



## Mandatory Reporting Task Force | Meeting 26

### October 16, 2024, 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.

#### Continued Recommendation Review

The task force reviewed recommendations on Directives 16 through 19. Directives 7 and 11 were saved until after a break.

#### Directive 16: Handling of Personal Information Related to Child Abuse and Neglect Reports

##### *Clarifying Race and Ethnicity Reporting*

There was a suggestion to add "race" to the list of demographic categories in the directive, distinguishing it from ethnicity, which had already been included.

##### *Clarification on Reporting Requirements*

There was some confusion regarding the requirement to remove the "oral reporting requirement" versus the "written reporting requirement." There was concern about whether allowing online reporting would constitute a "written report" and whether this approach would contradict the goal of simplifying reporting requirements. The group discussed aligning the statute with actual practice, where typically an oral report is not followed-up with a written report.

It was suggested to modify the language in the directive to clarify that a written report is not required when an oral report has been made. This would help to avoid redundant requirements while still allowing for online reporting.

Jessica Dotter raised concerns about the potential risks of removing the written report requirement after an oral report is made. She noted feedback from several individuals who reported instances where oral reports were not followed up on, leading to questions about whether the mandatory reporting obligations were fulfilled.

There was concern about increasing liability for mandatory reporters by eliminating the requirement for written follow-up, as it could create ambiguity regarding the report's handling and whether appropriate actions were taken.

### ***Admissibility of Written Reports in Evidence (Directive 16, Subsection B)***

There was a debate about whether the language in the statute regarding the admissibility of written reports in court should be removed. Jessica argued that even if the written reporting requirement is changed, the statute stating that written reports from mandatory reporters are admissible in evidence should remain. It was noted that the current language could be confusing but essentially aimed to clarify that written statements from mandatory reporters are admissible under hearsay rules.

The intention was to clarify that while written reports might not be required, any submitted reports should still be legally admissible.

### ***Expanding Admissibility Beyond Written Reports***

Ashley Chase raised the issue of why only written reports are specified as admissible under the statute (19-3-307.4), suggesting it might be outdated given that oral reports are tracked and recorded. She proposed modifying the statute to remove the word "written," thereby allowing both written and recorded reports to be admissible, making the law consistent with current reporting practices.

### ***Preserving Accountability for All Reports***

Michelle Dossey supported this proposal, noting that calls are indeed recorded from start to finish and have been used in court proceedings. This practice developed after the statute was originally created, and it may be time to update the statute.

The discussion leaned toward revising the statute to broaden the admissibility to include all forms of documentation associated with a report—whether written, oral, or recorded—thus aligning the legal requirements with current practices.

### ***Confidentiality of the Reporter's Identity***

Michelle Murphy and Jessica Dotter clarified that, generally, the identity of a reporting party is kept confidential unless a court orders its release. In civil cases, the identity of the reporter typically remains protected, and if a report is used in court, identifying information is redacted or "sanitized" before being shared. In criminal cases, the standards are different, and the identity of the reporter may be disclosed as part of the legal process.

### ***Concerns About Bias in Mandatory Reporter Information***

Sam Carwyn added a concern about including mandatory reporters' information as evidence, highlighting that reports often contain language and descriptions that reflect biases. This could

influence the perception of a situation, potentially making it seem more severe than what a CPS or DHS investigation might reveal.

### ***Opportunity to Correct Demographic Information***

There was a proposal to allow families to correct demographic information reported by mandatory reporters, acknowledging that reporters may not always know this information and may make assumptions. The group discussed ways to ensure families could verify and self-identify the information, especially in cases that don't proceed to assessment.

### ***Including Family Strengths in Reports***

Subpart D was focused on ensuring that when information is entered into the Trails system, it includes both the concerns raised and family strengths. The goal was to provide a more balanced view, rather than solely documenting potential issues related to child abuse or neglect. Margaret Ochoa appreciated the example of parental involvement in school activities but suggested broadening the list to include other protective factors such as extended family support and evidence of medical care. This would help guide hotline operators to consider a wider range of family strengths.

