



The Mandatory Reporting Task Force | Meeting 8
Meeting Minutes

October 4, 8:00 am-11:00 am Virtual Meeting (Zoom)

Facilitators: Doris Tolliver and Trace Faust

Members: See Appendix A

<p>Welcome & Approval of Minutes</p>	<p>After member welcome, Task Force Chair Stephanie Villafuerte recorded Mandatory Reporting Task Force attendance and approved minutes from the previous meeting. The motion for approval was provided by Gina Lopez and seconded by Cris Menz. Minutes approved. The Meeting Recap motion for approval was provided by Michelle Dosey and seconded by Ashley Chase. Recap approved. Nicci Surad and Cris Menz said their names are spelled incorrectly; Kelsey Wirtz asked for her name to be added.</p> <p>Representative Meg Froelich also welcomed the group and expressed gratitude for members' time and appreciation of the complexity of the topic. She iterated the need to revamp decades old processes.</p> <ul style="list-style-type: none"> ○ Kathi Wells weighed in, she shared appreciation for Rep. Froelich's advocacy and is excited to be a part of this as CO is a leading state on this. She spoke of having time and space to dive into complexity and tension within this issue. She also noted that the group is just fantastic and has a great breadth of perspectives! ○ Ashley Chase also weighed in and expressed appreciation for the members, the educational aspect, and the diversity of the backgrounds in the group ○ Rep. Froelich highlighted Ashley's point about looking at child welfare from far upstream and prior to a court case. ○ Stephanie Villafuerte mentioned that she and Rep. Froelich are meeting soon to go over the plan for 2024 which includes going over the definition of neglect ○ Crystal Ward Allen seconded the importance of separated neglect from poverty ● Jordan Steffen explained the look forward as the group comes up on the 1 year mark. <ul style="list-style-type: none"> ○ Today is the last day of presentations about the topics. ○ November will introduce the syllabus and subcommittees which are based on feedback from the group as well as group assignments. ○ The December meeting will be canceled as a report is due. ○ 2024 will examine; definition of neglect, reporting alternatives such as the warmline, and other definitions (duty, scope, delegate, etc.) ● Trace Fause outlined the schedule for the day. <ul style="list-style-type: none"> ○ Start with presentations. Then, have a Q&A about the presentations. There will be a break. Then, there will be a panel, followed by a Q&A and public comment.
<p>Effectiveness of Mandatory Reporting Presentation 1: Legal</p>	<p>Trace Faust introduces the presenters; Jessica Dotter and Adriana Hartley. All comments are individual and not to be attributed to the Task Force.</p> <ul style="list-style-type: none"> ● Jessica Dotter <ul style="list-style-type: none"> ○ Job title is Sexual Assault Resource Proeseccutor with CO District



