



Mandatory Reporting Task Force | Meeting 11

January 24, 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.

Discussion of Draft Recommendations

Prior to this meeting, members of the Office of the Child Protection Ombudsman had drafted language for recommendations to be made regarding mandatory reporting requirements and special considerations for individuals with certain characteristics. This meeting was focused on responding to and providing feedback on these drafted recommendations. Each provision was addressed individually, referencing themes from a survey which had been sent to task force members in preparation for the meeting. Members were asked to raise issues, concerns and ideas to ensure clarity and iterate on recommendations.

Characteristic 1 - Socioeconomic Status

The discussion on defining neglect began with a focus on exceptions, particularly addressing socioeconomic status. The proposed amendment aims to clarify that a child should not be deemed neglected or abused solely because of financial difficulties, encompassing aspects like poverty and the inability to provide basic necessities. Survey feedback indicates concerns about the language being perceived as overly broad.

In the discussion, task force members raised several key points. They emphasized that poverty alone should not trigger child abuse or neglect allegations; the intention is to narrow the reporting scope to prevent over-reporting of families facing poverty or homelessness. They expressed concerns about biased judgment regarding families' efforts to address resource issues. They also stressed the importance of including medical and mental health care provisions. Concerns were expressed about the broad language, particularly the use of "solely due to," potentially leading reporters to find other justifications, undermining the provision's intent. The term "solely" was also defended as crucial for balanced intervention, focusing on situations where financial difficulty is one aspect of a larger problem. Participants highlighted the importance of comprehensive definitions to prevent underreporting and protect children from harm. The discussion also emphasized the responsibility of mandatory reporters, and the term "solely" was seen as aiding in

this context, allowing for a closer examination of broader circumstances affecting the child or family. Members called for extensive education and support for the workforce as definitions are finalized. Overall, the focus was on creating clarity for mandatory reporters while avoiding unnecessary reporting.

Jordan Steffen emphasized the focus is on narrowing the front door of mandatory reporting, per prior task force discussions, and the mechanism for that is the definition of abuse and neglect. The goal is to create an alternative definition to achieve this, and the roadmap includes considering the building of a warm line and implementation of related training. Jordan encouraged everyone to keep this roadmap in mind, highlighting that the warm line could catch cases not going through the neglect hotline.

Discussion considered that looking at the legal definition is just one component, and that narrowing the definition of neglect will only be effective if there's an alternative path. Future discussions will also involve warm lines, and the success of this approach relies on mandatory reporters having a better understanding of what should be reported and what might require additional conversation or an alternative path. Upcoming discussions on mandatory reporter training will address these considerations.

Characteristic 2 – Lack of Resources and/or No Relief Offered

The next focus of the discussion was on a parent or guardian's inability to meet a youth's needs solely due to the unavailability of reasonable services, with no relief services offered. The feedback from the survey highlighted concerns that mandatory reporters might not know whether services have been offered, posing challenges. There was also concern that the language of "solely due to" might overlook discussions about barriers and accessibility.

Jordan expressed the intent to draft recommendations broadly initially, with the understanding that the task force can later decide on the specific location for the language.

Kathy Wells shared her thoughts and concerns, providing a medical perspective, and highlighting the potential risks associated with untreated medical conditions that could lead to severe consequences for the child. She stated that there is a challenge in reconciling the impact of resource scarcity, even if it's not the caregiver's fault, and concern about inadvertently creating a situation where children fall through the cracks due to lack of resources, ultimately affecting their basic needs.

Doris Tolliver emphasized the implicit aspect of the conversation regarding whether the role of child welfare is suitable for addressing family struggles. Many members agreed that child welfare may not be the ideal solution for all family needs related to mental or behavioral health, poverty, or parental issues. Doris highlighted that the child welfare system is not without harm, and consequences often fall on parents, leading to the importance of exploring alternative approaches. While the discussion focuses on narrowing the definition, the question of finding alternative ways to support families is actively being considered. The need for another way for children and families to access services and support that are not punitive is recognized as a separate but essential issue.

Gina Lopez emphasized the need for a realistic view of how systems function, especially in resource-poor communities.

Characteristic 3 – Unaccompanied/Unhoused Status

The discussion then centered on the potential impacts on youth who are not under adult care or supervision, delving into risks like emotional, physical, or criminal abuse, including human trafficking concerns. Members proposed simplifying language to clarify that unaccompanied or unhoused youth aged 14 and above should not automatically be deemed neglected or abused. Concerns were raised about the absence of alternatives, such as an emancipation law for children, and the challenges in determining the best course for those facing abuse, neglect, or homelessness, with apprehension about rigid language leading to being "stuck" in certain situations. The importance of considering both tangible and intangible effects in law creation was underscored, with a focus on statutes as tools for raising awareness, acknowledging that they guide reporting but don't remove professional discretion. Overall, participants stressed the necessity of assessing the intended impact and potential unintended consequences of the proposed provisions.