Sam proposed that when documenting family strengths, it would be helpful to ask whether the family was informed about the reporter's concerns.

Jennifer Eyl was worried that Subsection D could imply that reporters are taking on an investigative role by asking about family strengths. She emphasized that mandatory reporters should not be required to elicit extra information but rather respond to the questions posed by the report recipient.

The group debated whether to keep Subsection D in the recommendations since the practice of asking about family strengths is already part of Colorado's enhanced screening process. It was suggested that this decision could be deferred until the vote on the slate of recommendations.

Michelle Dossey clarified that all counties in Colorado conduct enhanced screening, which includes questions about family strengths and resources. This helps provide a balanced view of the family situation and informs potential resource allocation or preventative services.

Ida Drury supported including Subsection D, arguing it would emphasize the importance of communicating to mandatory reporters that identifying family strengths is part of the process. This could help reinforce that strengths are considered in reports.

### ***Concerns About "When Available" Language***

Gina Lopez expressed concerns about using the term "when available" in the context of gathering demographic information from children, fearing it could lead to mandatory reporters unintentionally acting like investigators. She suggested changing the wording to "from prior knowledge or experience" to avoid prompting children to share sensitive information.

### ***Recommendations for Demographic Data Collection***

Margaret proposed adding a deadline to the directive that would require the county department to update demographic information within a specified number of days once a family has provided input. She felt that without this guidance, the requirement would lack structure.

Michelle Dossey noted that families on screened-out referrals would not be given the opportunity to correct demographic information, affecting about 60-70% of cases. She proposed specifying that families would only have this opportunity upon assessment.

### ***Modifying "Language" to "Primary Spoken Language"***

Michelle Dossey suggested specifying "primary spoken language" instead of just "language" to help clarify communication preferences for DHS.

### ***Terminology in Subsection C***

Jennifer suggested changing "confirm or correct" to "review and correct" or "review and edit," as "confirm" could seem directive and imply that families are just expected to agree with the information as is.

## **Directive 17: Standardized Training for County Departments on Determining Which Reports Meet the Threshold for Assessment and Investigation**

### ***Training on Respectful Inquiry***

Donna Wilson emphasized the need for training on respectful inquiry to help workers ask about race, ethnicity, and other demographic identifiers without being intrusive. She highlighted that such training should accompany implicit bias training, as they serve different purposes and are essential for the system's effectiveness.

### ***Clarification on Information Gathering***

Leanna Gavin raised a question about Directive 16a, noting that the focus is on gathering information regarding the child. She suggested it might be important to consider if demographic information about the family should also be collected. She also offered a scenario where a child's gender identity might not align with their parent's views, raising concerns about how this information is recorded and whether parents can alter it.

The directive centers primarily on the child, although the discussion acknowledged that the information related to the child's identity might be contested by the family, which could lead to complications in the reporting process.

### ***Nuances in Recommendations***

Stephanie noted that as the group discusses the recommendations, many nuances and details would be considered during the actual drafting of legislation rather than within the

recommendations themselves. She assured participants that important points would be captured in the legislative process, while the broader recommendations would guide the overall intent.

Task force members were encouraged to continue sharing their comments and concerns, which will be documented in the report.

## **Directive 18: The Benefits of an Electronic Reporting Platform for the State**

### ***Concerns About Equal Access***

Margaret highlighted a concern regarding the phrase "equal access" in the directive, suggesting that it might lack substance without a recommendation for a fiscal note. She emphasized that resources are necessary to effectively promote access.

Margaret proposed that recommendations could include promoting awareness of the online platform and training through child welfare department websites and other sites focused on at-risk adults. This would ensure that information about the platform reaches those who need it.

Michelle Murphy suggested that overarching language about resource needs should be included in the report.