Perspective	<p>Attorney. CDAC provides training and support for prosecutors that deal with these topics, and facilitates cross county communications on these cases. The presentation is focused on physical child abuse and failure to report cases, rather than neglect. As a refresher, DAs use prosecutorial discretion to press charges, not the police. This discretion is based on probable cause and governed by a statute and applies to all kinds of crimes. They only press charges on cases that will be likely to have a conviction at trial. This is to avoid charging people that should not be charged and to mitigate.</p> <ul style="list-style-type: none">○ Failure to report crimes: Any person who has reasonable cause to know or suspect shall immediately upon receiving such information report or cause a report. Reasonable cause to know or suspect is a unique term and usually means reasonable suspicion so it is a really low legal bar. Immediately is a complex word in the statute as it usually conflicts with personal discretion. DAs use discretion when interpreting this word. Exceptions outlined in the statute include if the child is 18 or older AND the reporter would not know if a minor is being abused by the same abuser. This is a rare exception. There is also an exception for clergy. These crimes are a class 2 misdemeanor which either result in diversion (take classes to avoid charges or take classes to avoid convictions) or up to 120 days in jail or up to a \$750 fine. However, she has never seen a failure to report conviction end up with jail time or a fine. She said that very rarely do reporters have a malintent in their lack of reporting. She mentioned that there is some liability for damages that allow for civil remedy to occur outside of the criminal case; these cases are usually for negligence that contributed to harm. She said there is not automatic removal of licensure but it can happen after a due process with DORA. She said this statute sits in Title 19 which is a children's code, child abuse sits in Title 18 and this creates lots of cross referencing.○ Child abuse: Abuse falls into categories; physical, abandonment, mistreatment, allowed another to abuse, emotional abuse, sexual abuse, injurious environment, controlled substance, born with exposure to substances, human trafficking, and others.○ Data from CDAC: She mentioned that there is a possibility for a skew based on availability of data and that the information is aggregate. Looking at all the cases that were charged (not including pre-charge diversion which is only available in certain counties), which is 70 cases, almost 60% were dismissed (although not sure where it was dismissed). Anecdotally, she noted that people charged typically take a class and then get the case dismissed. More than half of these cases were done successfully. The others were deferred to probation and it's likely those were all successful. 1% was acquitted.○ The scope is not just on parents or families but includes reporting peers, siblings, other family members, coaches/teachers, etc. 90% of sexual abuse cases are done by someone known by the victim. While rarer, there are also strangers/ acquaintances.○ Doris Tolliver asked what kinds of incidents were not reported. Jessica answered that the majority of failure to report cases are from unlawful sexual behavior (the common excuses are 'it's a he said she said' or 'it's a gray area'). Doris continued that it will be helpful for the group to have an understanding of the types of cases that are common with a failure to
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	<p>report.</p> <ul style="list-style-type: none">○ Zane Grant thanked Jessica for bringing up licensure. He has experience about licensure issues with DORA and taken action against licensed professionals. He concurred that it is usually not done criminally/ in criminal court.○ Jade Woodard thanked Jessica for bringing in data. She mentioned that the public perception is that these cases are more common than they really are. This concept can drive decision making. She named the difference between how the public and the DAs view a 'reasonable cause to know or suspect'. She asked if there is a possibility to narrow this phrase. Jessica answered that the closest other phrase is 'reasonable suspicion' which is the standard used to decide when to pull people over for a traffic stop, for example. It is the lowest legal bar. She also said that there are other differentiations in the statutes that delineate between intention and accidental/ omission failure to report cases. Overall, it is only the very barest suspicion so then authorities can look into it more. She will need to look into other states. Jade had a follow up question if there could be different standards for different suspected crimes. Jessica said that it is probably possible and there could be a good working group around this. She said she is not ready to give an opinion on if this is a good idea or not, but statues are malleable and we can inform legislatures on what the best statues are.○ Roshan mentioned that there are different roles for domestic violence advocates and therapists. There are people with therapeutic licenses but they are working as an advocate, and if they hear something that -as a therapist- they would report but it is complicated since they are not working as a therapist. She asked if this was a situation where they would be liable to charges. Jessica answered that there is a question about when the duty stops and if someone is working in a capacity as an advocate but has a license. She deferred to Zane Grant. Zane reiterated that he cannot speak for DORA but he said it sounds like that the statue lacks clarity to say if someone would be liable. He said that he trains that reporters are never not on the clock when it comes to their reporting. Trace mentioned that this is a directive that we will be getting into.○ Michelle Dossey mentioned that she gets a lot of confusion from reporters about their duty and she said that she has interpreted the statute to mean that reporters are never off the clock. She is excited to get into this more.○ Jennifer Eyl seconded Michelle's comment. She mentioned that as an attorney she is not a reporter. She reiterated that this really needs to get clarified statutorily.○ Nicci Surad asked if there is data on the failure to report convictions and if defendants were operating within their capacity or not. Jessica said that there is no data right now but she could take a closer look at the cases. <ul style="list-style-type: none">● Adriana Hartley<ul style="list-style-type: none">○ Job title is Assistant County Attorney for Delta County. Her job provides advice and representation to all members of the county. This includes caseworkers. She is not a DA. The day to day of the job includes caseworkers coming to her and informing her about mandatory reporters
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who did not call the hotline. She informs people on what steps should be taken when a mandatory reporter fails to make a report. She can only speak to Delta county although there are counties that have a similar system. She did not pull data from every case and the numbers are not infallible. She respects the criminal justice system and DAs; these statements do not encourage mandatory reports to not make reports. She said that there is a perception that the county attorney runs to the DA when there is a suspicion of failure to report. This is not true, in her opinion. This fear and tension can skew the data. She questions whether or not reporters really report based on a fear of liability of not reporting. Caseworkers guessed that about 40% of the cases they see should have been reported. She has only turned over 1 case to the DA for a failure to report; this case was the outlier. But this is not to say that the office ignores failure to report cases. The caseworkers inform people of the importance of making the reports. The system is reliant on mandatory reporting and it creates a symbiotic relationship. The fear of prosecution does not make more reports, but makes reporters question what they need to do. Reporters honestly and genuinely ask if situations rise to the level of abuse. There is a lot of good intention but it is concerning as many reporters do not have knowledge on what abuse is; their confusion is fair too as the statute is very vague, broad, and different case to case. She thinks the law should be broad to make sure it catches as many situations as it can. But the statute puts reporters in an impossible situation to just know what abuse is; and this skews what reports come in. Some reporters report everything while some report next to nothing. There needs to be more clarity on this ambiguity and we do not want reporters to have to interpret what abuse is and we should not shift that burden to them. She is sensitive to the families involved, but she stresses the importance of children's safety. She advocates very strongly to move away from the fear of prosecution; it is not a strong motivator. Reporters need to feel that making reports is safe and a resource to use in the law. She knows it is not viewed this way or always used this way. She stressed the need to move away from the criminal penalty mindset and need to open the door to allow for caseworkers to make the harder determinations. We need to offer support to reporters rather than threaten them that they have to report, or else.

