

1 **Reporting Suspected Abuse or Neglect in Research Involving Children**

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3

4 **Abstract**

5 In this article, we explore the ethical issues related to the reporting of suspected abuse or neglect
6 in research involving children. Ethical dilemmas related to reporting child maltreatment are often
7 complex because the rights of children and their adult caregivers may conflict and
8 determinations of abuse or neglect are socially constructed judgments that depend on particular
9 circumstances. We argue that when reporting is legally mandated, investigators must follow the
10 law and report their suspicions to Child Protective Services. When reporting is not legally
11 mandated, investigators still have an ethical obligation to report to help prevent additional
12 maltreatment and allow children to obtain access to services needed to recover from abuse or
13 neglect. We also argue that investigators should include plans and procedures in the research
14 protocol for making reports and training research staff in recognizing evidence of child abuse or
15 neglect. Although investigators should report evidence of abuse or neglect that is discovered
16 incidentally, they have no mandate to actively search for such evidence when it is not related to
17 the study's objectives. Investigators should also inform parents and children about their
18 obligations to report suspected abuse or neglect.

19

20 **Introduction**

21 Maltreatment is a serious medical and psychosocial problem that impacts millions of
22 children each year. In 2014, 3.2 million children in the U.S. were the subjects of at least one
23 report of abuse or neglect to a Child Protective Services (CPS) agency and 1,580 children died
24 from abuse or neglect. The most common forms of reported child maltreatment included neglect
25 (75%), physical abuse (17%) and sexual abuse (8.3%).ⁱ Professionals made 63% of the reports,
26 while 37% were made by non-professionals or were not classified.[1] In addition to producing
27 acute pain and suffering, maltreatment can cause long-term psychological and physiological
28 harm, including impaired brain development, learning and cognition; anxiety, depression;
29 borderline personality disorder; drug and alcohol abuse; chronic illnesses; and increased risks of
30 juvenile delinquency and criminality.[2,3].

1 Most countries have laws against child maltreatment and have adopted international
2 declarations affirming children’s rights, including the right not to be neglected or abused.[4],[5]
3 Although our paper focuses primarily on the U.S. legal context as we wanted to focus on ethical
4 debates, rather than international comparisons, the conclusions we draw and the suggestions we
5 make have implications for all researchers, as human ethical arguments transcend national
6 boundaries. Moreover, US and non-U.S. researchers are likely to face the same ethical dilemmas
7 which arise from the intergenerational power dynamic, between children and adults, in all
8 societies. .

9 Some of the international agreements include: the United Nations Declaration of the Rights of
10 the Child (1959), the United Nations Convention on the Rights of the Child (1989), the African
11 Charter on the Rights and Welfare of the Child (1990), and the European Convention on the
12 Exercise of Children’s Rights (1996).[6]

13 In the U.S., 56 states or territories require certain professionals (such as social workers,
14 teachers, physicians, or nurses) to report suspected child abuse or neglect, while 18 require
15 certain professionals and any person who suspects child abuse or neglect to report it.[3]). Most
16 states distinguish between four types of mistreatment of children: physical abuse, sexual abuse,
17 psychological abuse, and neglect.[1] Some states require that reporting be based on a reasonable
18 suspicion but do not specify the degree or type of evidence needed to make this judgment.[1]
19 Evidence could include suspicious bruises, cuts, burns, scars, or broken bones or verbal reports
20 from children.

21 Reporting suspected child maltreatment can pose ethical challenges for physicians (and
22 other health care professionals) because they may be uncertain whether abuse or neglect has
23 occurred and are wary of making a false report, which could cause the family significant, distress
24 and disruption and damage their relationship with the physician.[7] A key issue in deciding
25 whether to make a report is whether they have sufficient evidence to justify making a report and
26 physicians must rely on their professional judgment and experience when making this
27 determination. [7]

28 Although much has been written about ethical dilemmas related to research involving
29 children and reporting child maltreatment, very little has been written about the conjunction of
30 these topics.[8] Investigators who are conducting research involving children can face reporting
31 dilemmas like those encountered by physicians or nurses providing medical care.[9] Committees

1 that oversee research involving human subjects, such as Institutional Review Boards (IRBs) or
2 Research Ethics Boards (REBs), can encounter dilemmas related to their responsibilities to
3 ensure that research is conducted ethically. In this article, we will explore the ethical issues that
4 investigators and oversight committees face related to reporting of suspected abuse or neglect
5 involving children as research subjects when child maltreatment is not the primary focus of the
6 study, i.e. suspected abuse or neglect is discovered incidentally.