### ***Staffing and Resource Differences***

The conversation touched on the challenges faced by counties regarding staffing and resource levels. It was noted that if counties are required to manage the online reporting system, they might not have the capacity to do so, especially in rural areas with fewer staff. The consensus was that the state should take on the responsibility for managing the online reporting platform to avoid overwhelming counties.

### ***Online System Goals***

Sam raised a concern that the online platform should provide resources and options for reporters. The aim should be to screen out cases that do not involve child abuse or neglect and direct individuals to community-based services, thus reducing unnecessary reports.

### ***Disproportionality vs. Disparities***

Donna raised a question about the focus on disproportionality in the last sentence of Directive 18. She pointed out that disproportionality refers to over- or under-representation of certain groups, while disparities encompass differences in outcomes that could affect those groups. The suggestion was made to consider adding "disparities" to the language of the directive to ensure that both concepts are addressed.

### ***Referral Assignments***

The need to ensure that online referrals are not over- or under-represented compared to in-person referrals was acknowledged to address concerns about consistency and fairness in the reporting process.

### **Directive 19: Inter-Agency Communication and Confidentiality Laws**

Michelle Dossey pointed out that the state already has a customizable template for Memorandums of Understanding (MOUs) between law enforcement and county departments of human services. This led to a consensus to strike the recommendation suggesting the creation of a new template. Replicating the approach used in the law enforcement template for other inter-agency partnerships would ensure consistent communication practices across various agencies.

#### ***Challenges in Sharing Information***

It was noted that while caseworkers are trained on confidentiality laws, they often overuse these laws as reasons not to share information with community partners. This poses a barrier to effective communication and collaboration.

#### ***Customizable Field in Standardized Letter***

A suggestion was made to include a customizable field in the standardized letter sent to reporting parties. This would allow for the inclusion of specific information related to the referral, such as available services in the reporter's county.

#### ***Clarification on Resource Distribution***

Michelle Dossey raised a question about the intent behind providing alternative resources and support services in the letter to reporters. The concern was whether it would be appropriate to place the responsibility on the reporter (e.g., a teacher) to help the family access these services. The clarification provided was that this information is intended for cases screened out, where there is no further contact from caseworkers. The idea is to empower reporters to assist families directly, although it raises questions about expectations and responsibilities.

#### ***Concerns About Resource Gaps***

The discussion highlighted the discomfort among some members regarding placing the onus of resource distribution on reporters rather than agency caseworkers. The rationale for providing resources to reporters is to enable them to help families they are concerned about, especially when a report does not meet the threshold for intervention. This approach aims to normalize conversations about accessing community services without stigmatizing families.

#### ***Sensitivity to Family Engagement***

Jill Cohen expressed the idea that proactive, respectful engagement is essential in addressing concerns and providing resources rather than merely referring families to the hotline or other

agencies. She underscored the importance of training for professionals in the field to develop skills for effective, respectful inquiry. This training would enable them to engage in meaningful conversations with families, helping to address concerns without resorting to simply escalating issues to the child welfare hotline.

### ***Limited Engagement of Mandatory Reporters***

Jennifer highlighted that many mandatory reporters, such as emergency room doctors or veterinarians, may only have a single interaction with a family. If these reporters lack ongoing relationships with the families, they may not be in a position to offer meaningful support or guidance, potentially rendering the initiative less effective.

## **Directive 11: Definitions and Context of Sexual Assault**

### ***Definition of Sexual Assault***

Jessica raised the need to clearly define "sexual assault" in the directive. She noted that multiple definitions exist in the statutes, which may create confusion. She also urged the group to consider a broader range of sexual offenses, referencing various statutory definitions that include unlawful sexual behavior, human trafficking, and other related crimes.

### ***Definition of Child or Youth***

There was a discussion on the age threshold for defining a child or youth in the context of mandatory reporting. Jessica argued for setting the age at 15 or older, expressing concern about delaying reporting for younger individuals (such as 12- or 13-year-olds).

