

S.B. 12-078 Task Force Policy Decisions

October 23, 2012

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Task Force Members

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Co-Chair Joscelyn Gay	Director for the Office of Long Term Care	Colorado Department of Human Services
Vickie Clark	Director	Routt County Department of Human Services
Tammy Conover	Attorney	Steenrod, Schwartz and McMinimee Law Firm
Sterling Harris	Chief Deputy Director	Colorado Organization for Victim Assistance
Anne Kerr	Social Worker	Exempla Luthern Hospice – Collier Hospice Center
Arlene Miles	President and CEO	Colorado Health Care Association
Mary Catherine Rabbitt	Attorney	Legal Center for People with Disabilities and Older People
Jerri Schomaker	Owner	Home Instead Senior Care of Colorado Springs
Scott Storey	District Attorney	Jefferson County District Attorney's Office
Nancy Sharpe	Commissioner	Arapahoe County
Amy Nofziger	Director	AARP Foundation
Darla Stuart	Executive Director	Arc of Aurora
Jenifer Waller	Sr. Vice President	Colorado Bankers Association
Chris Lines	Director	Colorado Medical Society
Dr. Rebecca Paskind	Associate Professor	Metro State College
Heidi Prentup	Commander	Boulder County Sheriffs

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Speaker, House of Representatives

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President, Senate

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Minority Leader, House of Representatives

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Minority Leader, Senate

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Chair, House Committee on Health
and the Environment

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Chair, Senate Committee on Health
and Human Services

RE: Recommendations of the S.B. 12-078 Task Force on Elder Abuse

Dear Members of the Colorado General Assembly:

On behalf of the seventeen members of the Elder Abuse Task Force, please find attached to this letter the final report on the best approaches to implementing a complete system of reporting of mistreatment and exploitation of at-risk elderly adults and related necessary statutory changes.

The Task Force and numerous volunteers worked diligently over the summer, meeting more than eight times and creating multiple specialized teams. Task Force participants reviewed literally thousands of pages of materials and engaged in vigorous debate.

The Task Force uniformly endorses passage of mandatory reporting for at-risk elderly persons seventy-years and older. The state must, however, commit adequate resources to allow for a sustainable Adult Protective Services system at the time of implementing mandatory reporting.

We look forward to working with the Members of the 69th General Assembly on successful passage of bi-partisan legislation to implement the Task Force recommendations. We stand ready to assist you in every way we can.

Sincerely,

Joscelyn Gay
Co-Chair Elder Abuse Task Force

David Blake
Co-Chair Elder Abuse Task Force

Cc: Representative Sue Schafer, District 24
Senator Evie Hudak, District 19

EXECUTIVE SUMMARY:

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1. How to require certain persons to report known or suspected mistreatment or exploitation of at-risk elder adults?
2. Concerning the provision of protective services by county departments to at-risk elder adults who are mistreated or exploited.
3. What is the minimum age an individual should be considered an at-risk elder adult?
4. What is the estimated cost, including workload impacts to be incurred by county departments and law enforcement agencies of the state as a result of mandatory reporting?
5. Identify sustainable sources of funding, including but not limited to new revenues that may be used to offset the costs to be incurred by the state department, county departments and law enforcement agencies of the state as a result of mandatory reporting.
6. What training is needed by state and county employees to use outcome-based best practices in the provision of protective services to at-risk elder adults?
7. Are existing criminal penalties adequate for offences against at-risk adults as described in Title 18, Article 6.5?
8. Should the definition of “at-risk adult” in section 26-3.1-101 C.R.S. be reconciled with the definition of “at-risk adult” in section 18-6.5-102 (1), C.R.S.?

INTRODUCTION

During the 68th General Assembly, a great deal of debate occurred on the subject of elder abuse. Some of the most significant motivations and concerns varied from the fact that Colorado is one of only three states that lacks any form of mandatory reporting for a highly susceptible group of our population – elders – and the gross underfunding of the adult protective services (APS) system here in our State.