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9 **The Ethical Basis for Reporting Suspected Abuse or Neglect**

10 Investigators have legal duties to report suspected child maltreatment in many
11 jurisdictions, but in others they do not. In a state that only requires certain types of professionals
12 to report child abuse or neglect, an investigator may have no legal duty to make a report if he or
13 she is not a member of one of the mandated professions (e.g. the investigator is an exercise
14 physiologist but the law only applies to social workers, educators, physicians, and nurses). We
15 argue, however, that investigators still have ethical duties to report, even when the law does not
16 specifically require them to do so.

17 The primary ethical rationale for reporting suspected abuse or neglect is to safeguard the
18 welfare of the child by preventing him or her from experiencing additional harm and providing
19 him or her with access to ongoing support for recovery from maltreatment.[10] When an
20 investigator makes a report to the local CPS, the agency can investigate the case and take
21 effective action to protect the child, such as placing him or her in temporary protective custody.
22 CPS can also help the child obtain treatment for acute medical or psychiatric problems. Once a
23 report occurs, the investigator's responsibilities end as CPS and the legal system take over. A
24 court may then hear the case and determine whether the child should be returned to the family or
25 placed in more permanent protective custody, e.g. foster care. Courts also have the power to
26 restrict or terminate parental rights and mandate mental health treatment for parents who abuse
27 or neglect their children. The courts make their decisions by considering how to promote the
28 best interests of the child, while keeping in mind the importance of family reunification, if
29 appropriate.[11]

30 Human research regulations and ethical guidelines do not explicitly deal with reporting
31 child maltreatment, but they require investigators to safeguard the welfare of human research

1 subjects, which implies a duty to report suspected child abuse or neglect, if ones assumes that
2 reporting child maltreatment is likely to protect child research participants from harm.[12-16]
3 Including a plan to address suspected child maltreatment in a study protocol for research
4 involving children would help to ensure that participants are protected from harm, but, as we
5 shall see below, needless harms could occur to the family if reporting is not handled
6 properly.[17] So, the comply with regulations and guidelines research should strive to protect
7 the child and his or her family.

8 Because reports would be made to a third party (i.e. CPS) not necessarily to the research
9 subject or his or her parent or guardian, reporting child maltreatment therefore involves
10 breaching the confidentiality of research participants and their parents, which raises its own
11 ethical and legal issues (discussed below). Research regulations and ethical guidelines require
12 human studies to include provisions for protecting the confidentiality and privacy of
13 participants.[12-16] If the research is conducted in a clinical setting, such as a hospital or
14 medical office, other confidentiality requirements may apply.,

15 Researchers who suspect abuse or neglect often face complex ethical dilemmas related to
16 reporting when child protection laws do not require them to report. Several factors contribute to
17 this complexity. First, legal requirements focus on the rights of research participants or patients,
18 not on those of adult caregivers (i.e. parents or guardians), and do not address the issue how to
19 settle conflicts between parental rights to privacy and confidentiality and children's rights to
20 protection from harm. Second, determinations of abuse or neglect are socially constructed
21 judgments that often depend on the child's and parents' particular circumstances [8] Third,
22 researchers may not understand exceptions to confidentiality laws that allow them to report
23 suspected abuse or neglect, nor how to manage the conflicts that arise between the rights of
24 children and their adult caregivers. Fourth, researchers may be uncertain as to whether
25 confidentiality laws prohibit them from reporting if they are unfamiliar with these legal
26 requirements. Most confidentiality in the U.S. and other countries include exceptions that permit
27 breaches in specific circumstances, such as reporting certain types of infectious diseases to
28 public health departments or reporting suspected abuse or neglect.[18] To deal with these
29 complex issues, researchers should understand the arguments for and against reporting.[19]

