



**Testimony submitted to the Mandated Reporter Commission
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For more than 100 years, the League of Women Voters has advocated for evidence-based child welfare programs.¹

Today the League of Women Voters of Massachusetts representing 47 local Leagues from Cape Cod to the Berkshires continues to support programs and policies that emphasize the safety and protection of children as well as measures to minimize the trauma suffered by children (LWVMA Where We Stand 2020)

With this understanding, the League requests that the Commission consider the likely negative consequences and impact of the proposed revisions of the Commonwealth's mandated reporter law.

It is important to consider what happens when a mandated reporter, especially those without in depth professional training and assessment skills files a report.

When a family comes to the attention of the Department via a mandated reporter, neglect triggers an investigation which if substantiated, proceeds to an assessment. Despite best intentions, the research, and strengths-based rhetoric, investigations and assessments remain largely deficit-based rather than strengths-based, supportive, and cooperative.

At best, an investigation and assessment should provide an informed and objective perspective. Unfortunately, due to bureaucracy, legislative mandates, time constraints, attribution errors, and confirmation biases, assessments are often inaccurate and biased. Often only partial easily accessible information is gathered rather than more salient, complete, and exculpatory information^{2 3} and this partial, possibly inaccurate, confirming information is given greater weight than the input from the parents involved.^{4 5 6 7 8} A 2015 Investigation by the US

¹ Parker, V. H. (1921). THE public health program of the League of women voters. *American Journal of Public Health*, 11(11), 992-995. doi:10.2105/ajph.11.11.992

² Davies, P. (2011). The impact of a child protection investigation: A personal reflective account. *Child & Family Social Work*, 16(2), 201-209.

³ Munro, E. (1999). Common errors of reasoning in child protection work. *Child Abuse & Neglect*, 23(8), 745-758.

⁴ Budd, K. S. (2001). Assessing parenting competence in child protection cases: A clinical practice model. *Clinical Child and Family Psychology Review*, 4(1), 1-18.

⁵ Eve, P. M., Byrne, M. K., & Gagliardi, C. R. (2014). What is good parenting? The perspectives of different professionals. *Family Court Review*, 52(1), 114-127. doi:10.1111/fcre.12074

⁶ Davies op.cit.

⁷ Munro op.cit.

⁸ Schreiber, J. C., Fuller, T., & Pacey, M. S. (2013). Engagement in child protective services: Parent perceptions of worker skills. *Children and Youth Services Review*, 35(4), 707-715.



Departments of Justice and Health and Human Services noted that reports were being substantiated on the basis of gut-feelings or getting a “vibe”.⁹

With child safety on the line, caseworkers abandon best practices of social work to be supportive and adopt a police-like role, leveraging fear and parental perceptions of the power imbalance to coerce cooperation and capitulation.^{10 11} There is an ongoing tendency to pathologize family problems and hold parents accountable for deficits including those outside their ability to control.^{12 13}

From a family perspective, the arrival of an investigator is anxiety laden.^{14 15} CPS has the authority to micromanage family functioning and remove children from the family. The intrusion into a family’s life can have a powerful negative effect. Parents and children experience intense feelings of fear, anger, and shame exacerbated by the lack of transparency in the process. Repeated themes throughout the research is parental perceptions of oppressive and coercive power and a near dictatorial focus on disconnected task completion^{16 17 18} and descriptions of trauma.^{19 20 21} Parents report residual anxiety in children, for example nightmares of being kidnapped²² and have described their own experiences as ‘Kafka-esque’, disconnected, and

⁹ Gupta, V., Samuels, J., & Pezzullo-Rhodes, S. (2015, January 29). Investigation of the Massachusetts Department of Children and Families by the United States Departments of Justice and Health and Human Services Pursuant to the Americans with Disabilities Act and the Rehabilitation Act (DJ No. 204-36-216 and HHS No. 14-182176) [Letter to Erin Deveney]. Washington DC

¹⁰ Buckley, H., Carr, N., & Whelan, S. (2011). ‘Like walking on eggshells’: Service user views and expectations of the child protection system. *Child & Family Social Work*, 16(1), 101-110.

¹¹ Dumbrill, G. C. (2006). Parental experience of child protection intervention: A qualitative study. *Child Abuse & Neglect*, 30(1), 27-37.

¹² Munro, E. (2011). The munro review of child protection: Final report, a child-centred system The Stationery Office.

¹³ Jonson-Reid, M., Drake, B., & Kohl, P. L. (2009). Is the overrepresentation of the poor in child welfare caseloads due to bias or need? *Children and Youth Services Review*, 31(3), 422-427.

¹⁴ Davies op.cit.

¹⁵ Dumbrill op.cit.

¹⁶ Appell, A. R. (1996). Protecting children or punishing mothers: Gender, race, and class in the child protection system [an essay]. *SCL Rev.*, 48, 577.

¹⁷ Buckley op.cit.

¹⁸ Dumbrill op. cit.

¹⁹ Davies op.cit.

²⁰ Dumbrill op. cit.

²¹ Sykes, J. (2011). Negotiating stigma: Understanding mothers' responses to accusations of child neglect. *Children and Youth Services Review*, 33(3), 448-456. doi:10.1016/j.childyouth.2010.06.015

²² Palmer, S., Maiter, S., & Manji, S. (2006). Effective intervention in child protective services: Learning from parents. *Children and Youth Services Review*, 28(7), 812-824.



inhumane^{23 24} In a rare account of long-term effects stemming from even “minor” interaction with the system. Dr. Pamela Davies, a social scientist herself, was able to contextualize her personal experience with CPS within the field of victimology and secondary victimization. She discusses her feelings of fear and powerlessness despite an open and supportive caseworker and a best possible outcome of the report of suspected abuse being unsubstantiated. Also notable, Davies reported continuing high levels of anxiety five years after the investigation²⁵

Many families adopt strategies to placate workers and feign compliance, or advised to do so by attorneys, therapists, and others, or become openly defiant. Qualitative research has shown that some clients consider the “help” more damaging than the conditions which brought them to attention in the first place.^{26 27}

The mandated reporters:

With the exception of reports of suspected abuse, there is little evidence that mandating reporting is beneficial but there is evidence that increased reporting by non-professionals does cause harm to children, parents, families, and the child welfare system itself. Overall, reports by nonmedical professionals are unsubstantiated 84% of the time.²⁸

Expanding mandated reporting puts enormous pressure on the limited resources of the agency diverting limited resources from endangered children. Presumptive pressure reinforced by potential legal penalties can result in huge increases in reports to an already burdened system leading to excessive waiting times, unnecessary investigations, and social workers wasting time investigating spurious reports instead of actually helping children who need help.^{29 30} Stretching already stretched resources and calling upon social workers to increase their policing and investigations, taking time away from families that actually need help, makes social workers

²³ Buckley, H., Whelan, S., & Carr, N. (2011). ‘Like waking up in a franz kafka novel’: Service users' experiences of the child protection system when domestic violence and acrimonious separations are involved. *Children and Youth Services Review*, 33(1), 126-133.

²⁴ Dumbrell op.cit.

²⁵ Davies op. cit.

²⁶ Davies, P. (2012). Protecting children from abuse: Pamela davies suggests that identifying abuse or neglect is an inherently uncertain process that can result in negative impacts. *Criminal Justice Matters*, 88(1), 34-36.

²⁷ Dodson, L., & Schmalzbauer, L. (2005). Poor mothers and habits of hiding: Participatory methods in poverty research. *Journal of Marriage and Family*, 67(4), 949-959.

²⁸ Ho, G. W., Gross, D. A., & Bettencourt, A. (2017). Universal Mandatory Reporting Policies and the Odds of Identifying Child Physical Abuse. *American Journal of Public Health*, 107(5), 709-716.

doi:10.2105/ajph.2017.303667

²⁹ Ho, op.cit.

³⁰ Raz, M. (2017). Unintended Consequences of Expanded Mandatory Reporting Laws. *Pediatrics*, 139(4).

doi:10.1542/peds.2016-3511

poorer workers and leads to increased burnout. Actually abused children are missed due to exploding caseloads and the burned out workers,

Extended mandated reporting encourages the well-intentioned to report rather than assist.³¹ Non-professionals frequently report families for things including inadequate housing, financial problems, and letting the kids play in the park.³²

Low-income families, immigrant families, and families of color are already disproportionately targeted for intervention. African-American children are up to 8 times more likely to be reported and case managed than white children.³³ Expanding the reasons for mandated reporting to include circumstances related to poverty will only exacerbate the problem.

To be clear, being low-income does not make a parent *de facto* negligent but it does make it much, much more likely that the family will be reported, investigated, and required to be subject to a “vibe” or “gut feeling” that they need their help. Reports of neglect disproportionately target low-income families who do not need the additional hardship of emotionally and financial hardship of a DCF investigation. “*Families who have done nothing wrong are being traumatized by intrusive investigations. Research shows that if you put parents on the floor with stress, you’re not going to improve their parenting*”³⁴

Given the expanding list of who must report and for what, referral numbers have grown significantly over the last few decades. So too have rates of over reporting.

“According to data from the Children’s Bureau at the U.S. Department of Health and Human Services (HHS, 2020), almost half of all abuse cases (44%) referred to authorities in 2018 were *screened-out* and not investigated further. Of those that proceeded to be investigated (56%), just 16% were substantiated. Overall, then, only 9% of the initially referred cases were ultimately verified. Or, put another way, fully 91% of all reports of abuse turned out to be false positives, subjecting caretakers unnecessarily to a screening or surveillance process, and often to an ongoing investigation.”³⁵

³¹ *ibid*

³² *ibid*

³³ Redleaf, D. (2019, January 31). After the Hotline Call. Retrieved from <https://www.theatlantic.com/ideas/archive/2019/01/problem-child-protective-services/580771/>

³⁴ Tickle, L. (2016, April 15). Rise in referrals to social services causing trauma to families, expert says. Retrieved from <https://www.theguardian.com/society/2016/apr/15/rise-in-referrals-social-services-trauma-families-child-protection>

³⁵ Goodman, J. F. (2021). Should teachers be mandated reporters? *Phi Delta Kappan*, 102(7), 47-51. doi:10.1177/00317217211007339



Further, anecdotal evidence indicates that nearly 2/3rds of cases are related to the family's lack of resources, i.e. poverty. Data supports this pathologizing of poverty as de facto neglect³⁶.

The available research does not support the theory that mandated reporting results in better outcomes for children or families. Research suggests the opposite: 73% of articles reviewed reported negative child outcomes, including revictimization and placement in foster care that was notably worse than the initial family environment^{37 38}

Risk to Vulnerable Populations:

The League of Women Voters of MA believes in a strong statewide response to domestic violence that is integrated, interdisciplinary, and adequately funded, involving all segments of the criminal justice system, the medical community, the schools, social services, and the private sector, with a primary focus on the safety of victims (LWVMA Where We Stand 2020)

The ability to talk about the abuse in an empathic, noncritical environment which avoids criticism of a person's life and decisions is an important key to positive outcomes for individuals in violent relationships.

It is necessary to highlight particular danger to families experiencing domestic violence of the mandated reporter law as it stands now without expansion. As it stands now, current mandated reporters are not adequately trained to recognize the signs of domestic violence nor are they trained to understand that extraordinary care and judgement must be used in deciding whether the suspicion of domestic violence within a family triggers the reporting mandate. Triggering a child welfare investigation can increase violence, inhibit help seeking behavior by victims, and further traumatize the very children that the law seeks to protect. Even the Department of Children and Families acknowledged this when it issued its Promising Approaches guidance in 2008 to offer guidelines to assist mandated reporters to assess, accurately and sympathetically, the impact of domestic violence on children and their families and to provide a framework for mandated reporters to create family centered approaches when domestic violence is identified.

Expanding the roster of mandated reporters to include a wide variety of untrained people would increase the risk to victims of domestic violence in direct contradiction to the expressed directives of the Department of Children and Families.

³⁶ Ibid.

³⁷ Ibid.

³⁸ McTavish, J. R., Kimber, M., Devries, K., Colombini, M., MacGregor, J. C., Wathen, C. N., MacMillan, H. L. (2017). Mandated reporters' experiences with reporting child maltreatment: A meta-synthesis of qualitative studies. *BMJ Open*, 7(10). doi:10.1136/bmjopen-2016-013942



Parents with disabilities are at a higher risk of being referred to child welfare services³⁹. Once a part of the system, they are more likely to lose their parental rights. This has been a pattern in Massachusetts which has drawn the attention of both the US Department of Justice and US Department of Health and Human Services. Again, expanding the roster of mandated reporters to include a wide variety of untrained people would increase the risk to disabled parents and children in direct contradiction to the intentions and directives of the Department of Children and Families. The US Department of Health and Human Services, and the US Department of Justice.

The matter of training:

An informal survey of Boston area teachers indicated that the only mandated reporter training received was on the obligation to report suspected child abuse or neglect with the emphasis on “suspicion” and not reasonable cause within his or her professional capacity (MGL 119 51A) and how to fill out paperwork. Only one educator was aware of the DCF Promising Approaches program or literature.

If teachers who are ostensibly trained in the basics of recognizing child wellbeing throughout years of college and continuing education get it wrong a substantial amount of the time⁴⁰, minimal web based training for nonprofessionals on how to fill out paperwork is virtually guaranteed to fail.

Of particular affront is the proposed training recommendations which provide the veneer of competency despite the evidence that the more extensive training received by medical and child professionals is inadequate at the present. The illusion that the proposed training would confer competence has the potential for greater risk to vulnerable populations⁴¹

Conclusion:

The recommendations to expand mandated reporting and lower the threshold required for reporting to suspicion, cognitive bias, or “a vibe” will not achieve the goal of making the children of the Commonwealth any safer. The evidence indicates that it will do the opposite.

³⁹ Pacific ADA Center. (2021, April 13). Parents with disabilities in child welfare agencies and courts. Retrieved April 13, 2021, from <https://adata.org/factsheet/child-welfare>

⁴⁰ Goodman op. cit.

⁴¹ Stark, D., Choplin, J., & Wellard, S. (2019). Properly accounting for domestic violence in child custody cases: An evidence-based analysis and reform proposal. *Michigan Journal of Gender & Law*, (26.1), 1. doi:10.36641/mjgl.26.1.properly