M. [. S.]. (2003). Elder abuse (from child abuse and neglect: Guidelines for identification, assessment, and case management, P 144-147, 2003, Marilyn Strachan Peterson and Michael Durfee, eds.

Strom-Gottfried, K. (2003). Understanding adjudication: Origins, targets, and outcomes of ethics complaints. *National Association of Social Workers, 48*(1), 85-94.

Sullivan, C. M., & Hagen, L. A. (2005). Survivors' opinions about mandatory reporting of domestic violence and sexual assault by medical professionals. *Affilia Journal of Women and Social Work, 20*(3), 346-361.

Sullivan, T. J. (1992). *Sexual abuse and the rights of children: Reforming Canadian law*. Toronto: University of Toronto Press.

Swift, K. J. (1999). The case for the opposition: Challenging contemporary child welfare policy directions. *Canadian Review of Social Policy, 47*(01), 59-76.

Swift, K. J., & Parada, H. (2004). Child welfare reform: Protecting children or policing the poor? *Journal of Law & Social Policy, 19*, 1-17.

Swift, K., & Callahan, M. (2009). *At risk: Social justice in child welfare and other human services* (1st ed.). Toronto, Ontario: University of Toronto Press, Scholarly Publishing Division.

Talaga, T. (2009, Bill forces reporting of school violence. *The Toronto Star,* pp. A7.

Taylor, S. C., & Lloyd, D. (2001). University of Notre Dame, Fremantle, Australia. 1-13.

Taylor, M. F. (2006). Is self-determination still important? what experienced mental health social workers are saying. *Journal of Social Work Values and Ethics, 3*(1)

Teeple, G. (2000). In Clarke R. (Ed.), *Globalization and the decline of social reform* (2nd ed.). Aurora ON: Garamond Press.

Thunder, D. (2009). Am I my brother's keeper? grounding and motivating an ethos of social responsibility in a free society. *Critical Review of International Social and Political Philosophy, 12*(4), 559-580.

Tippett, E. (2007). The promise of compelled whistleblowing: What the corporate governance provisions of Sarbanes Oxley mean for employment law. *Employee Rights and Employee Policy, 11*(1), 1-43.

Toulmin, S. (2003). *Uses of argument* (Updated ed.). Cambridge, U.K. ; New York: Cambridge University Press.

Trocmé, N., MacLaurin, B., Fallon, B., Daciuk, J., Billingsley, D., Tourigny, M., et al. (2001). *Canadian incidence study of reported child abuse and neglect: Final report.* Ottawa, Ontario: Minister of Public Works and Government Services Canada.

Tuohy, C. H. (1999). Dynamics of A changing health sphere: The United States, Britain, and Canada. *Health Affairs, 18*(3), 114-134.

W. K. Kellogg Foundation. (2001). In W. K. Kellogg Foundation (Ed.), *Using logic models to bring together planning, evaluation, & action: Logic model development guide.* Battle Creek, Michigan:

Walker, B. (Ed.). (2008). *The history of immigration and racism in Canada.* Toronto, Ontario, Canada: Canadian Scholars' Press Inc.

Walters, D. (1995). Mandatory reporting of child abuse: Legal, ethical, and clinical implications within a Canadian context. *Canadian Psychology Psychologie CanadienneCanadian Psychological ReviewCanadian Psychologist Psychologie CanadienneThe Canadian Psychologist, 36*(3), 163-182.

Wee, J., & Paterson, M. (2009). Exploring how factors impact the actvities and participation of persons with disability: Constructing a model through grounded theory. *The Qualitative Report, 14*(1), 165-200.

Wei, G., & Herbers, J. (2004). Reporting elder abuse: A medical, legal, and ethical overview. *Journal of the American Medical Women's Association, 59*(4), 248-254.

Westhues, A. (2006). *Canadian social policy : Issues and perspectives* (4th ed ed.). Waterloo, Ont.: Wilfrid Laurier University Press.

Wharf, B. (1998). *Rethinking child welfare in Canada.* Toronto: Oxford University Press.

Wharf, B., & McKenzie, B. (2004). *Connecting policy to practice in the human services* (2nd ed.). Don Mills, Ont.: Oxford University Press.

Wilks, T. (. (2004). The use of vignettes in qualitative research into social work values. *Qualitative Social Work, 3*(1), 78-87.

Wolgemuth, J., & Donohue, R. (2006). Toward and inquiry of discomfort: Guiding transformation in "emancipatory" narrative research. *Qualitative Inquiry, 12*(5), 1022-1038.

Yelaja, S. A. (1978). *Canadian social policy.* Waterloo, Ont: Wilfrid Laurier University Press.

Zarzour, K. (2009, Thursday April 16, 2009). Bully series resonates for readers and this writer. *The Liberal,* pp. 6.

APPENDICES

Appendix A: Passages of Readings

Appendix B: Preambles

Appendix C: Interview Guide

Appendix D: Case Book

Appendix E: Recruitment Flyer

Appendix F: Intake Form

Appendix G: Informed Consent Statement for Participants'

Appendix H: Letter for Permission to Send Transcripts for Review

Reading 1:

GROWING UP BLACK IN OAKVILLE

The Impact of Community on Black Youth Identity Formation and Civic

Participation

By Maureen Brown

In Partnership With

The Canadian Caribbean Association of Halton

Halton Multicultural Council and Halton Social Planning Council

Project Funding provided by the Department of Canadian Heritage

March 31, 2003

[Revised March 3, 2004]

Communities like Oakville tend to adopt a` loving family' approach to diversity. They acknowledge the growing diversity and may even review the way they do things to ensure that they are being just and fair. But this is often done not really expecting any major flaws in the way they are: after all, they are fair and they don't make distinctions among their people. They see themselves the way good families do towards their children—they dole out love, discipline and rewards in equal measure. Surely their children will grow up to be good, honest, upright adults as a result of their upbringing.