- Zane Grant asked about the anonymity of reporters. Adriana answered that the law does not require it; reporters can be anonymous regardless of if the reporters left their name or not. She has not subpoenaed reporters or called reporters to testify. She stressed the importance of anonymity. Zane asked how they can look into failure to report for anonymous reports. Jessica answered that DAs request DHS documents and noted that she disagrees with Adriana that there is a need for reporters to not be anonymous. Certainly reporters can leave anonymous reports but law enforcement will typically figure it out anyways. She has



	<p>also never seen it that when a case really gets going, the reporter remains anonymous.</p>
<p>Effectiveness of Mandatory Reporting</p> <p>Panel 1: Legal Perspective</p>	<ul style="list-style-type: none"> • Doris introduced the panel • Stephannie recapped her professional history and directed attention to the documents. • Doris mentioned a surprise by the low number of failure to report cases but she mentioned that most reports come from mandatory reporters so this suggests that there is a pressure to report. She mentioned that Stephanie noted a fear of legal liability as a failure to report as a strong motivating factor and she asked for elaboration on this as well as what happens institutionally. Stephanie answered that the most calls they get coincide with news stories. In other words, the biggest numbers of calls come in after a high profile failure to report case hits the news. The public perception is also shaped by the stories that hit the news like the stories where someone intentionally withheld information. She has heard that it is often not possible for line workers (nurses, teachers, etc.) to make reports since they have other responsibilities, so this is why they tell a supervisor. She also mentioned how reports impact treatment team dynamics. These are the 2 issues she has had at the CPO. Doris highlighted the struggle to take time away from job responsibilities to make calls to hotlines. She also highlighted the trust that a mandatory reporter can have with a family and how it can be broken after making a report. This will play into a reporter's decision to call since it is a consequence to weigh; this can make the decision to report take more time. Adriana answered that it is with good intentions that a reporter takes time to decide on whether to report or not; she mentioned that the opportunity for early intervention can be missed with hesitancy and now then severe actions must be taken rather quickly. She knows it is hard to make a call but, from her experience, by then it might be too late or the situation is too deep. Jessica said that there is discretion for failure to report; like, for example, when a teacher reports the next day as their schedule is full. If situations even get flagged, she will ask herself if there was good cause/logic rather than emotion. Jessica has been in a situation where she had to call in what was disclosed to her and she knows it is hard but there is a difference between emotional decisions and good cause decisions. She also highlighted a lack of training that can contribute to failure to report. There are some cases where the person was trying to protect an institution by not reporting. She pointed out that there is a thought process that people do when they decide to disclose information to reporters and that they do that for a reason. She also finally mentioned that her calls to the hotline have taken about 10 minutes. • Doris pointed out the distinction between cases that rise to criminal abuse and cases that can be handled by human services. Stephanie said that the law comes from a culture and then makes its own culture. She elaborated that- for example- if there is more time written into the statute, then it can contribute to the culture of the statue. She recalls the campaign about making calls; “you pick up the phone, we make the call”. The goal is to narrow the door and these ideas of picking up the phone and nonspecific terms like ‘immediate’ do not narrow the door. This is the intersection of law and policy. Doris recalled what Adriana mentioned that any



	<p>system motivated by fear should be rejected and she asked for elaboration. Adriana said that a failure to report comes from a lack of knowledge, confidence and/or certainly so we need to embrace that professionals usually do not do this with malintent. She also noted that most calls just want the family to get help and the fear comes from the report hindering the family getting help. She commented on Stephanie's mention of culture and mentioned that the department should be able to meet reporters who are uncertain as well as reporters who have clear disclosures of abuse. She is advocating for a team that can help determine when a family needs resource connections and when severe actions are needed. Doris asked how we can shift public perspective to utilize services or if there is another entity to connect families with resources. Adriana said that shifting the public perspective is going to be the hardest part. She is not sure how we can eradicate the fear.</p> <ul style="list-style-type: none">• Doris turned to Jessica to ask about bias and asked for her recommendations. She said it comes down to training. Reporters are chosen due to their connection with children, not their training on biases. There is a huge breadth of reporters so she is concerned about the lack of bias training. Training might not be enough. She said is concerned about the delineation between criminal and non-criminal situations. These are very complicated distinctions. Stephanie asked the group to consider the sentiments; "be careful in only tweaking systems" and "why are you not abolishing mandated reporting". This is to consider all the options. Doris seconded that it should be considered and it is certainly a provocative sentiment.
Open Comment	<ul style="list-style-type: none">• Gina said that she wants to keep good versus bad players at the forefront. She is worried that the complications of mandatory reporting will contribute to people not wanting to go into these professions. She said we need good professionals but she is worried that the ambiguity can attract folks who seek these positions to police families. She mentioned a meeting she was in with native families and how there was a call for elders to use corporal punishment on children. We need teachers and administrators but the ambiguity is allowing for bad players. Doris commented gratitude for focusing on marginalized communities and a strong professional workforce. Jessica commented that rape culture also contributes to failure to report for illegal sexual behavior. She is worried about biases and rape culture going into a reporter's decision to not report which creates more harm especially in marginalized communities. Doris quoted "systemic racism is self-perpetuating", you have to actually dismantle the thing. We have to actively apply an equity lens.• Kelsey Wirtz said that she has seen reports that should not have been made and they were more based on bias. She said that more training on mandatory reporting in general would be helpful, especially training specific to a workplace context.• Jessica said that sealing cases is available for failure to report cases. She explained what sealing is (if a seal is granted, then DAs and law enforcement can see the conviction but then the person no longer has to report it on job applications and such). Kevin Bishop asked if the sealing impacts the ability to