### ***Concerns About Delayed Reporting***

Michelle Dossey expressed support for the intent of Directive 11 but raised concerns about the potential for misinterpretation. Extending the reporting time might lead individuals to take a literal approach, delaying necessary actions to ensure the safety of a child.

She emphasized the importance of immediate steps to protect a child and secure medical care, fearing that a 72-hour delay could result in a child remaining in a dangerous environment. The directive should articulate the rationale behind allowing a delay and clarify that any delay in reporting should come with an obligation to ensure the child's safety during that time.

### ***Autonomy and Confidentiality for Teens***

Jennifer Eyl highlighted the importance of respecting the autonomy of teenagers, particularly in cases of dating violence and sexual assault. If a 15-year-old seeks help from a therapist or a crisis center, that conversation may trigger mandatory reporting, which could deter them from seeking help.

The discussion emphasized the importance of clear language in the directive that captures the intent to protect children while also providing necessary support for those seeking help, particularly in sensitive situations involving teens. The need for careful wording to avoid misinterpretation and ensure the safety of children is a key concern.

Cris Menz shared insights from her experience in court, emphasizing the importance of consistency in the age limits regarding a child's right to consent, particularly for mental health matters. Setting different age thresholds for reporting in various contexts could lead to confusion for reporters and agencies. Chris advocated for aligning the language in the directive with existing mental health standards to avoid complicating the reporting process.

### **Directive 7: Mandatory Reporting Requirements and the Role of Victim Advocates**

The conversation revolved around clearly defining who is considered under the victim advocate role and who is not.

#### ***Multiple Roles of Advocates***

Jessica made a point about individuals who may serve as both victim advocates and other mandatory reporters (like licensed counselors). She suggested including a clarification in the directive stating that if someone falls into multiple categories, they cannot use their role as a victim advocate as an exemption from reporting requirements.

She proposed adding language to clarify that individuals with multiple roles must adhere to mandatory reporting obligations according to each of their roles, reinforcing the idea that one role does not negate the responsibilities of another.

Jennifer argued that it's the role someone is currently in, not their professional title, that determines their reporting obligations. For example, a licensed professional counselor acting as a victim advocate should be treated according to the role they're fulfilling at the time, rather than just their licensed status.

Doris Tolliver suggested language that clarifies that individuals must be evaluated based on their current role—acting as a victim advocate versus their other professional roles. This aims to avoid ambiguity regarding their reporting responsibilities.

#### ***Discussion on the 72-Hour Delay***

A question was posed to the group about whether any other reporting roles, not covered under the current definition, should also be considered for this delay. The consensus seems to be that there may not be additional roles requiring this consideration, but there was a check-in for clarity.

Members acknowledged the importance of clarity in defining roles and responsibilities concerning reporting obligations. Participants seemed to agree that the recommendations



should ensure that reporting duties are clearly delineated based on the current functioning role of the individual, not just their professional title.

### **Voting Process Clarification**

Trace Faust clarified that there will be a separate vote on the two recommendations: the removal of the victim advocate role from the mandatory reporting law and the proposed 72-hour delay in reporting. This separation allows those who might support one recommendation but not the other to express their opinions without missing out on the opportunity to vote on either aspect.

### **Future Review of Recommendations**

Kevin Bishop asked whether there should be a provision to revisit the recommendations in the future to assess their effectiveness. This idea will be discussed further in the wrap-up meeting for the group to consider how it would like to document hopes for future review or re-engagement around these issues.

The next meeting in November will serve to reflect on the final voting outcomes, celebrate the work completed, and discuss potential next steps for the group moving forward. Edits will be made based on today's discussions, and the group will vote online. Members intending to abstain from voting are asked to submit a letter explaining their reasons, ensuring transparency for legislators and others reviewing the report.