Cris Menz reminded task force members of the challenges of working with a document created in 1963 and highlighted the ongoing evolution of issues that were not anticipated at the time, pointing out modern complexities. She emphasized the need for the document to be a living, breathing thing that recognizes the ongoing evolution of challenges and acknowledged the difficulty of determining the precise language for a document that must continually address unforeseen issues.

Characteristic 4 – Disability Status

During the discussion, a suggestion was made to add language addressing mental or physical disabilities, emphasizing parents' rights to choose not to pursue medical or mental health intervention unless it poses significant harm or life-threatening circumstances for the child. A practical example was provided illustrating the distinction between a parent opting against medical care for a child with ADHD, a non-life-threatening condition, and failing to provide insulin for a child with diabetes, which is life-threatening. The proposal aimed to simplify the statement, ensuring that the presence of a disability in youth, parents, or guardians does not automatically imply neglect or abuse. The task force was urged to use the ADA definition and be aware of the tendency to overreport, over-file, and terminate rights for people with disabilities. The significance of the "solely" component in the language offered was emphasized, clarifying the need to focus on specific behaviors associated with disabilities, such as physical abuse, rather than reporting solely based on the presence of a disability. A specific case involving a child with prosthetic legs prompted caution about potential loopholes in the language, with an emphasis on consulting medical professionals for assessments and acknowledging the need for ongoing determinations in the future.

Stephanie Villafuerte proposed a straightforward approach to addressing neglect concerns by stating that characteristics like race, socioeconomic status, gender, and disabilities should not be the sole basis for making a child abuse and neglect report. Roshan Kalantar appreciates the directness but expressed reservations, especially because simply stating not to be racist or sexist has not been successful in other contexts. While acknowledging the importance of simplification, Roshan urged the inclusion of examples to illustrate the impact and complexities of the issue.

Jennifer Mullenbach added that there also need to be instructions to hotline responders to filter out inappropriate reports early on.

Doris reflected on the importance of public policy changes in setting the tone and culture surrounding child abuse and neglect reporting. Guidance from the law informs decisions at the screening point and highlights the opportunity to shift the culture around how mandatory reporters engage with families. The example of the child walking without prosthetics prompted a discussion about the possibility of mandatory reporters having conversations with families to better understand the situation before making a report. Not all mandatory reporters may have the time or relationship for such conversations but there is a need for a cultural shift in how engagement with families is approached.

Adriana Hartley worries about shifting too much burden to mandatory reporters, especially in terms of knowing about and accessing resources. She acknowledged the challenges of training mandatory reporters and pointed out that confusion already exists among them. She cautioned against mandating mini-investigations by mandatory reporters, emphasizing the need to strike a balance between providing guidance and avoiding overwhelming them with additional responsibilities.

Discussion Regarding Structure of Recommendations

After the break, Jordan asked task force members for clarification on the direction of language changes and suggested conducting a poll to gauge the task force's agreement on heading in the direction that Stephanie proposed regarding a general non-discrimination statement. She wanted to gauge agreement on the general concept for now, with the understanding that specific language can be revisited later.

Stephanie clarified that her intention is for the proposed language to replace the specific clauses in the current recommendation, aiming to avoid narrowing the definition of neglect by including various exceptions. She emphasized the importance of obtaining feedback on this conceptual shift from the task force.

Roshan expressed concerns about the direction of the discussion, feeling that the proposed non-discrimination approach undermines the work done in the previous two hours. She believes that addressing discrimination alone oversimplifies the issue and suggests that clear guidance is needed about what constitutes discrimination.

Stephanie clarified that her proposal aims to have the team start drafting language around a broad non-discrimination concept. She emphasized that the intention is not to undermine the previous discussions but to move towards a more inclusive approach, considering various factors that may lead to child abuse reports. Jordan emphasized the need for clear direction to move the discussion forward, highlighting that the intention is not to rush but to ensure progress within the given timeframe. The process involves capturing the points of tension and discussion to inform the final report, and the team is seeking input to understand where the task force wants to go with the language.

The results of the poll indicate mixed opinions. Some members expressed support for moving forward with the concept of a non-discrimination statement as a guiding principle, while others

preferred keeping the specific examples defined. Some members emphasized the need to see the actual language before making a final decision. Overall, there was a range of perspectives on how to proceed with the drafting process. The CPO team will follow up with a survey to members with specific language. They will need responses from all members in a timely manner in order to prepare for the next meeting. The discussion then returned to the draft recommendation language that had been provided to the task force, taking up each of the “clarifications” in turn.