Reading 2:

In Canada we have a Charter of Rights and Freedoms which gives us certain rights and freedoms and protects us from undue interference from government in our lives. The Charter states:

Everyone has the right to equality before the law and to equal protection of the law without discrimination because of race, national or ethnic origin, colour, religion, age or sex.

Reading 3:

ONTARIO'S *HUMAN RIGHTS CODE*

The Ontario *Human Rights Code* (the "*Code*") provides for equal rights and opportunities, and freedom from discrimination. The *Code* recognizes the dignity and worth of every person in Ontario. It applies to the areas of employment, housing, facilities and services, contracts, and membership in unions, trade or professional associations.

Under the *Code*, every person has the right to be free from racial discrimination and harassment. You should not be treated differently because of your race or other related grounds, such as your ancestry, ethnicity, religion or place of origin, in areas covered by the *Code* such as while you are at work, at school, trying to rent an apartment, or eating a meal in a restaurant.

RACISM AND RACIAL DISCRIMINATION

Canada, its provinces and territories have strong human rights laws and systems in place to address discrimination. At the same time, we also have a legacy of racism – particularly towards Aboriginal persons, but to other groups as well including African, Chinese, Japanese, South Asian, Jewish and Muslim Canadians – a legacy that profoundly permeates our systems and structures to this day, affecting the lives of not only racialized persons, but also all people in Canada.

The Ontario Human Rights Commission describes communities facing racism as "racialized." This is because society artificially constructs the idea of "race" based on geographic, historical, political, economic, social and cultural factors, as well as physical traits, that have no justification for notions of racial superiority or racial prejudice.

Racism is a broader experience and practice than racial discrimination. It is an ideology that either directly or indirectly asserts that one group is inherently superior to others. Racism can be openly displayed in racial jokes and slurs or hate crimes, but can also be more deeply rooted in attitudes, values and stereotypical beliefs. In some cases, these are unconsciously held and have evolved over time, becoming embedded in systems and institutions, and also associated with the dominant group's power and privilege.

Racial discrimination is a legally prohibited expression of racism. It is any action based on a person's race, intentional or not, that imposes burdens on a person or group and not on others, or that withholds or limits access to benefits available to other members of society in areas covered by the *Code*. Race only needs to be one factor in a situation for racial discrimination to have occurred.

Racial harassment is a form of discrimination. It includes comments, jokes, name-calling, display of pictures or behaviour that insults you, offends you or puts you down because of your race and other related grounds.

Racial discrimination can often be very subtle, such as being assigned to less desirable jobs, or being denied mentoring and development opportunities. It might also mean being subjected to different management standards than other workers, being denied an apartment because you appear to have Aboriginal ancestry, or facing unfair scrutiny by police while driving or by security staff at a shopping mall.

SYSTEMIC RACIAL DISCRIMINATION

Racial discrimination can arise on a systemic or institutional level from everyday rules and structures that are not consciously intended or

designed to discriminate. Patterns of behaviour, policies or practices that are part of the structures of an organization or an entire sector can create or perpetuate disadvantage for racialized persons. Organizations should be aware that their "normal way of doing things" might be having a negative impact on racialized persons.

For example, in the education sector, systemic discrimination can include: stereotyping that streams racialized students towards technical programs instead of academic ones; or low representation of racialized principals as a result of promotion practices that embed cultural and organizational factors that favour White applicants.

IDENTIFYING AND ADDRESSING RACIAL DISCRIMINATION

Organizations have a responsibility to take proactive steps to make sure that they are not taking part in, condoning or allowing racial discrimination or harassment to occur.

A good place to start is to develop a solid anti-racism program that can help prevent as well as address individual and systemic forms of racial discrimination. This might include:

- Collecting numerical data in appropriate circumstances
- Accounting for historical disadvantage
- Reviewing policies, practices, decision-making processes and workplace culture, for adverse impact
- Putting in place and enforcing anti-discrimination and anti-harassment policies and education programs.

An anti-racism program will also make it easier for organizations to promote equity and diversity goals, and it makes good business sense.

RACISM & RACIAL DISCRIMINATION

YOUR RIGHTS & RESPONSIBILITIES

FOR MORE INFORMATION

The Ontario Human Rights Commission's *Policy and Guidelines on Racism and Racial Discrimination* and other publications are available at www.ohrc.on.ca.

To file an application please contact the Human Rights Tribunal of Ontario at:
Toll Free: 1-866-598-0322
TTY Toll Free: 1-866-607-1240
Website: www.hrto.ca

To discuss your rights or if you need legal help please contact the Human Rights Legal Support Centre at:
Toll Free: 1-866-625-5179
TTY Toll Free: 1-866-612-8627
Website: www.hrlsc.on.ca

Aussi disponible en français.
© 2009, Queen's Printer for Ontario.
ISBN: 978-1-4249-5787-3

APPENDIX B: PREAMBLE

PREAMBLE 1

Examination of Mandatory Reporting as a Social Policy: A Public Engagement Initiative

Mandatory reporting was originally enacted to serve the singular purpose of protecting vulnerable children from abuse. Since that initial intent, however, the protocol has been applied to or considered for wide-ranging and expanded purposes. This research will explore the views and attitudes of people who may be impacted by, or be in position to impact mandatory reporting legislation. Mandatory reporting is now being used in many situations such as child abuse, sexual relations between a helping professional and client, domestic violence and elder abuse. I will question whether this wide range of respondents perceive the mandatory reporting protocol in its various applications, as a policy stance that is valued for its ability to provide socially sanctioned protection; spurned for maintaining unwarranted social control and dominance, or as a valance issue (Nelson, 1984) that has little significance and experiences little disparity or controversy. Ultimately, I would like to gather the wide range of perspectives of those impacted by mandatory reporting legislations in order to create a framework that will guide future policy development.