The debate produced at least one positive result: Senate Bill SB12-078 sponsored by Representative Sue Schafer and Senate Evie Hudak. Through their leadership, legislation passed both Houses of the General Assembly and created the Elder Abuse Task Force. Seventeen experts from across the entire spectrum of the community were brought together to work through this extremely difficult issue and develop recommendations that would develop approaches to implementing a complete system of reporting of mistreatment and exploitation of at-risk elderly adults and related necessary statutory changes. The Task Force members, not including the numerous hours spent by many serving sub-groups and volunteers, met in-person for more than 8 times in 4-hour meetings to hash out this report which is unanimously recommended to you.

The Task Force, per its mandate, engaged in exhaustive review of existing research and debated the deliverables of S.B. 12-078. The conclusion of the Task Force is that while reports and investigations of alleged abuse are important components of an Adult Protective Services (APS) system, meaningful and lasting assistance to elders is hampered when services are lacking. For purposes of this document, “elder” is defined as individuals who are 70 years of age and older and who are at-risk by virtue of their age alone.

Colorado’s total population and elder demographics are increasing annually. The total population of the state grew by 17% from 2000-2010, with the target population of 65+ growing by 32% (416,073 to 549,625). It is forecasted that those born between the years 1946 and 1964 will increase the 65+ population by a 150% between 2010 and 2030¹ (Appendix 1: Colorado Demographics). It is uncontested from our discussions of available services and needs, that Colorado is not presently prepared for the impact of an increasing elder population, a portion of which will be victims of physical or sexual abuse, caretaker neglect, or exploitation (herein referred to as “mistreatment”), or will be self-neglecting due to an inability to arrange for their own overall health and welfare. Given the unavoidable increase in the elderly population, Colorado must implement mandatory reporting of elder abuse now and commit adequate resources to allow for a sustainable APS system at the time of implementation. Delaying adoption of mandatory reporting will only become more difficult with time.

While the Task Force focus was on at-risk elders, we should be very clear that there is another category of “at-risk adults”. Indeed at-risk elders are merely a subset of much larger population of persons that for myriad reasons require the protection and assistance of government. At-risk adults

¹ 2010 US Census Summary

are those 18 years of age and older who are susceptible to mistreatment, abuse, neglect, including self-neglect, or exploitation. The Task Force acknowledges the importance of protections for **all** at-risk adults. The Task Force strongly believes the population of at-risk adults is another daunting challenge for the General Assembly to address but we, of course, understand fiscal restraints and some differing policy issues mandate that debate for another time.² Nonetheless many of the recommendations that follow are equally applicable to all at-risk adults, not just seniors. This is a serious issue and should be taken up by the General Assembly. However, the Task Force was loyal to the charge of S.B. 12-078 and our recommendations from this point forward refer only to the elder population age seventy and older.

The Current System of Reporting Mistreatment and Self-Neglect

The core purpose of S.B. 12-078 was to make recommendations on how, if at all, to remove “urged” reporting of abuse of at-risk elders and adopt a policy “requiring” reporting. Thus, it is important to understand the present system.

Reports of abuse are made to various state, county and local agencies. Nobody, regardless of their position in society, is required to report abuse. Thus it is believed by the entire Task Force that instances of abuse go un-reported. How many reports are ignored is unknown and cannot be accurately forecast. Egregious instances of abuse of the elder, however, can be rattled off anecdotally by each of the members of the Task Force and several were discussed throughout our meeting.

A voluntary report to law enforcement or APS alerts each agency to the possibility of mistreatment or self-neglect and requires a response. Allegations are then triaged to determine whether the allegations can be substantiated. Reporting to APS, which includes all at-risk adults,³ has remained fairly consistent since FY 2008. However, since FY 2001 the reports have grown approximately 244%. In FY 2011-12, the number of reports to county APS departments was just under 11,000. Of the approximately 11,000 reports, more than 6,500 reports resulted in an investigation. It is the role of APS to investigate allegations and assess the client to determine the client’s ongoing needs (physical, environmental, medical, mental, financial, and support system) to secure the client’s ongoing health, safety, and welfare. . It is the role of law enforcement to conduct the criminal investigation and determine whether the case should be sent to the District Attorney for possible prosecution. [QUERY PENDING TO CDAC ON PROSECUTION NUMBERS].

