



The Mandatory Reporting Task Force

Specialized Occupations Subcommittee Meeting Minutes, June 26th, 2024

Facilitator: Trace Faust

Members: See Appendix A

Introduction	<ul style="list-style-type: none">● Trace Faust welcomed the subcommittee. They electronically shared the directives.
Victim Advocates	<ul style="list-style-type: none">● Trace explained that the subcommittee seems split based on the survey results pertaining to victim advocates. They electronically shared the comments provided on the survey and provided time for subcommittee members to read them. They asked for more thoughts from subcommittee members who did not want to remove victim advocates from the list of mandatory reporters.● Jennifer Eyl said that she supports removing victim advocates from the list of mandatory reporters and she wanted to share that the existence of victim advocates as mandatory reporters discourages adult victims to seek help; it prevents them from getting safe and there is data on this. Trace thanked her and asked her to share that data if she has it. Trace asked for more comments.● Zane Grant said that he doesn't like exemptions since they create loopholes. He thinks that there should be a process in place. He wants parents in domestic violence situations to get help in a safe way. He said that he doesn't like exemptions based on job titles; he would rather have postponing reporting until the family is safe. He said that mandatory reporting is about protecting children so he was not comfortable making exemptions by title or profession since titles are not always the most thoughtful. Trace thanked him.● Aletha Jenkins said that, in her experience, she encounters families after a crime has happened. She said that limiting the responsibility could result in missing situations to include in a case or a future report. Trace thanked her.● Jennifer said that there are two kinds of victim advocates; one kind is in the police system and they are a different kind of advocate. She continued that the other is community advocates who are outside of the criminal legal system. She said that the community advocates have a confidentiality privilege and they have to breach confidentiality to make reports; these are the advocates that she wants to exempt. She also explained that domestic abuse is not always a crime and it impacts children. She continued that community advocates can help the situation prior to CPS getting involved which can increase the danger level to the family. She also said that she provided the link to the study she was referencing.● Soledad Diaz said that she agrees with Jennifer and that not all victims report to the police. She also said that she has had people hang up after hearing that someone is a mandatory reporter since they do not want to get involved with



the system. She continued that clients have left the shelter after a report was made since it can get very dangerous when interacting with the abuser in that way. She said that it is different when a survivor is reaching out to a community based organization since it requires trust to provide services. She said that when someone is reaching out for help, they are in a trauma response so if anything sounds threatening they will turn away. She said that breaking this trust is huge for survivors and huge for the day to day work. Trace thanked her and highlighted the community based advocates versus system involved advocates. Jordan Steffen said that community based victim advocates are defined in 1390 107. She said that she is hoping the recommendations can capture what the subcommittee intends.

- Jennifer said that victim advocates that work at a program for domestic violence and sexual assault undergo extensive training and only specific agencies fall under this statute. She said that this statute addressed shelters, crisis programs, legal advocacy services, and some other types of agencies. She continued that both the program and the person need to match to fall under this statute. Trace thanked her and said that this might mean that there is a smaller scope than previously thought.
- Dr. Kathi Wells said that she wants to echo thoughts; it is a complex issue and everyone wants to keep children safe. She said that her challenge is identifying situations where children are unsafe. She said that sometimes the only eyes on a situation can be a victim advocate so the question becomes balancing protecting children as well as keeping the family safe. She suggested thinking about tools that could help advocates as well as keeping children safe. Trace thanked her.
- Jessica Dotter said that there was a legislative declaration in 1995 when victim advocates got added to the mandatory reporter list; it reads that sexual assault causes problems of great magnitude and many victims resist seeking help so there needs to be a more sensitive and unbiased approach to ensure the safety and health of all Coloradans. She said that bills can include many perspectives but this is some insight as to what they were thinking by adding victim advocates. She continued that when people do not report, there is a bigger public safety problem since the person causing harm is not brought to justice. She said that she is thinking about looking out for the entire community. She also said that she struggled with taking away the agency of a person and the fact that the relationship of victim advocates is special. She said that she is not in support of a full exemption but she can see a postponement of reporting being a strong tool to mitigate risks. She said that Colorado's population includes immigrants and tribal populations that can harbor a lot of mistrust towards



systems; this adds further support to postponing reporting, to her. She said that the criminal justice system is not spoken of highly since they are not built for survivors. She said that there can be a bridge of trust between people and the system. She continued that the definition of victim advocates in 1390 107 is interesting since victim advocates have such strong protections for confidentiality except for mandatory reporting. Trace thanked her and brought up the fact that the victim advocates could still report if they saw it as a good fit; it might not be an all or nothing question.

- Jennifer said the legislative declaration was made at a time when victim advocates and law enforcement had a close relationship due to the historical context. She said that there was an assumption that the system knew better than survivors however there has been a shift; now the perspective is that survivors know best about their situations. She said that there is an example of a statute that addresses this; there was a statute that required medical providers to report injuries if they were suspected to be a result of domestic violence. She continued that the statute was revised so law enforcement was not called every time there was a suspicion of domestic violence. She brings this up to highlight historical context. Trace thanked her.
- Soledad Diaz said that her organization calls CPS when they report, not law enforcement. She said that the CPS agent will either go to the house or the shelter, so the abuser will often find out that the survivor has been making contact; this is dangerous. She also said that the CPS process can bring the survivor out of shelter to go to an interview which provides opportunities for the abuser to recontact them or the children. She said that this goes against the goals of the shelter and it limits efforts to provide support. She said that CPS refers families to a shelter even if a family was already at a shelter in the first place. She continued with her personal story of visiting the hospital when she was pregnant; the nurse who was white called CPS which created a dangerous situation since her husband could have been subject to deportation if he was mistakenly thought to be abusing her. She said that this is hugely impactful in marginalized communities who are less familiar with the system. Trace thanked her.
- Zane asked if every survivor's situation has a report made. He appreciates everyone's comments and mentioned that not everyone who seeks help has a report made. He reiterated that his focus is on children so it would be helpful to have statutory language to help people while keeping children safe. Trace thanked him.



	<ul style="list-style-type: none">● Stephanie Villafuerte said that it is a balancing act. She said that providing advocates an extension of 24 hours might not solve the problem. She said that she is hesitant to vote since she is not sure if there are other options. She wonders if there are other options. Trace asked for clarification on the options. Stephanie said that, to her, the options seem to be a 72 hour postponement or nothing. She said that the postponement is not helpful since it can create more anxiety. Trace thanked her.● Trace said that there will not be a survey right now; the facilitation team will rework language based on today’s conversation. Stephanie and Jordan said that they agree. Jordan added that the survey is not a final recommendation vote but rather an information gathering tool. Trace moved the subcommittee to a short break.
Attorney Teams	<ul style="list-style-type: none">● Trace brought the subcommittee back from a break and welcomed the legal panel; they asked for the panel to introduce themselves.● Chris Henderson started; he introduced himself. He said that children can be represented by attorneys in various different cases so it’s complex. Kevin Bishop introduced himself and said that he is in conflict counsel that picks up representation. He said that he holds the same position as Cris and Jill; the question about an exception is interesting since attorney-client privilege means something and confidentiality should prevail. Jill Cohen introduced herself and said that parents getting legal representation should also receive other wrap around services. She explained that these services are supported by many entities and that many attorneys do not accept support from organizations if those organizations have to make reports. Trace thanked them and asked them to define the problem from their perspective.● Kevin said that the right to an attorney wasn’t afforded to people until 1963; this right is constitutional and is relatively new and that attorneys are protecting constitutional rights. He said that breaching confidentiality also breaches constitutional rights. He said that being forced to disclose information without consent is a problem. Chris said that he agrees and added that this violates professional conduct rules as well. He explained that there are times and opportunities for an attorney to disclose information. He continued that there have been movements, including 1038, to provide families more agency. He said that having an attorney as a mandatory reporter would violate professional conduct rules. He said that these rules should trump other laws since it is the basis of an attorney-client relationship. He said that it is better to have families



	<p>come up with an idea to keep themselves safe; it's best practice to treat families with honor and dignity. Trace thanked him.</p> <ul style="list-style-type: none">● Stephanie said that the topic is not about attorney confidentiality but their staff; she said that the directive is not addressing attorneys. Chris said that this is helpful and that- as a member of the legal team and according to 5.3- they would also be covered by confidentiality. Stepahnie thanked him and asked him to share the citation. Kevin said that the statue talks about attorneys and everyone on their team being covered by that privilege; this is a new change in Colorado.● Zane said that some guardian ad litem attorneys are not mandatory reporters. He said that in his contexts, abuse or neglect has already been alleged so he is wondering about the issue the subcommittee is trying to solve.● Kevin said that some agencies have broadened the scope of who is on a legal team; the public defender's office was mandated to hire social workers which can mean anyone with a social work degree. He said that it implicates his agencies when the mandatory reporting statute calls out social workers as a title since this can mean many different things.● Jill said that this is beyond just their organization since many organizations do many different types of law like immigration and housing court. She said that social workers are hired on legal teams and that other team members like paralegals and others are not mandatory reporters. She said that there are many social workers on many teams; this creates conflicting ethical issues that they have to solve. She said that her primary role with legal teams is to figure out how to keep clients safe. She continued that the reason they are able to engage with families deeply is because of confidentiality. She said that she is able to better engage people because of confidentiality and attorneys will not engage social workers if they are concerned about them making a report. She said that it is a bonus to have a multidisciplinary team. She said that it is important to be uncomfortable and center families by allowing them a truly confidential advocate. Trace thanked everyone.● Trace asked more about rule 5.3. Stephanie said that this directive came up in stakeholder engagement. She explained that the rules of professional conduct cover this topic however it should also be addressed in statute. She said that the question is if all staff with attorneys are exempt from mandatory reporting; the question is how specific should the mandated reporting law be. Trace thanked her.● Chris electronically shared suggested language and said that a member of a legal team is simple and quick language that would resolve this conflict. He said that
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	<p>attorneys are concerned if a member of their team violates professional rules of conduct. He also said that confidentiality does not make a child unsafe. Trace thanked him.</p> <ul style="list-style-type: none">● Jennifer said that she is concerned about the ‘course of legal representation’ language since someone could disclose reportable information in intake, prior to legal representation. Jill said that she likes this change and that she saw another state include similar language to cover the full legal process. Chris also said that he likes this change. Trace thanked them.● Jessica said that it makes sense that these staff should be included in confidentiality when they are providing services in this role. She also said that prosecutors are mandatory reporters but their staff are not. She said that her question is if there are post-certified peace officers employed as investigators and if they are exempt from mandated reporting through this language. Kevin said that they probably have contracted with former detectives and police officers. He said that if they are a part of a legal team, they are covered by attorney-client privilege. Jessica said that she is thinking about who the language extends to. Kevin said that this language feels like a clarification that attorney client privilege means something so that anyone contracted with the attorney can employ those confidentiality rights. Jessica said that this makes sense.● Jill said that she has never heard of a social worker working with an attorney being prosecuted for failure to report but having this clarified would be a big burden lifted. She said that she has had to navigate this for a long time and that it would be very meaningful to include this clarification in the mandatory reporting update. Trace thanked them and asked for closing comments.● Chris said that he appreciates this conversation and that families are best served with a multidisciplinary team so members of the team feeling safe will help families feel more safe. Trace thanked him.● Kevin said that he agrees with Chris and Jill; this is about protecting the most vulnerable folks, many of whom have been victims themselves. Trace thanked him.
Conclusion	<ul style="list-style-type: none">● Trace thanked the subcommittee for covering many topics; they directed people back to the large task force conversation.



Kevin Bishop
Chris Henderson (for Ashley Chase)
Carlos Castillo
Jennifer Eyl
Jessica Dotter
Zane Grant
Jill Cohen
Gina Lopez
Soledad Diaz (for Roshan Kalantar)
Dr. Kathi Wells
Kelly Sim (for Crystal Ward Allen)
Ayla Bullock (for Shawna McGuckin)
Stephanie Villafuerte
Aletha Jenkins