APPENDIX C: INTERVIEW GUIDES

1. FOCUS GROUP INTERVIEW GUIDE

1. YOUR KNOWLEDGE OF MANDATORY REPORTING

1. Prior to this discussion, were you aware of the term 'mandatory reporting'?

   i. Has everyone?

   ii. Anyone who is unfamiliar with it?

   A. When you hear the term mandatory reporting what are your initial thoughts regarding this concept?

   B. Mandatory reporting has been applied or considered for a number of applications. What applications of mandatory reporting have you heard of?

   - Probes:

   (THE 1ST 2 ARE ONES WE ALREADY HAVE)

   a. Have you heard of it being applied to child abuse?
   b. Have you heard of it being applied to intimate relationships with clients or past clients?

   (THE FOLLOWING ARE SOME APPLICATIONS THAT HAVE BEEN CONSIDERED AND THAT I WANT TO FOCUS ON :)

   c. Have you heard of it being considered for domestic violence?
   d. Have you heard of it being considered for elder abuse?

2. YOUR PERSONAL EXPERIENCE WITH MANDATORY REPORTING

Have you had any personal experience with mandatory reporting?

i. Have you ever reported anyone?

ii. Have you ever been the <u>reported person</u> or the <u>family</u> or <u>friend</u> of a reported person?

  A. What might concern you, if anything, *before* you made a report?

  B. Do you think you might have thoughts or concerns *after* making the

report?

    i. Can you speak about this?

  C. If <u>you have had</u> personal experience with mandatory reporting, what experiences stand out for you—can you describe your experience?

    iii. Some people find mandatory reporting is an emotional issue. What emotions does it bring up in you now? Is this the same emotion(s) that came up at the time?

  D. If <u>you have not</u> ever made a mandatory report, what issues do you imagine might come up? What emotions?

3. <u>YOUR VIEW OF MANDATORY REPORTING</u>

➢ What do you see as advantages or benefits of mandatory reporting?

➢ What do you see as disadvantages or complications inherent in mandatory

reporting?

    i. If you were a child who was being or thought to be being abused, would you want it to be reported?

    ii. What might be the results of a report—good/bad?

    iii. What would you

      a. want

b. not want

to happen if it was reported?

iv. Same questions as above regarding domestic violence:

a. you are living in a relationship with no kids, that is

abusive/someone thinks is abusive...what would you

want....

How would you feel about domestic violence becoming a mandatory

report e.g. counsellor has to report to police?

v. Regarding elder abuse

a. You are living at home with your family (spouse/child)—why

would you be there and not on your own or in a nursing

home?

b. How/ why would abuse happen—what might appear to be

abuse

c. WHAT WOULD YOU WANT TO HAPPEN or not happen

regarding reporting?

- ➤ If you had been a client/patient of a counsellor/therapist in the past. You
  have not seen that person now for many years. You are both single now
  and see them in a different context. You are in a different place in your
  own life. You find yourself interested in having an intimate relationship
  with this person.

d. What would you want to happen regarding mandatory

reporting?

e. What would you not want to happen

f. What issues or concerns do you see

g. How would you feel if you were told that you could never have an intimate relationship with someone who used to be your therapist?

h. Do you think that the impact of this law is the same for people living in big cities as in small or isolated communities?

   i. Would it be any different if you are part of a smaller subgroup of people such as a cultural minority or gay individuals

i. *As I said, Mandatory reporting is also being used to prohibit sexual relationships between some helping professionals and their clients. While there seems to be general acceptance that sexual relationships should not occur between current clients/patients and the caregiver there is great variance in the professions as to how long after the professional relationship has ended this restriction should be continued. Physicians, (other than psychiatrists) for instance, must wait a minimum of one year post termination of the patient relationship, before they can enter into a sexual relationship with the client/patient; social workers in Alberta must wait a minimum of twenty four months while for social workers in Ontario, the relationship restriction is forever.)* The rationale for this is that some people feel that the therapist has power over the client. My question to you is NOT whether the professional does hold this power over the client forever, even after the relationship has ended, but rather, who should be able to make this decision and how it should be made. The following questions will focus on this area.

ii.   Do you feel that a person who was ever the patient/client of a

professional is always vulnerable to that professional OR In other words,

can a client ever enter into an equitable relationship with the

professional?

iii.   Who should have a say in this? Is it appropriate for the client to have a

say or is it more suitable to allow the regulating college to make that

decision?

iv.   Can a patient/client objectively decide if they are able to be in a

relationship with someone who was, for example, their past physician or

therapist?

v.   Any thoughts on how, if the client should have a voice, it should/could be
attained?

4. <u>YOUR THOUGHTS REGARDING THE SUCCESS OF MANDATORY</u>

<u>REPORTING</u>

4. Do you believe society benefits from mandatory reporting?

i.   Is it useful

ii.   Do you think it is fair? OR Why /not?

iii.   Are there any possible areas of injustice?

What might these be?

5.   I n situations <u>of child abuse</u>, how successful do you feel mandatory reporting is

at serving the stated purpose of Protection?

vi.   <u>In situations OTHER than child abuse</u>, how successful is it at serving the

stated purpose? If applied, will it:

347

    a. Succeed at protecting women from abuse?

    b. Protect seniors/elders from abuse?

6. As we have already discussed it might be that where you live, whether you are female/ male; gay/ straight; and your culture can impact your vulnerability. This could mean that you may not be treated fairly by the social systems, such as schools, courts, and police and that others might hold unfair power over you.

  i. <u>We have considered some variables</u>

    a. urban/rural;

    b. different cultures

    c. Sexual orientation, etc.

  ii. Do you think that mandatory reporting would have a different impact on you if you were from one of these groups? How/why

    a. <u>There are more than average numbers of</u> 1st nation children in Canada's child welfare system (Children's Aid Society) Why do you think this might be? Your thoughts on this?

