Mandatory Reporting and Teen Dating Violence
Updated June 2014

Washington law is silent on mandated reporting of teen dating violence. In particular, WSCADV's position is that Washington law is fundamentally unclear regarding mandatory reporting obligations in the case of peer-on-peer dating violence. For example

- The Declaration of Purpose for the child abuse statute states: "[When] instances of nonaccidental injury, neglect, death, sexual abuse and cruelty to children by their parents, custodians or guardians have occurred … the state is justified in emergency intervention based upon verified information; and therefore the Washington state legislature hereby provides for the reporting of such cases to the appropriate public authorities." [1]
- In contrast, the definition of abuse/neglect includes: "[S]exual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety…."[2]

Appellate case law[3] exacerbates this lack of clarity. Likewise, other laws related to child abuse lack a consistent standard (*e.g.*, the Domestic Violence Protection Order statute protects children of all ages from abuse by parents, but only protects dating partners when both are age 16+).[4] State regulations further complicate the issue by defining reportable sexual abuse as "any sexual offense against a child as defined in the criminal code[5] (so consensual sex between teens would only trigger a mandatory report if there is a sufficient gap in the teens' ages).

In determining the best practice regarding reporting teen dating violence when the teen does not give the advocate permission to disclose the information, WSCADV consulted with DSHS/Children's Administration staff, law enforcement, and others. Our conclusion from these consultations is that in most cases teen dating violence will not trigger an advocate's mandatory reporting duties. We heard from both DSHS/Children's Administration and law enforcement that they had not previously considered peer-on-peer dating violence to be a mandated report and that DSHS/Children's Administration would most likely not act on a report about peers if there was not a parent, guardian, or caregiver involved. That information, along with our reading of the law, helped us to determine that in cases where there is not actual injury, peer-on-peer dating violence does not trigger a mandated report.

There is also a lack of clarity regarding state and federal law. Under Washington law, the best practice is generally to err on the side of caution (both in terms of the teen's safety and your own liability). Therefore, if you reasonably believe your client was abused seriously enough to meet the legal standard[6] (physical abuse causing an actual injury, criminal sexual abuse, etc.), and particularly if you believe the abuse is ongoing, you should report it. However, if your program receives any VAWA funding

[1] RCW 26.44.010.
[2] RCW 26.44.020(1).
[3] Compare M.W. v. DSHS, 149 Wn.2d 589, 558-559, 70 P.3d 954 (2003) ("J.C.W. claims the purpose of the statute is to protect children from all harm…. When this language is read in light of the [Legislative Purpose section], it becomes apparent that WSTLA Foundation takes this general language out of the context of the specific harms the legislature intended to remedy--unnecessary violation of the integrity of the family and abuse of children within the family.") with Lewis v. Whatcom County, 136 Wn.App. 450, 149 P.3d 686 (2006) (holding that DSHS does have a duty to investigate reported abuse of a child even when that abuse is by a non-parent, giving as examples an uncle or foster parent). However, keep in mind that M.W. concerned liability for harm caused by negligent investigation by DSHS, not mandatory reporting specifically.
[4] RCW 26.50.010(2).
[5] WAC 388-15.009(3). RCW 9a44.
[6] This legal standard is ultimately the language that codifies that abuse is injury in RCW 26.44.020(1).

(and you are therefore prohibited from making a report unless it is specifically mandated), the best practice is to refrain from making the report unless either:

(1) Your client consents to you making the report, or

(2) You believe you have no discretion and must report it, because you are certain that in your jurisdiction, your local CPS or law enforcement office would consider it sufficiently serious to require a report.

Ultimately, WSCADV recommends that advocates use their best judgment (in consultation with supervisors and other program staff) to determine if your duty to report outweighs your duty to maintain confidentiality. Your advocacy practice should include talking with your teen clients about the pros and cons of reporting and working together to make the best decision.

The Takeaway –
Mandated Reporting for Teen Dating Violence

Domestic violence advocates must maintain confidentiality with a few exceptions – reporting child abuse being one of them.

If you have "reasonable cause" to believe that a child has experienced abuse or neglect, you **must** make a report to CPS and/or law enforcement within 48 hours.[7] Criminal sexual assault against a minor of any age is reportable.[8]

Washington law[9] is fundamentally unclear regarding mandatory reporting obligations in the case of peer-on-peer dating violence.

WSCADV consulted with DSHS/Children's Administration staff, law enforcement, and others. Our conclusion from these consultations is that in most cases teen dating violence will not trigger an advocate's mandatory reporting duties.

That said, if you reasonably believe your client experienced serious physical abuse resulting in actual injury, and particularly if that serious physical abuse is ongoing, you should report it.

Your job is to be the most effective advocate possible, even when you are also a mandatory reporter.

Many of your advocacy skills can be used to ensure your client understands the process, receives essential support, and is empowered to make informed choices. You have a role to play in each of these stages: before your client discloses abuse, at the time your client discloses abuse, and after you make the mandatory report.

Ultimately, WSCADV recommends that advocates use their best judgment (in consultation with supervisors and other program staff) to determine if your duty to report outweighs your duty to maintain confidentiality.

---

[7] RCW 26.44.030(1)
[8] RCW 9a.44
[9] If your program receives any VAWA funding, there are even stricter confidentiality expectations and you should only make a report if: your client consents to you making the report, or you believe you must report it, because you are certain that in your jurisdiction, your local CPS or law enforcement office would consider it sufficiently serious to require a report.