	<p>keep a license; can DORA unseal the conviction by posting it online? Doris said that this is a good question.</p> <ul style="list-style-type: none"> ● Jessica talked about the duty to report suggestions such as ‘within a person’s professional capacity’. She also said that this distinction should maybe be different depending on someone’s professional role. For example, law enforcement should be on all the time and others, like eye doctors, maybe should not be. Doris brought it back to Stephanie’s point of should we even have mandatory reporters. If yes, should we keep all the reporters or might there be different groupings of professionals based on their roles. ● Doris said that we have talked about the notion of an opportunity for reporters to report outside of a child welfare agency, like for resource support, but there should be collaboration with agencies to provide support for families outside of the system. Stephanie said this is the million dollar question. She asks herself what do we already have and what can we build on. She talked about family resource centers in their capacity as a warmline. She said she thinks we do not have enough resources to do something like this. We would have to inventory what that need is and then meet it; we cannot have top-down solutions. We need the time to create solutions with the community. Some places are looking at warmlines and these are going to be so important in our work. Adriana stressed Stephanie’s point and said she is a proponent of providing resources. She reminded the group that the intention is to wrap families around resources but we need to make sure that the promise is met. She said she is excited to look into abolishing mandatory reporters; she stressed that it is critical to have mandatory reporters and that the agency puts together the full picture. Jessica said it is hard to consider a world without mandatory reporting due to rape culture as a barrier. Her focus is on supporting mandatory reporters as they are burdened with this duty. Roshan said that she appreciates the awareness the group brings but she pointed out that better trust between reporters and the system is not always safe. She said that we should give reporters more options. She said we should not rebrand the system when it is harming people. ● Jennifer said that we should look at data that fall into the category of illegal sexual behavior. These are serious situations but they might not be everyday. This is not an all or nothing conversation; maybe there can be other reporting options for the other situations where, if the system intervened, it would cause more harm. Doris said that the vast majority of reports are for neglect that are often conflated with poverty. ●
Next Steps and Adjourn	<ul style="list-style-type: none"> ● Doris thanked all members! ● Trace read the public comment. Krista Christensen- speaking from a lived experience. She recounted that an inexperienced school social worker reported something false from a student. She reported her own version of the story. This created a litigious situation since the school acted on the false information. The social worker was reported to DORA. She shared this to echo thoughts to clarify what and training on mandated reporting is to mandated reporters. In addition,



	<p>how can we bridge the gap on how the police see their role and CDHS see their role. The school called the CDHS and the police; the police issued a citation and CDHS said the report was unfounded. The school put themselves at risk but called the police and not just CDHS. Agencies need to know who they can trust to handle situations properly. Unlike this situation where it was mishandled and there was money and litigation involved. She left her email for further discussion.</p> <ul style="list-style-type: none">● Trace noted again that working group opportunities for 2024 are coming. December is canceled due to getting the report drafted. 2024 will resume monthly meetings.● Trace thanked all members!● Next meeting is scheduled for November 1st, from 8 AM to 10 AM.● The Mandatory Reporting Task Force was adjourned at 11:00 am.
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Appendix A:

Yolanda Arredondo
Kevin Bishop
Carlos Castillo
Ashley Chase
Jill Cohen
Jessica Dotter
Sherry Dans
Jill Cohen
Jessica Dotter
Michelle Dossey
Jennifer Eyl
Leanna Gavin
Zane Grant
Adriana Hartly
Lori Jenkins
Shayna Koran
Gina Lopez
Cris Menz
Michelle Murphy
Roshan Kalantar
Margaret Ochoa
Colleen O'Neil
Sara Pielsticker
Nicci Surad
Crystal Ward Allen
Kathi Wells
Donna Wilson
Jade Woodard
Kelsey Wirtz
Stephanie Villafuerte

Appendix B: