



Mandatory Reporting Task Force

August 2, 2023 Meeting Recap

Overview

The Mandatory Reporting Task Force is legislatively charged with analyzing the effectiveness of Colorado’s mandatory reporting laws in keeping children safe, connecting families with the resources they need, and providing clarity to mandatory reporters. Integral to this analysis, the task force will continue to examine the relationship of these laws to systemic issues and disproportionate impacts on under-resourced communities, communities of color, and people with disabilities.

Directive Discussed: Is mandatory reporting effective in serving children and families in Colorado? (See C.R.S. §19-3-304.2(7)(a)(I))

Trace reminded the task force of the current focus and progress of discussions on three directives:

- Analyzing the effectiveness of current reporting methods.
- Examining the disproportionate impacts of mandatory reporting.
- Identifying alternative processes and services for children and families.

The approach has been to group task force members into panels to discuss the perspectives of different roles within mandatory reporting. Some members may have missed participating in panel discussions, and alternative ways to capture their input will be provided.

First Panel – Legal/Law Enforcement

The main focus of this discussion explored considerations regarding individuals in the legal community who work with children and families. This includes the growing trend of legal teams incorporating social workers and questions surrounding whether these social workers should be considered mandatory reporters. The aim is to provide clarity and appropriateness within existing mandatory reporting laws.

Leanna Gavin is a family law attorney who primarily represents parents in divorce and custody cases. She has also worked in dependency and neglect cases and juvenile delinquency cases. She highlighted the differences in how various demographics interact with the legal system in child safety matters.

Jill Cohen is a licensed clinical social worker who has worked with attorneys representing parents for over 20 years. She discussed the importance of maintaining confidentiality and ethical considerations when working alongside legal teams.

Kevin Bishop, also a licensed clinical social worker, serves as the social worker coordinator for the Office of the Alternate Defense Council. He emphasized the significance of attorney-client privilege and confidentiality when working in the criminal defense system.

Ashley Chase, a staff attorney at the Office of the Child Representative (OCR), oversees attorneys representing children's best interests in various legal cases. She asserted that social workers are essential members of her legal team and that they adhere to ethical rules.

Carlos Castillo, a member of the Denver Police Department's Missing and Exploited Persons (MEP) discussed the range of reports law enforcement receives, emphasizing collaboration with various professionals to make informed decisions for the well-being of families and children.

The themes and concerns related to reports that are made:

- The use of fentanyl and its impact on families, especially children being exposed to it, is a significant concern in recent times.
- When working with indigent communities, cases may involve issues like housing insecurity, drug abuse, and family violence. Clients may also have disabilities.
- Cultural competence is a critical factor in child protection cases. When legal professionals lack cultural competency, they may misinterpret cultural practices as safety concerns, impacting the outcomes of cases.
 - o For example, cases involving migrant families, where cultural differences in parenting practices may arise, leading to questions about whether certain behaviors rise to the level of criminality in the context of different cultural norms.
- Leanna highlighted the differences between divorce cases and cases involving state intervention (dependency and neglect). In divorce cases, interventions like court-ordered therapy or restricted parenting time can be initiated without state involvement.
- Affluent white families may have a lower likelihood of reports being made against them compared to families from different demographics, and may also have access to more resources and legal support.
- Doris reflected on the discussion and raised the issue that child abuse or neglect is not always perceived the same way, depending on various factors such as the family's demographics, language, and available resources. This highlights the subjective nature of interpreting situations that might lead to mandatory reporting.
- The importance of making connections to resources when working with clients - social workers are usually responsible for connecting clients to resources, especially those who are indigent and disproportionately people of color.

- The panelists emphasized the value of multidisciplinary teams where professionals like social workers and attorneys collaborate to understand the complexity of family needs, allowing for a holistic understanding of the situation.
- The need for alternative mechanisms to provide families with the services they require without resorting to the potentially disruptive intervention of breaking up families.
- The need for a clear distinction between cases of genuine child abuse or neglect and situations where families primarily require resources and support.
- Creating a more nuanced and supportive system that can effectively address various family needs while minimizing unnecessary intervention and disruption of families.

Potential solutions:

- **Differentiating Between Abuse and Neglect:** creating a system that distinguishes between cases of physical or sexual abuse, and neglect, and cases where families primarily need resources and support. Currently, all hotline calls often lead to the same system, which can lead to unnecessary court cases.
- **Confidentiality:** professionals like social workers or attorneys should have stronger confidentiality protections when working with families who primarily need resources.
- **Substance Use Issues:** the importance of a separate system to address cases involving substance use by parents. Removal of a child from their family should be a last resort. Instead, the focus should be on connecting parents with appropriate resources, with the involvement of a social worker or similar professional to ensure follow-through and child safety.
- **Avoiding Over-Intervention:** avoiding excessive intervention in cases where the child's well-being is not genuinely at risk. Minor concerns like a child being sleepy or having dirty clothes should not result in family disruption or police involvement.

Second Panel – Who Makes the Calls – Advocacy

Roshan Kalantar - Executive Director at Bounce Back Colorado. Roshan highlighted her organization's role in supporting survivors of domestic violence through training and technical assistance for advocacy programs.

Jennifer Eyl - Executive Director of Project Safeguard. Jennifer explained her organization's work in providing legal advocacy and assistance to victims of domestic violence, sexual assault, and stalking and her various roles within the field of gender-based violence, including as a counselor, victim advocate, and attorney.

Gina Lopez - Assistant Response Program Director at the Colorado Coalition Against Sexual Assault (CCASA). Gina introduced herself as a member of the Ute Mountain Ute Tribe in

Colorado and discussed her work at CCASA, which involves training and technical assistance for Colorado communities, especially those facing complicated multi-system issues.

The panelists discussed the unique challenges faced by advocates in understanding what they are legally required to report and when they are protected by confidentiality. Themes and ideas that were raised:

The need for confidentiality to encourage survivors to come forward and access help.

The need to make sure that we are continuously thinking about the ways in which this broader approach uniquely impacts specific marginalized communities.

The challenge of teen dating violence and sexual assault cases. Making a mandatory report in these situations can harm their relationships with young survivors and hinder their ability to provide meaningful support and resources, such as protection orders.

Gina discussed the unique challenges faced by Native American communities, particularly in rural areas, when it comes to addressing sexual violence and ensuring safety for survivors and their children. Federal laws are limited in addressing sexual violence in tribal communities, especially when dealing with cases involving young children. The lack of specific codes or regulations for sexual assault cases within tribal jurisdictions can lead to challenges in seeking justice.

Geographical boundaries and tribal sovereignty can impact the education and safety of Native American children, making it difficult for them to access the same resources as their non-tribal counterparts in neighboring communities.

Survivors and their families are often afraid that their children will be taken away if the system gets involved, especially in marginalized communities.

How educating individuals interacting with survivors can help address the challenges and build trust in the survivor's decision-making process.

Roshan emphasized that mandatory reporting limits their ability to empower survivors who need to regain control over their situations. When survivors have their own timeline for safety, which often involves carefully calculated decisions, mandatory reporting disrupts this process and places them in increased danger. Roshan urged trusting survivors and providing them with the space and support they need to navigate their situations safely.

The need for more open lines of communication and trust-building between communities, and the importance of meaningful, multi-disciplinary conversations.

Jennifer pointed out the importance of the advocacy community and the interconnected network of agencies and resources, emphasizing that advocates often serve as these resources themselves, making the need for additional reporting less necessary.

The need for additional resources to support survivors and address the systemic issues related to domestic violence. Many gaps in services, such as a lack of police response, Child Protective Services involvement, or shelter availability, are due to resource limitations.

**Colorado is only one of nine states that have a carve out privilege exception for victim advocates that work in programs that specifically serve domestic violence. Many states already have this carve out and they haven't seen dramatic increases in child abuse or child death. (Jennifer will confirm) (HB17-1322)

Casey Family Programs Data Presentation - Reports Made by Advocacy and Legal/Law Enforcement Professionals

The discussion touched on the challenge of accurately collecting race and ethnicity data, as it often depends on how social workers ask these questions or make assumptions based on appearance. There are efforts to improve data collection practices in Colorado and other states.

There was a brief discussion about the historical use of the term "Hispanic" in data collection, which combined Hispanic ethnicity with other races. The way this is handled in data collection may have changed over time, potentially affecting the representation of certain racial groups. For example, if a child is marked as Hispanic and another race (e.g., American Indian), they may be categorized as Hispanic. If a child is marked with only one race (e.g., American Indian), they are categorized under that specific race. However, this approach might lead to Native American populations being diluted into other categories, like Hispanic or multiracial.

Additionally, LGBTQ+ data is not typically collected in the Trails system, and this may vary by state.

- Colorado has an overrepresentation of Black or African American children at every decision point within the child welfare system. For example, at the screening stage, Black or African American children screen-in at a rate significantly higher than their proportion in the general population.
- The data is also disaggregated by urban and rural areas, but the urban areas dominate, so the disparities are less pronounced in this comparison.
- Black or African American children have seen a consistent increase in screening rates since 2015, while other racial and ethnic groups have remained relatively stable.

These findings highlight the issue of racial disproportionality in the child welfare system in Colorado, particularly for Black or African American children, who are overrepresented at various decision points within the system. The data suggests a need for further investigation and strategies to address these disparities.

Legal and law enforcement personnel are the third group among the top reporters (the last two task force meetings covered educators and health providers), contributing one-third of the reports that result in investigations.

Legal and law enforcement includes court personnel and law enforcement, not sure advocates are included.

Over time, the proportion of reports coming from legal and law enforcement has increased, with a slight uptick in recent years.

Legal and law enforcement contribute consistently to reports in both urban and rural areas.

When looking at racial and ethnic disparities in reporting, there has been an increase in reports from Black or African American communities, particularly starting in 2018.

Regarding the outcomes of these reports, the rate of substantiated reports has remained relatively stable over time while there has been a decrease in unsubstantiated reports, which coincides with the increase in the use of alternative responses.

Reports of neglect called in by legal and law enforcement personnel. Here are the key points:

1. Law enforcement personnel are more likely to report allegations of neglect compared to other types of abuse, such as emotional, medical, mental health, sexual, and physical abuse.
2. The proportion of neglect reports from law enforcement has been increasing over time, with a slight increase in recent years.
3. When looking at the disposition of these neglect reports, a larger proportion is substantiated compared to other types of abuse, with nearly half of the neglect reports being substantiated.
4. The trends in disposition (substantiated, unsubstantiated, and alternative response) for neglect reports from law enforcement personnel have been relatively stable over time.
5. There are slight variations in trends based on urban and rural areas, with urban areas having a more pronounced decline in sexual abuse reports compared to rural areas.

Public Comment

Sarah Perkins, a parent with lived experience of mandatory reporters and CPS (Child Protective Services) removals, shared her perspective during the meeting. She highlighted the following points:

1. Her children were taken away by CPS about a year ago, which received national media coverage.
2. She and her organization have been in contact with more than a hundred families who are facing difficulties with mandatory reporters and CPS.

3. She expressed concerns about the CPS system, stating that it operates by taking children and using the threat of removal or removal itself to coerce behavior from parents.
4. The services offered by CPS are often unhelpful and traumatizing, including aggressive parenting classes and supervised visits.
5. Sarah emphasized the need to consider eliminating mandatory reporting entirely, as she believes that making more people mandatory reporters does not necessarily reduce child abuse or neglect.
6. She suggested that reporting should be based on informed, rare, and voluntary reporting rather than personal liability.
7. Sarah stressed the importance of providing support and services to parents and families without the threat of CPS involvement.

Overall, Sarah Perkins highlighted concerns about the CPS system and advocated for reevaluating the role of mandatory reporting in child protection.