

Provinces Propose Mandatory Reporting Laws

Proposed laws in Nova Scotia and Manitoba requiring mandatory reporting of gunshot/stab wounds and child pornography respectively, have left police officials applauding but constitutional experts sceptical.

Proposed law in Nova Scotia:

The "Gunshots and Stab Wounds Mandatory Reporting Act" would require doctors and nurses to report to police whenever victims of gunshots or stabbings come to the hospital. The legislation is intended to remedy police complaints that they often hear of stabbings and shootings days after the incident, making investigations overly onerous.

The proposed legislation has been criticised on two fronts: first, forcing health care providers to act as "agents of the state" by forcing them to break the confidentiality of their patients both undermines the relationship between doctors/nurses and patients, and also serves to dissuade victims of violence (for example sufferers of domestic violence) from getting treatment if they know police will be informed.

Second, considering that many victims of gunshots and stabbings are themselves involved in violence, evidence found against them by virtue of the proposed legislation may result in a violation of their Charter protected right against unreasonable search and seizure.

If the legislation passes, Nova Scotia would be third province in Canada to have such mandatory reporting legislation. Ontario currently requires gunshot wounds to be reported, and since September, Saskatchewan health professionals are also obligated to report gunshot and stab wounds.[1] Neither Act appears to have been challenged in the courts as of yet.

Proposed Legislation in Manitoba:

The Manitoban Legislature proposes to introduce a law that will extend the definition of child abuse to include pornography. This extends the current penalty of up to two years in prison or a maximum fine of \$50,000 for failing to report child abuse to the new legal liability of failing to report child pornography to authorities. The law has been criticized on the basis that threatening family members or friends of individuals in possession of child pornography with prosecution may not be the best way to encourage reporting.[2]

Laws that impose positive obligations on citizens at the risk of imprisonment or hefty penalties are constitutionally questionable.[3]

Sources:

- David Jackson, "Legal Experts Shoot Holes in Proposed Legislation" The Chronicle Herald (December 8, 2007).
 - "Manitobans May Face Fines, Jail for not Reporting Child Porn" CBC News (November 28, 2007).
 - Steve Lambert "Manitoba Law Would Require Anyone Finding Computer Child Porn to Come Forward" The Canadian Press (November 28, 2007).
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[1] Mandatory Gunshot Wounds Reporting Act, 2005, S.O. 2005, c. 9 (Ontario) and Gunshot and Stab Wounds Mandatory Reporting Act, S.S. 2007, c. G-9.1 (Saskatchewan).

[2] Steve Lambert; "Manitoba Law Would Require Anyone Finding Computer Child Porn to Come Forward" The Canadian Press (November 28, 2007).

[3] David Jackson, "Legal Experts Shoot Holes in Proposed Legislation" The Chronicle Herald (December 8, 2007).