² The Task Force strongly urges the legislature to further explore providing the protections of mandatory reporting for individuals over the age of eighteen with a disability, as set forth in CRS 18-6.5-102(3), when that disability causes the individual increased susceptibility to becoming a victim of a crime (CRS 18-6.5-103) because the disability impacts the individual’s ability to perform activities necessary for his or her health, safety or welfare or causes the individual to lack sufficient understanding or capacity to make or communicate decisions concerning his or her person or affairs.

³ It cannot be determined with current tracking data exactly how many of these reports involve the elderly, or even more specifically, elders seventy plus.

When a report comes into APS at the Human Services [PEGGY INSERT??? From her decision tree slide] Counties handle reports differently.

A report does not ensure there is a criminal investigation or prosecution of an abuser or restitution for the victim. Similarly, safety net services for a victimized elder are often not available when necessary to stop the mistreatment in the short term. For example, if a report identifies an elder that is coerced by violence (or threatened violence) to pay a family member, counties have limited resources and funding to respond to the client's needs which may include removal of offending family members who may provide some modicum of support or perhaps moving that client to an emergency shelter until a long-term solution can be identified and implemented.

The APS system must be equipped to respond in such a way that the client is safe. Necessary services that support the elder must be available well after an investigation. This means county APS caseworkers, law enforcement officers, and prosecutors must be adequately trained to investigate the reports and provide subsequent protective and judicial services. In other words, mandatory reporting by itself will not resolve the issue of elder abuse, or even ensure increased protection of this susceptible population without commensurate infrastructure improvements on the services side of the problem.

The Department of Human Services has identified numerous categories of deficiencies, each of which is an aspect of this problem and needs to be addressed. These categories include but are not limited to:

- General safety net services, such as food, shelter, transportation, and medical care;
- Emergency interventions, such as shelter, medications, house cleaning, home repairs/modifications, utilities, or food;
- Respite care for care takers;
- Capacity evaluations, necessary to determine the client's ability to remain in their home;
- Mental health services;
- Services for the developmentally disabled;
- Safety planning;
- Adequate and appropriate placements for clients with difficult and violent behaviors and/or criminal histories; and
- Adequate funding for Judicial Districts⁴ and law enforcement agencies for investigation and prosecution of crimes against elder adults.

⁴ The Task Force did not include a member of judicial.

Having examined this and other data regarding Colorado's APS system (Appendix 2: Adult Protective Services vs. Child Protective Services), the Task Force's discussion and recommendations adhere to the charge of S.B. 12-078 to lead to: "the implementation of a *complete* system of reporting of mistreatment and exploitation of at-risk elder adults" in Colorado (emphasis added). This complete system of reporting includes recommendations regarding the service and legal infrastructure needed to ensure that Colorado's system of mandatory reporting results in the positive outcomes intended for this rapidly growing elderly population.

Requirements and recommendations of S.B. 12-078

I. How to require certain persons to report known or suspected mistreatment or exploitation of at-risk elder adults?

Requiring persons to report what they perceive to be a crime, here elder abuse, is a complicated policy question. In considering the first deliverable from the General Assembly the Task Force examined what it meant to be an at-risk elder, which populations of elders were most at risk and how to prioritize them, the types of criminal activity impacting the most vulnerable, how to implement any changes in the Colorado Revised Statutes (C.R.S.), who should be required to be mandated to report and once a report was made how the government should process a report.

A. At-Risk Elder Adults

There is unanimous agreement that abuse of elders must be reported. Elder adults are worthy and in need of protection as much as abused and neglected children, where reporting is also mandatory.

Members of the General Assembly must make elder abuse a state priority and the State must be prepared to commit adequate and sustainable resources for the Adult Protective Services system at the time of implementation of mandatory reporting. Without adequate funding, many task force members would not be in a position to support changing "urged" reporting to mandatory reporting because they simply do not have the resources, both financial and personnel, to handle the increased service demands expected as a result of this policy change.

The task force determined that elders age seventy years and above are the most vulnerable and most in need of the protections that mandatory reporting would provide. The Task Force examined data and relied on the experience of the Jefferson County Elder Abuse Unit who reported most of the prosecutions they pursued involved elders over the age of seventy. This is how the Task Force then chose seventy (70) is the appropriate age to define "elder at-risk adults" and therefore worthy of mandatory reporting. Further, roughly 55% of Adult Protective Services clients in FY 2012 were age 70 or older.