7. In Canada we have a Charter of Rights and Freedoms which gives us certain rights and freedoms and protects us from undue interference from government in our lives. The Charter states: ***Everyone has the right to equality before the law and to equal protection of the law without discrimination because of race, national or ethnic origin, colour, religion, age or sex.***

Do you think this fits with mandatory reporting? Does mandatory reporting respect our charter?

  5. <u>YOUR FINAL COMMENTS AND THOUGHTS</u>

   8. WE HAVE DISCUSSED MANY APPLICATIONS OF THE SAME CONCEPT. LOOKING AT ALL OF THEM (I.E. MANDATORY REPORTING AS A WHOLE)

i. What would you like to say to policy makers about mandatory reporting?

a. Should it be applied to more situations?

b. Is there anything that should be done or considered before it is applied to a new situation?

c. Who should be involved in the discussions?

d. What do you feel should happen AFTER the application?

i. anything?

ii. as it has been?

9. I HAVE NOW COMPLETED ALL OF MY QUESTIONS. ARE THERE ANY FINAL COMMENTS <u>YOU</u> WOULD LIKE TO MAKE?

THANK YOU FOR YOUR TIME

INDIVIDUAL INTERVIEW GUIDE

The following interview covers 5 areas of discussion. The questions will evolve and may change as the interviews progress. Because I will begin by completing some of the individual interviews before moving on to the four focus groups and only then finish the individual interviews, questions may change somewhat to reflect the themes that emerge from the preceding interviews.

Individual professionals interviewed will be asked to speak not only about their personal thoughts, but also to focus on their particular professional area and how it may differ from others regarding the mandatory reporting obligations. This may further impact the actual questions asked.

➢ <u>YOUR KNOWLEDGE OF MANDATORY REPORTING</u>

2. Prior to this discussion, Have you ever heard the term 'mandatory reporting'?

    i. Has everyone?

    ii. Anyone who is unfamiliar with it?

    A. When you hear the term mandatory reporting what are your initial thoughts regarding this concept?

    B. Mandatory reporting has been applied or considered for a number of applications. What applications of mandatory reporting have you heard of?

- Probes:

    e. Have you heard of it being applied to child abuse?
    f. Have you heard of it being applied to domestic violence?
    g. Violence in the workplace?
    h. Have you heard of it being applied to elder abuse?
    i. Have you heard of it being applied to intimate relationships with clients or past clients?
    j. Have you heard of it being applied to schoolyard bullying?
    k. Have you heard of it being applied to any other things?

(Incompetent docs; unfit to drive; gunshot wounds; medical error; suspicious deaths)

➢ YOUR PERSONAL EXPERIENCE WITH MANDATORY REPORTING

3. Have you had any personal experience with mandatory reporting?

   i. Either as a reporter

   ii. Or as a reported person or the family or friend of a reported person?

A. What do you think you would think about *before* you made a report?

B. Do you think you might have thoughts or concerns *after* making the report?

   ii. Can you speak about this?

   C. If you have had personal experience with mandatory reporting, what experiences stand out for you—can you describe your experience?

   iii. Some people find mandatory reporting is an emotional issue. What emotions does it bring up in you now? Is this the same emotion(s) that came up at the time?

D. If you have not ever made a mandatory report, what issues do you imagine might come up? What emotions?

➢ YOUR VIEW OF MANDATORY REPORTING

   3. What do you see as [advantages, disadvantages, complications or benefits] inherent in mandatory reporting?

➢ advantages

- ➢ disadvantages
- ➢ complications
- ➢ benefits
- A. Does mandatory reporting help people?

vi. What thoughts do you have as to what helps protect people who may be

   vulnerable?

vii. How do you define vulnerable?

viii. Is there something that the helping professions are doing especially well or

   something we should consider changing?

- ➢ <u>YOUR THOUGHTS REGARDING THE SUCCESS OF MANDATORY REPORTING</u>

   4. Do you believe society benefits from mandatory reporting?

iv. If so, how do you believe it is useful? OR Why not?

v. As it is presently implemented, do you see any possible areas of injustice?
   What might these be?

   5. Research suggests that oppression, geography and gender are linked, and that this

      allows some people to maintain power over vulnerable populations, which in turn,

      helps sustain systemic inequities.

iii. Are the implications of mandatory reporting different for:
   a. urban/rural;
   b. different cultures
   c. Sexual orientation, etc.?

iv. From your perspective, how are variables such as culture, sexual orientation,
   gender or locale important to the topic of mandatory reporting?
   a. 1st nation children are very over represented in Canada's child welfare system.
      Does this impact the discussion.

6. In Canada we have a Charter of Rights and Freedoms which gives us certain rights

    and freedoms and protects us from undue interference from government in our

    lives. The Charter states: ***Everyone has the right to equality before the law***

    and to equal protection of the law without discrimination because of race,

    national or ethnic origin, colour, religion, age or sex. Do you see any conflict

    between this and any of the consequences or outcomes of mandatory reporting?

7. I n situations of child abuse, how successful do you feel mandatory reporting is at

    serving the stated purpose of Protection?

vii.   In situations <u>other</u> than child abuse, how successful is it at serving the stated

    purpose?

➢ <u>YOUR FINAL COMMENTS AND THOUGHTS</u>

    8. What would you like to say to policy makers about mandatory reporting?

    i. Should it be applied to more situations?

    ii. Is there anything that should be done before it is applied to a new situation?

    iii. Who should be involved in the discussions?

    iv. What do you feel should happen AFTER the application?

- anything?
- as it has been?

9. I HAVE NOW COMPLETED ALL OF MY QUESTIONS. ARE THERE ANY FINAL

    COMMENTS <u>YOU </u>WOULD LIKE TO MAKE?