Clarification 1 – In and of Themselves

The first clarification point emphasized that the amendment does not imply that circumstances involving the specified characteristics can never contribute to child abuse or neglect. Instead, it asserts that these characteristics do not constitute neglect solely by themselves.

The summary of the comments includes support for the clarification with a specific concern about it not acting as a deterrent for mandatory reporters. There is uncertainty about whether the four characteristics are meant to be considered as an “and” or “or” condition, and the need for further refinement in the definition of these characteristics is acknowledged. Some expressed concerns that the term “in and of themselves” may allow for workarounds and the potential for harm to marginalized communities. The discussion emphasized the need to address these concerns in the upcoming iterations of the language, keeping in mind the impact on families from marginalized communities and the potential harm associated with broad exclusions based on socioeconomic status.

Clarification 2 – Physical/Sexual Abuse

There was a somewhat mixed response to the necessity of the clarification about physical and sexual abuse. Some questioned the need for this clarification. Others emphasized the importance of the clarification to avoid confusion among mandatory reporters and ensure that they understand their duty to report cases of physical or sexual abuse regardless of other circumstances. The inclusion of emotional abuse was also recommended.

Jessica Dotter noted that almost all the failures to report over the last 10 years have been for physical or sexual abuse, rather than for neglect. Jill Cohen expressed that the clarification about physical and sexual abuse is unnecessary, as the focus should be on preventing mistaken reports and not on making it harder to report actual cases. She highlighted that the challenges related to sexual abuse could involve specific situations, such as relationships between a 19-year-old and a high school student, but the proposed clarification does not address these issues effectively. She suggested that the existing statute already covers reporting of physical and sexual abuse, and there is no need to emphasize it further in the recommendations.

Doris provided a rationale for the clarification on physical and sexual abuse, stating that it aims to ensure that the amendment clarifying neglect doesn't unintentionally negate the requirements or expectations related to reporting physical and sexual abuse. Jordan emphasized that the clarification on physical and sexual abuse was meant to address previous confusion and facilitate a concise conversation within the task force about the interplay of these issues with the neglect amendment. The goal was to clarify the task force’s stance and considerations on this matter.

Clarification 3 – Clearly Communicating Changes and Providing Training

Doris introduced clarification three, which emphasizes the importance of clearly communicating changes in statutes and regulations to various stakeholders in the child protection system, including mandatory reporters. The goal is to ensure that these changes are incorporated into required training and professional development.

In the discussion, there was concern about the language related to training, with doubts raised about the sufficiency of the proposed clarification. An example was provided on how clarifications can guide practitioners and legislators, emphasizing that these points are specific to recent exceptions and not intended to cover all the broad task force mandates. Gina expressed a struggle with training all mandated reporters, highlighting the challenge of providing clarity to the community and ensuring information reaches the right people without causing confusion.

Jordan said that the proposal aims to include a note as a clarification, not as a replacement for a more comprehensive discussion and action on mandatory reporter training, which will be part of future discussions.

Clarification 4 – Services and Resources

Doris highlighted that the intent of Clarification 4 was to stress that even if a report to the hotline may not be necessary in certain instances, it does not absolve the reporter of all responsibility. Instead, it encourages connecting families to alternative paths such as a warm line or accessing services in a different way. Doris expressed hope that this language could be a reference in the statute change, particularly in connection with upcoming work related to the warm line concept.

She mentioned the potential removal of "mandatory reporter" from the first sentence and noted that the phrase "encouraged" could be challenging. Doris also addressed a comment from the survey that pointed out potential confusion in Point E and suggested changing the wording to consider whether the family is already engaged in services and resources.

Doris acknowledged the complexity of the language and the need to ensure that mandatory reporters easily understand their responsibilities without delving into unnecessary analysis. Roshan emphasized the importance of addressing the changes to the mandated reporting statute for medical professionals, especially in the context of domestic violence. She highlighted the need to provide concrete guidance on where individuals should be directed and suggested incorporating language similar to the medical statute, which requires making connections or documenting the connection when considering alternative paths for families. Roshan expressed concern about the potential for people to fall through the cracks without adequate support, but also the importance of avoiding harmful systems.

The meeting concluded with the acknowledgment of the complexity of the work, appreciation for the robust discussion, and an understanding of the significant impact these decisions could have on children, families, and communities. Stephanie highlighted the courage and innovation of the task force members and encouraged continued participation and collaboration.