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Arguments Against Reporting

Although reporting suspected maltreatment would likely benefit the research subject, some researchers argue that reporting often has the opposite effect and can cause harm to parents and other family members.[200] Kotch discusses child maltreatment reporting issues related to research that he and his colleagues conducted on stress and social support in mother-child pairs at risk for child maltreatment. The study, which followed the pairs from the child's birth, included interviews with the mothers and children at ages 6, 8, and 12.[9] The investigators blinded the interviewers to the children's answers to sensitive questions most likely to raise suspicions of abuse or neglect. The investigators took this extraordinary step to protect the confidentiality of the participants and avoid triggering a legal obligation to report suspected abuse or neglect. Kotch cites four reasons for trying to avoid legal reporting mandates: 1) reports violate confidentiality; 2) reports often cause harm to the child due to retaliation from an angry parent; 3) most reports are unsubstantiated, which causes the family unnecessary stress and disruption; and 4) CPS is often ineffective at protecting children from harm.[9] Despite the investigators' efforts to blind interviewers, five out of 442 children (0.1%) participating in follow up interviews shared information that led to CPS reports. Only one of these reports was substantiated.[9]

Let's examine each of these arguments. Concerning the first argument, as noted earlier, most confidentiality laws allow reporting of abuse or neglect. While reports to CPS do violate ethical duties of confidentiality, one might argue that it is acceptable to breach confidentiality to prevent serious, imminent harm to identifiable individuals.[21] A famous U.S. court case, *Tarasoff v. Regents of the University of California*, addressed this issue.[22] In this case, Prosenjit Poddar, a University of California at Berkeley student, told his psychotherapist, Dr. Lawrence Moore, that he wanted to kill another student, Tatiana Tarasoff, when she returned from a trip. The psychotherapist informed the campus police about this threat and recommended that Poddar be civilly committed because he was suffering from a mental illness (schizophrenia) and was dangerous to himself or others. The police briefly detained Poddar but released him after determining that he was not dangerous. Neither Moore nor the campus police warned Tarasoff about Poddar's threat. Tragically, Poddar stabbed Tarasoff to death when she returned from her trip. Tarasoff's parents sued the university and Dr. Moore for negligence, arguing that

1 failing to warn Tarasoff about the threat violated their obligation to exhibit reasonable care to
2 protect her from harm. The defendants appealed the case to the California Supreme Court after
3 lower courts ruled in favor of the plaintiffs (i.e. Tarasoff's parents). The California Supreme
4 Court ruled in favor of the plaintiffs, arguing that the professional duty of confidentiality does
5 not allow one to ignore threats to public health and safety.[22]

6 Although the Tarasoff case addressed legal, not ethical duties, and involved a verbal
7 threat not mere suspicion or harm, one might argue that the rationale for breaching
8 confidentiality is the same in both contexts. The strength of the obligation to breach
9 confidentiality should depend on the professional's judgment concerning the probability and
10 magnitude of the potential harm that can be prevented. If the professional has convincing
11 evidence of potential harm that is serious and imminent, breaching confidentiality is warranted.
12 If the evidence is weak and the harm is neither serious nor imminent, then breaching
13 confidentiality may not be warranted.[21]

14 With regard to breaching confidentiality, a researcher's main task is to decide whether he
15 or she suspects abuse or neglect has occurred.[5] If a researcher judges that he or she has
16 sufficient evidence to warrant this judgment, his or her primary responsibility is to report
17 suspected maltreatment to CPS, which may review the evidence, interview the child and
18 parent(s), and decide what actions should be taken to protect the child's welfare.

19 Education and training on applicable definitions of abuse and neglect and how to
20 recognize these problems in the context of family dynamics plays a key role in enabling
21 researchers and staff members to make these difficult, socially constructed judgments.[8]
22 Without adequate training a student or inexperienced researcher may not have the required
23 knowledge to make a competent choice concerning the decision to report suspected abuse or
24 neglect, which could lead to reporting when there is no evidence of abuse or neglect or failing to
25 report when there is. Training should include lectures on the legal, ethical, and practical issues
26 related to reporting suspected maltreatment; standard operating procedures for reporting; and
27 discussions of case scenarios.[8]

28 Turning to the second argument, we agree that researchers should be concerned about
29 potential retaliation against the child. However, retaliation would involve the actions of the
30 parent(s) and responsibility for such violence and or emotional abuse should be attributed to the
31 perpetrator(s). If CPS is unable to protect children, this would be a social and political issue that

1 researchers may wish to pursue, but the responsibility to safeguard children would remain with
2 the child's parent(s) and the state, but not with the researchers.