THANK YOU FOR YOUR TIME

APPENDIX D—Case Book Chart

No.	Gender	FG	Ind/Group	Country of Birth	Culture/Religion	Highest Education	Profession/Career
1	F		Individual	Canada	Not Identified	LLM	Lawyer
2	F		Individual	Scotland	Christian/Jewish	Bachelor's	Social Worker
3	F		Individual	Canada	Catholic	PhD	Academic
4	F		Individual	China	Not Identified	High School	Politician
5	F		Individual	Canada	Not Identified	MSW	Exec Director
6	F		Individual	Canada	Not Identified	PhD	Exec Director
7	M		Individual	Canada	Christian/Jewish	DSW	Academic
8	F		Individual	Canada	Jewish	High School	Politician/Consultant
9	M		Individual	Canada	Not Identified	MSW	Clinician
10	M		Individual	Canada	Christian	EdD	Academic
11	F		Individual	S. Africa	Not Identified	MD	Physician
12	F		Individual	Argentina	Christian/Jewish	MSW	Social Worker
13	M		Individual	S. Africa	Jewish	LLB	Lawyer
14	F		Individual	Nigeria	Christian	MSW	Administrator
15	F	2	Group	Canada	French Cdn	College	Youth worker
16	F	2	Group	Canada	Native	College	Social worker
17	F	2	Group	Canada	Native	College	Social worker
18	F	2	Group	Canada	Native	High School	Intake worker
19	M	2	Group	Canada	Fr/British/Native	College	Social worker
20	M	2	Group	Canada	Not Identified	Bachelor's	Director
21	M	4	Group	England	Catholic	MEd	Academic
22	F	4	Group	Canada	Catholic	University	Teacher
23	F	4	Group	Canada	Christian	High School	Not Stated
24	F	4	Group	Canada	Christian	High School	Financial Mgr
25	F	4	Group	Canada	Christian	BSW	Director
26	F	4	Group	Canada	Christian	Master's	Clergy/RSW
27	F	4	Group	Canada	Not Identified	University	Pharmacist
28	M	5	Group	England	Christian	College	Sales
29	F	5	Group	Canada	Catholic	High School	Unemployed
30	F	5	Group	Jordan	Muslim	High School	Unemployed
31	F	5	Group	Canada	Christian	High School	Mortgage Broker
32	F	5	Group	Canada	Christian	High School	Cook
33	F	5	Group	Canada	Not Identified	Bachelor's	Manager
34	F	5	Group	Canada	Catholic	High School	Caregiver
35	F	5	Group	Canada	Caucasian	University	Unemployed
36	F	5	Group	Canada	Catholic	High School	Nurse
37	F	5	Group	Canada	Not Identified	College	Chef
38	F	3	Group	Canada	Christian	College	Nurse
39	F	3	Group	Canada	Canadian	Bachelor's	Parole officer
40	F	3	Group	Slovenia	Christian	MSW	Social worker
41	F	3	Group	Canada	Not Identified	MSW	Social worker
42	M	3	Group	Ghana	Ghanaian	College	Social worker
43	F	3	Group	Canada	Not Identified	MSW	Social worker
44	M	1	Group	Canada	Catholic	Not stated	Consultant
45	F	1	Group	Canada	Not Identified	BSW	Social worker
46	F	1	Group	Canada	Not Identified	MSW	Social worker
47	F	1	Group	Canada	Fr Canadian	MSW	Social worker
48	F	1	Group	Canada	Christian	BSW	Social worker
49	F	1	Group	Canada	Not Identified	BSW	Social worker
50	F	1	Group	Canada	Not Identified	BSW	Social worker

Group Identification

Group 1: Northern Ontario Social Workers

Group 2: Northern Ontario First Nations

Group 3: Southern Ontario Social Workers

Group 4: Southern Ontario Affinity

Group 5: Client Based group

Legend

1. Petra Justice
2. Alice Baderson
3. Dr. Margaret Shannon
4. Evelyn Daniels
5. Sarah Fraser
6. Dr. Andria Jordan
7. Dr. Wm Woodcock
8. Pamela Stern
9. Peter Ward
10. Dr Edward Anderson
11. Dr Adele Forman
12. Elizabeth Carson
13. John Tyler
14. Ngozi Igwe
15. Katy Abel
16. Doris Black
17. Hannah Calais
18. Carlotta Drinkwater
19. Kevin Frank
20. Cole Griffin
21. Mitchell Small
22. Toni Kirk
23. Kelly Gundy
24. Isla Mille
25. Sophie Lang
26. Sandra Moffat
27. Delaney Farmer
28. Jason Jeffery
29. Michaela Blatchford
30. Amira Igwe
31. Laura Kingston
32. Claudia Jacobs
33. Helen Antonio
34. Kris Ager
35. Nora Carmichael
36. Jennifer Zack
37. Jacquie Martin
38. Monique Oppenheim
39. Nellie Frasier
40. Vivian Blue
41. Gabrielle Portman
42. Robert Russell
43. Suzanne Winter
44. Desmond Brown
45. Cally Lester
46. Tessa Delorraine
47. Lisette Hancock
48. Linda Jones
49. Jenna Hamer
50. Harriet Engels

YOUR HELP IS NEEDED!

To Explore the Mandatory Reporting Experience

HAVE YOU EVER:

- *BEEN REPORTED OR*
- *HAD SOMEONE THREATEN TO REPORT YOU*

   TO THE CHILD WELFARE (CAS) AGENCY OR OTHER GOVERNMENT BODY?

HAVE YOU EVER:

- *FELT OBLIGATED TO MAKE A REPORT,*
- *MADE A REPORT OR*
- *THOUGHT OF REPORTING SOMEONE*

   TO THE CHILD WELFARE (CAS) AGENCY OR OTHER GOVERNMENT BODY?

If you answered yes....

I AM INTERESTED IN YOUR THOUGHTS, FEELINGS AND ATTITUDES

ABOUT THE REPORTING EXPERIENCE

You are invited to join: A SMALL, CONFIDENTIAL GROUP DISCUSSION WITH OTHERS LIKE YOURSELF WHO HAVE BEEN INVOLVED IN THIS EXPERIENCE. I WILL GATHER YOUR VIEWS.

THE GROUP WILL LAST APPROXIMATELY 1 ½ HOURS AND YOU WILL RECEIVE $20.00 AND REFRESHMENTS FOR YOUR TIME.

YOU WILL NEVER BE IDENTIFIED AND YOU WILL BE UNDER NO FURTHER OBLIGATION.

YOU WILL BE HELPING SHAPE FUTURE LEGISLATION REGARDING MANDATORY REPORTING AND WILL HAVE YOUR VOICE HEARD IN DECISIONS ABOUT THESE LAWS.

IF INTERESTED IN PARTICIPATING OR LEARNING MORE, PLEASE CALL:

ELAYNE AT **(905) XXXXXXX**

OR EMAIL: elayne@etasolutions.com

FOR FURTHER INFORMATION

This research is being carried out as part of the requirements for my PhD in Social Work

THIS RESEARCH IS APPROVED AND AUTHORIZED BY THE ETHICS BOARD OF THE WILFRID LAURIER UNIVERSITY

APPENDIX F: INTAKE FORM—DEMOGRAPHIC INFORMATION

Demographic Information

PLEASE PROVIDE THE FOLLOWING INFORMATION.

IT WILL BECOME A PART OF YOUR CONFIDENTIAL INTERVIEW FILE

a. Name _____

Phone_____

b. Highest level of education attained _____

c. Culture you identify with _____

d. Country of birth_____

e. If (d) is not Canada, how long have you lived in

Canada_____

f. Professional status/employment status

_____

_____

_____

g. Have you ever been a party in a mandatory report? Yes ☐   No ☐

If yes were you involved as the reported or the reporter?

_____

_____

THANK YOU

APPENDIX G: INFORMED CONSENT FORMS

FOCUS GROUP INFORMED CONSENT STATEMENT

WILFRID LAURIER UNIVERSITY

Examination of Mandatory Reporting as a Social Policy: A Public Engagement Initiative

Elayne M. Tanner PHD(C) student, Faculty of Social Work

Dr. Marshall Fine Advisor and Professor, Faculty of Social Work

You are invited to participate in a research study. The purpose of this study is to critically examine mandatory reporting protocols to see if they are achieving their stated goals and explore the inherent benefits and the risks to the client, professional and profession as a whole. The researcher, Elayne M. Tanner is a PhD candidate in the Faculty of Social Work. This research is being completed as part of her doctoral dissertation.

INFORMATION

Your participation in this research will involve being a member of a focus group of 5-10 participants and the researcher and possibly a note taker. You will be asked to give your thoughts regarding mandatory reporting obligations, the concept of mandatory reporting and the impact that mandatory reporting might have on the therapeutic relationship, rights of self determination and confidentiality. There are no right or wrong answers. The sole purpose is to generate thought and ideas for discussion.

It is anticipated that each focus group including the gathering of demographic information will last no longer than two hours. The interview will be digitally recorded and then subsequently transcribed by the researcher or a transcriber. The recordings and the transcript will be treated as confidential.

This research does not require the identification of specific clients or cases in the interview process and I therefore would like to remind you not to use identifying information in reference to specific clients or cases. Any identifying information included will be removed.

RISKS

Participation in the research study has no foreseeable risks, discomforts or costs, other than your time. Any negative emotions generated by memories of mandatory reporting experiences, may be debriefed with the researcher, who is a qualified psychotherapist, or if preferred, the researcher will direct you to other local resources, such as those provided below.

For further safeguards please read the section on Confidentiality.

_____
Initials

Counselling services were identified for each locale that interviews were held. The name, address, and phone number, as well as relevant information were provided for each service identified. This information will not be provided at this time in order to maintain maximum confidentiality.

BENEFITS

This research will advance the knowledge in the area of mandatory reporting and will provide valuable information in shaping future policies where mandatory reporting is being considered.

CONFIDENTIALITY

Confidentiality will be strictly maintained whenever possible. Please note, however, that there are some situations in which confidentiality may not be guaranteed such as ongoing abuse, potential of harm to self or others, professional misconduct or legal proceedings.

Please keep in mind that as this is a group there are limits to amount of confidentiality that can be assured, however, you are asked to please respect one another's confidentiality in this matter. Prior to the focus group interaction there will be further discussion regarding the need for confidentiality. I will be emphasizing the need for group members to respect and maintain strict confidentiality of all discussions that take place within the group to ensure the highest level of confidentiality possible.

Each participant will be assigned a pseudonym/code and the listing of their real names and their pseudonym/code will be kept separate from the research data and will only be accessible by the Researcher. Participants will only be identified by their pseudonym for the purposes of reporting on the research. The only individuals who will have access to the data will be the researcher, Elayne Tanner, the researcher's advisor, Dr. Marshall Fine and a transcriber, all of whom will maintain strict confidentiality.

A digital recorder will be used and the audio will be downloaded to a computer, which is both password protected and security protected. If backups of the data are made on CDROM or another digital recorder device, those will be stored in a locked filing cabinet, which can only be accessed by the researcher.

After 36 months, to allow time for further writing and research with this data, all paper will be shredded and all data on computers or other digital recording devices will be erased.

CONTACT

If you have questions at any time about the study or the procedures, you may contact the researcher, <u>Elayne Tanner, at Wilfrid Laurier University Faculty of Social Work</u>, by email at <u>elayne@etasolutions.com</u> or at <u>905-xxxxxx.</u> This project has been reviewed and approved by the University Research Ethics Board at Wilfrid Laurier University. If you feel you have not been treated according to the descriptions in this form, or your rights as a participant in research have been violated during the course of this project, you may contact Dr Bob Basso, Chair, University Research Ethics Board, Wilfrid Laurier University, (519) 884-0710, extension 2468.