3 Regarding the third argument, we agree that researchers should try to avoid causing
4 innocent parents and other family members unnecessary stress and disruption, which is one
5 reason why it is so important to provide investigators and staff members with education and
6 training in recognizing and responding abuse or neglect.[5] Training and education will enable
7 researchers to recognize the signs of abuse or neglect and make appropriate referrals

8 Concerning the fourth argument, while we agree that researchers should be concerned
9 that CPS interventions are often ineffective, it is not the researcher's responsibility to ensure that
10 CPS does its job properly. Researchers can discharge their legal and ethical duties by reporting
11 their suspicions to CPS and trusting that the agency will handle the situation properly.

12

13 **Informed Consent**

14 Human research regulations and ethical guidelines require investigators to provide
15 participants (or their legal representatives) with information pertinent to the decision to enroll in
16 a study during the consent process.[12-16] Regulations and guidelines also require investigators
17 to provide children who are capable of assenting with study information tailored to their level of
18 understanding.ⁱⁱ [12-14] Although regulations and guidelines focus on disclosing information to
19 human subjects, one might argue that investigators should inform parents about their obligations
20 to report suspected child abuse or neglect, because these would be risks the parents would
21 undertake when their children participate in research.[8,23] Investigators should inform children
22 about their reporting requirements during the assent process.

23 Some commentators have argued that investigators may be wary of informing parents
24 about their obligations to report suspected child abuse or neglect because this may lead some
25 parents to not to allow their children to participate in the study, which could interfere with
26 enrollment.[9,23] Informing parents about reporting obligations could also damage the trust
27 between investigators and participants which is essential to the conduct of research.[23]
28 Although parents who have maltreated their children may be most fearful of mandated reporting,
29 even parents who have not harmed their children could be concerned about dealing with an
30 unsubstantiated report of abuse or neglect.[9,23] However, we think it is important to note that

1 empirical data do not support this argument because studies have shown that informing parents
2 about reporting obligations does not undermine recruitment or enrollment.[8,24]

3 While we can understand why parents would want to avoid false accusations of abuse or
4 neglect, investigators have little choice but to tell parents about their reporting obligations so that
5 the parents can make informed choices.[23] One strategy for dealing with this disclosure
6 dilemma is to inform parents (and assenting children) about obligations to report child abuse or
7 neglect only for studies in which there is a reasonable chance that investigators will acquire
8 evidence of child maltreatment. For example, if a study only requires children to perform simple
9 cognitive tasks, there is very little chance that investigators will acquire evidence of abuse or
10 neglect; if a study includes a physical exam, there would be a reasonable chance of acquiring
11 evidence of abuse or neglect, because investigators might detect suspicious bruises, lacerations,
12 or scars. A study that involves interviews or surveys on sensitive topics (such as mental health,
13 sexual activity, or drug/alcohol use) would also have a reasonable chance of uncovering evidence
14 of child maltreatment. Furman University, for example, only requires researchers to include
15 mandated reporting language in the consent document when there is a reasonable chance that
16 they will acquire information about child abuse or neglect.[25]

17 One might argue, however, that researchers should always notify parents about mandated
18 reporting laws because researchers and IRB members may not understand whether a study has a
19 reasonable chance of producing evidence of maltreatment. Moreover, researchers may have a
20 bias toward claiming that their study does not have a reasonable chance of producing evidence of
21 maltreatment because they do not want to undermine enrollment by disclosing reporting
22 requirements. The University of California at Berkeley's IRB, for example, requires that all
23 studies involving children include mandated reporting language in consent and assent forms.[26]
24 Accordingly, we believe that the norm of transparency requires researchers to always inform
25 children and parents about reporting mandates.[27,28]

26 If investigators inform parents (and assenting children) about mandated reporting, they
27 should do so in a non-threatening way that assures them that their confidentiality and privacy
28 will be protected to the full extent allowed by law.

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2 **Should Researchers Actively Look for Evidence of Abuse or Neglect?**

3 Although we think that in most situations researchers have an ethical obligation to report
4 suspected child maltreatment when they happen to acquire evidence of it, we do not think that
5 researchers have an obligation to look for evidence of maltreatment when that is not part of the
6 study's objectives, since doing so would require the researcher to describe new objectives,
7 develop standard operating procedures for reporting suspected maltreatment, and train study
8 staff, all of which would require expenditures of additional time, effort, and money. If the
9 researcher has a limited budget and support staff, then allocating additional funds to actively
10 searching for evidence of maltreatment could take away funds from other important research
11 activities, which could have a negative impact on the overall rigor and utility of the study.

12 For example, suppose that a psychologist is planning to conduct a study that is not likely
13 to produce evidence of suspected abuse or neglect, such as an experiment that asks elementary
14 school children to perform simple cognitive tasks like memorizing words. Should the
15 psychologist actively look for evidence of abuse or neglect by, for example, including sensitive
16 survey questions in the study? Based on the arguments outlined above, we think the answer is
17 clearly "no."

18

19 **Research Oversight Issues**

20 The issues previously discussed arise not only for researchers, but also for members of
21 oversight committees, such as IRBs or REBs. When oversight committees review research
22 involving children, they must decide whether the protocol should include plans and procedures
23 for reporting suspected abuse or neglect. Plans and procedures should account for imbalanced
24 power relationships between children in the study and their adult caregivers. The committee
25 must also decide whether consent and assent documents should include language that describes
26 mandated reporting of abuse or neglect and how language should be worded for adult caregivers
27 and child participants. When research occurs at a site in which investigators (or other members
28 of the research team) have legal obligations to report, the committee has little choice but to
29 require investigators to follow the law. A more difficult choice arises when there are no legal
30 obligations to report. In this situation, the committee should require investigators to include
31 plans and procedures for reporting child maltreatment to benefit research participant (see

1 discussion above). To ensure that reporting is handled properly and to minimize risks of
2 erroneous reports, the committee should also require investigators to include plans for training
3 research staff in recognizing suspected abuse or neglect as well as standard operating procedures
4 for handling reports, i.e. when to report, how to report, whom to report to, and so on.[8] The
5 committee should also require investigators to inform them of reports in a timely fashion. A
6 report of abuse or neglect could be treated as an unanticipated problem arising in research, an
7 adverse event, or both.ⁱⁱⁱ The committee could use this information to decide whether to require
8 the investigator to take additional steps, such as modifying the protocol or standard operating
9 procedures, to promote the welfare of research participants. To avoid potential delay and
10 confusion about reporting procedures, investigators should report suspected maltreatment to CPS
11 before informing the IRB or REB

12

13 **Conclusion**

14 Reporting evidence of suspected child maltreatment obtained during research involving
15 children presents ethical dilemmas for investigators and oversight committees. When reporting
16 is legally mandated, investigators must follow the law. When reporting is not legally mandated,
17 investigators have an ethical obligation to report suspected abuse or neglect to help prevent
18 additional maltreatment and allow children to access resources needed to recover from
19 maltreatment. They should also include plans and procedures in the research protocol for
20 making reports and training research staff in recognizing evidence of child abuse or neglect.
21 Although investigators should report evidence of abuse or neglect that is discovered incidentally,
22 they have no obligation to actively look for such evidence when it is not related to the study's
23 objectives. Investigators should inform parents and children about their obligations to report
24 suspected abuse or neglect. Oversight committees that review research involving children
25 should require investigators to describe their plans and procedures for reporting child abuse or
26 neglect in the protocol, including their plans for training research staff and informing parents and
27 children about their reporting obligations. Additional studies on reporting evidence of abuse or
28 neglect discovered in research involving children may help investigators and oversight
29 committees decide how to handle reporting dilemmas and address parents' and children's
30 concerns.

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24 Notes

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ⁱ The numbers add up to more than 100% because some children were victims of more than one type of maltreatment.

ⁱⁱ Assent to research participation is different from consent. Consent is a form of giving legally valid permission to some activity, whereas assent is only an agreement and acknowledgment with no legal implications. The age for giving valid consent varies across different countries.

ⁱⁱⁱ Federal regulations require institutions to have procedures for reporting anticipated problems and serious or continuing non-compliance to the IRB.