_____

Initials

PARTICIPATION

Your participation in this study is voluntary; you may decline to participate without penalty. If you decide to participate, you may withdraw from the study at any time without penalty and without loss of benefits to which you are otherwise entitled. If you withdraw from the study before data collection is completed your data will be returned to you or destroyed. You have the right to refuse to answer any question or participate in any activity you choose.

FEEDBACK AND PUBLICATION

The results of the research will be disseminated through the Researcher's dissertation for her Doctoral degree from the Faculty of Social Work, Wilfrid Laurier University. The Research may also be used in teaching, published in scholarly journals or presented at conferences. At those times, no identifying information will be divulged. Upon request, each participant will be provided with a written summary of results at the conclusion of the study. If you are interested in receiving a summary of the results please provide your email address below. By providing your email here you are giving permission for an electronic summary to be forwarded to you at the conclusion of the study.

Email: _____

If you would prefer a hard copy of this summary be mailed to your address, please provide your mailing address here:

_____

_____

CONSENT

By signing below you are acknowledging that you have read and understood the above information, your questions have been answered and you are signing this form, freely and without undue influence. You confirm that you have received a copy of this form. By signing this form you agree to participate in this study.

Participant's signature_____ Date _____

Investigator's signature_____ Date _____

With your consent, quotations from your responses may be used. You will not be identifiable in these quotations, as the quotation will be attributed to the pseudonym/code assigned to you at the outset of the study. Please check the appropriate box below if I can use non-identifying quotations from you

☐ Yes   ☐ No   _____

Initials

INDIVIDUAL INFORMED CONSENT STATEMENT

WILFRID LAURIER UNIVERSITY

Examination of Mandatory Reporting as a Social Policy: A Public Engagement Initiative

Elayne M. Tanner PHD(C) student, Faculty of Social Work

Dr. Marshall Fine Committee Chairperson Professor, Faculty of Social Work

You are invited to participate in a research study. The purpose of this study is to critically examine mandatory reporting protocols to see if they are achieving their stated goals and explore the inherent benefits and the risks to the client, professional and profession as a whole. The researcher, Elayne M. Tanner is a PhD candidate in the Faculty of Social Work. This research is being completed as part of her doctoral dissertation.

INFORMATION

Your participation in this research will involve a personal one on one interview with the researcher. The topics covered will be your thoughts regarding mandatory reporting obligations, your views on the concept of mandatory reporting and the impact that mandatory reporting might have on the therapeutic relationship, rights of self determination and confidentiality. There are no right or wrong answers. The sole purpose is to generate thought and ideas for discussion.

It is anticipated that each individual interview including the gathering of demographic information will last approximately 90 minutes. With your consent your contact information will be retained so you may be contacted if a second interview becomes warranted. If contacted for a second interview you will not be under any obligation to participate at that time if you should choose not to. If you should choose to participate, you will be asked to sign a new Informed Consent Statement.

The interview will be digitally recorded and then subsequently transcribed by the researcher or a transcriber. The recording and the transcript will always be treated as confidential. The digital recordings will not be used for any additional purposes without your subsequent permission and signed consent form.

This research does not require the identification of specific clients or cases in the interview process and I therefore would like to remind you not to use identifying information in reference to specific clients or cases at any time.

RISKS

Participation in the research study has no foreseeable risks, discomforts or costs, other than your time. Any negative emotions generated by memories of mandatory reporting experiences, may be debriefed with the researcher, who is a qualified psychotherapist, or the researcher will direct you to other local resources, such as those provided below. Although you will be asked your views on mandatory reporting and will

362

be able to share your opinions on this issue in the context of your own professional life, your personal information will not form part of the research so your views and opinions cannot be traced back to you.

For further safeguards please read the section on Confidentiality.

_____

Initials

Counselling Services

Counselling services were identified for each locale that interviews were held. The name, address, and phone number, as well as relevant information were provided for each service identified. This information will not be provided at this time in order to maintain maximum confidentiality.

BENEFITS

This research will advance the knowledge in the area of mandatory reporting and will provide valuable information in shaping future policies where mandatory reporting is being considered.

CONFIDENTIALITY

Confidentiality will be strictly maintained whenever possible. Please note, however, that there are some situations in which confidentiality may not be guaranteed such as ongoing abuse, potential of harm to self or others, professional misconduct or legal proceedings.

Each participant will be assigned a pseudonym/code and the listing of their real names and their pseudonym/code will be kept separate from the research data and will only be accessible by the researcher. Participants will only be identified by their pseudonym for the purposes of reporting on the research. The only individuals who will have access to the data will be the researcher, Elayne Tanner, the researcher's advisor, Dr. Marshall Fine and a transcriber, all of whom will maintain strict confidentiality.

A digital recorder will be used and downloaded to a computer, which is both password protected and security protected. If backups of the data are made on CDROM or other digital recorder devices, those will be kept separate from the computer and will be stored in a locked filing cabinet, which can only be accessed by the researchers.

After 36 months, to allow time for further writing and research with this data, all paper will be shredded and all data on computers or other digital recording devices will be erased.

CONTACT

If you have questions at any time about the study or the procedures, you may contact the researcher, Elayne Tanner, at Wilfrid Laurier University Faculty of Social Work, by email at elayne@etasolutions.com or at 905-854-0801. This project has been reviewed and approved by the University Research Ethics Board at Wilfrid Laurier University. If you feel you have not been treated according to the descriptions in this form, or your rights as a participant in research have been violated during the course of this project, you may contact Dr. Bob Basso, Chair, University Research Ethics Board, Wilfrid Laurier University, (519) 884-0710, extension 2468.

PARTICIPATION

Your participation in this study is voluntary; you may decline to participate without penalty. If you decide to participate, you may withdraw from the study at any time without penalty and without loss of benefits to which you are otherwise entitled. If you withdraw from the study before data collection is completed your data will be returned to you or destroyed. You have the right to refuse to answer any question or participate in any activity you choose.

_____ Initials

FEEDBACK AND PUBLICATION

The results of the research will be disseminated through the Researcher's dissertation for her Doctoral degree from the Faculty of Social Work, Wilfrid Laurier University. The research may also be used as a teaching device and/or published in scholarly journals or presented at conferences. At those times, no identifying information will be divulged. Upon request, each participant will be provided with a written summary of results at the conclusion of the study. If you are interested in receiving a summary of the results please provide your email address below. By providing your email to here you are giving permission for an electronic summary to be forwarded to you at the conclusion of the study.

Email: _____

If you would prefer a hard copy of this summary be mailed to your address, please provide your mailing address here:_____

I agree to have a digital transcript of my interview electronically sent to me for my review.

_____

□ Yes   □ No

CONSENT

By signing below you are acknowledging that you have read and understood the above information, your questions have been answered and you are signing this form, freely and without undue influence. You confirm that you have received a copy of this form.

Participant's signature_____ Date _____

Investigator's signature_____ Date _____

With your consent, quotations from your responses may be used. You will not be identifiable in these quotations, as the quotation will be attributed to the pseudonym/code assigned to you at the outset of the study. Please check the appropriate box below if I can use non-identifying quotations from you.

□ Yes   □ No   _____ Initials

By signing this form you agree to participate in this study and to allow me to retain your contact information for the purpose of contacting you in the event of a second interview.

Participant's signature_____ Date _____

Investigator's signature_____ Date _____

APPENDIX H:
REVIEW OF TRANSCRIPTS

Dear   ,

Thanks to your help I have now completed my data collection. Between the individual interviews and the five focus groups I have spoken to a total of fifty people and have transcribed the results. The interviews continue shaping my research and I believe that a framework is emerging that will hopefully have a role in guiding future policy decisions. I want to assure you that although I am using identifying information to send you the transcripts, this information will be removed before it goes further.

While you are not obligated to read the attached transcription of our interview you did show an interest in having it sent to you. If you do want to make changes in what I have attributed to you please see below:

1. Do not worry about the punctuation or grammar—I will correct or edit that

2. If you want to add to or clarify something you said, you are welcome to write something and I will include it but <u>please put in a separate document</u>.

3. If I have transcribed incorrectly or misunderstood what was said, please note that so that I can correct it. <u>Please make any changes using the 'track changes' feature or some other method</u> that allows me to see the changes that were made.
4. In some cases it was difficult to hear what was said. If you see gaps or slashes (///) that means I could not hear what was said. If you feel that you can fill in gaps, that would be wonderful and please feel free to do so but again, <u>please make any changes using the 'track changes' feature or some other method</u> that allows me to see the changes that were made.
5. In all cases, I will be using concepts and occasional quotes but will not use an incomplete quote, so in other words, the occasional mistake will not affect the end result.

Because you do not have to reply to this, I will not wait to hear your return comments or suggestions but if or when I receive a response from you, assuming the research has not already been completed, I will most gladly incorporate your additions.

Again, thank you so very much for your participation. Hopefully you will be hearing from me again soon when I am able to send you a summary of the completed work.

Sincerely,

List of Figures

Figure:

1. Trajectory of Mandatory Reporting Laws Relevant to Social Workers

2. Mandatory Reporting Obligations of Canadian Social Workers

3. Spiraling Process of Critical Review

4. Legal, Moral and Ethical Duties

5. Kellogg Logic Model Development Guide

6. A Critical Review of the Mandatory Reporting Protocol

Table of Legislation

1. An Act Respecting Industrial Schools, Statutes of the Province of Ontario, 1874, Chapter 29

2. An Act for Protection and Reformation of Neglected Children 1888

3. Bill 6, Child and Family Services Amendment Act (Child Welfare Reform), 1999

4. Bill 37, Child Pornography Reporting Act, 2008, S.O. 2008, c. 21

5. Bill 157, Education Amendment Act (Keeping Our Kids Safe at School), S.O. 2009, C.17

6. Bill 198 An Act to Implement Budget Measures and other Initiatives of the Government, S.O. 2002, C. 22

7. Bill C-13 An Act to Amend the Criminal Code (Capital Market Fraud & Evidence Gathering) , S.C. 2004, c.3

8.   Canadian Charter of Rights and Freedoms, Schedule B to the Canada Act 1982 (UK), 1982, c.11

9.   Child and Family Services Act R.S.O. 1990, Chapter C.11

10.   Child and Family Services Statute Law Amendment Act, 2006

11.   Child Welfare Act, S.O. 1965 c.14

12.   Children's Act 2004, 2004 c.31, UK

13.   Community Mental Health: The Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 United States (Public Law 88–164)

14.   Constitution Act (1982) being Schedule B to the Canada Act 1982 (UK), 1982, c.11

15.   Health Disciplines Act, S.O. 1974, c. 47

16.   Long Term Care Homes Act, 2007 S.O. 2007, Chapter 8

17.   Nursing Homes Act, R.R.O. 1990, Regulation 832, Revoked July 1, 2010

18.   Occupational Health and Safety Act R.S.O. 1990. Chapter O.1

19.   Protection of Children Act, S.O., 1893, c.45

20.   Regulated Health Professions Act, 1991 S.O. 1991, Chapter 18

21.   Sarbanes-Oxley Act of 2002, P.L. 107-204, 116 Stat 745 USC

22.   Social Work and Social Service Work Act, 1998 S.O. 1998, Chapter 31

23.   Universal Declaration of Human Rights (UDHR) United Nations General Assembly Resolution 217A (III) 1948.

24.   Workplace Safety and Insurance Act, 1997 S.O. 1997, Chapter 16 Schedule A