The Task Force determined that self-neglect regardless of the age or situation of the elder person should not be required to be reported. Self-neglect cases are necessarily different from when an

elder is victimized by a perpetrator. However, mandatory reporting should be required for incidents of physical abuse, sexual abuse, caretaker neglect, and financial exploitation.

B. Location of mandatory reporting in Statute

The Task Force discussed this question at length. Both section 26-3.1-101 C.R.S. and section 18-6.5-102 (1), C.R.S. contain a definition of “at-risk adult.” These definitions differ. S.B. 12-078 required the Task Force to review and recommend how to reconcile (see section *VIII* below).

Our discussion revealed that Title 26 and Title 18 perform very different functions with regard to reporting and protection of at-risk populations. It is important that APS maintain its charge to investigate and provide services for *all* vulnerable adults who cannot manage their own health and safety. The definition of ‘at-risk adult’ under CRS 26-3.1-101 captures only those individuals with physical or cognitive disabilities that are sufficiently great as to cause the individual to be unable to perform necessary activities for the individual’s health and safety or are so great that the individual lacks understanding or the capacity to make decisions. These disabilities are also appropriate under the criminal code. And the criminal codes of Title 18 provides a vehicle to prosecute crimes, regardless of mental or physical capacity. However, the ‘at-risk adult’ definition under CRS 18-6.5-201 (1) addresses disabilities that may make someone vulnerable to criminal activity, but would not otherwise necessitate human services involvement. For instance, someone who is blind or missing a limb would be “at risk” (i.e., vulnerable to a criminal act) under the criminal code (Title 18), but would not be considered “at-risk” under Title 26 unless they were also unable to manage their overall health and welfare. Also, both definitions are meant to apply to a broader class than just at-risk *elders* which is the focus of the Task Force.

In other words, the ‘at-risk adult’ definition under Title 18 is intended to be appropriately broad to capture more at-risk adults who may be victims of crimes who may or may not need human services involvement. Title 26 is intended to be sufficiently narrow to only involve county human services when the person is unable to manage their overall health and welfare and/or is cognitively impaired to making decisions. To reconcile the two definitions would not be beneficial.

Therefore, amendments intended to implement mandatory reporting should be made to Title 18 only and should not rely upon the pre-existing definitions of “at-risk adult” but rather create a new section that lists the mandatory reporters and specifically defines that such reporting applies to elders age 70 and older. Title 26 should remain unchanged except for limited changes discussed below.

C. Mandatory Reporters

The Task Force reviewed the list of “urged” reporters outlined in CRS 26-3.1-102 (1)(b) to determine if modifications should be made. There was disagreement on the Task Force about whether the list of reporters was complete and clear.

There was unanimous support by members of the Task Force to add to the list that already appears CRS 26-3.1-102 (1)(b) the following categories of occupations:

- a.) Emergency Medical Services Providers;
- b.) Physical Therapists;
- c.) Chiropractors; and
- d.) Clergy (as defined in the Children’s Code – CRS 19-3-304(2)(aa) and CRS 13-90-109(1)(c)).

It was determined that these occupations should be added because they are: 1.) commonly included in other state mandatory reporting statutes; 2.) listed as mandatory reporters in Colorado’s child abuse reporting statute; and 3.) clarifying or simply are appropriate populations that will have exposure to elders in vulnerable positions and may well become aware of abusive situations that should be reported.

In addition to the disagreement described below, the Task Force had a rigorous discussion about whether volunteers should be added to the list of mandatory reporters. Given that volunteers of licensed care facilities are already listed as reporters in existing statute, but other volunteers working with the elder populations throughout the state are not, the Task Force is recommending that statutes be amended to clarify that listed reporters – *whether paid or unpaid* – are treated the same. For example, first responders are a listed reporter and would become mandatory reporters if the Task Force recommendations are adopted. But, many first responders are volunteers (i.e. volunteer firefighters) yet they have colleagues who are full time paid professionals.

The change to the Title 26 “urged” reporters should read:

26-3.1-102. **Reporting requirements.** (1) (a) An immediate oral report should be made or caused to be made within twenty-four hours UPON DISCOVERY to a county department or during non-business hours to a local law enforcement agency responsible for investigating violations of state criminal laws protecting at-risk adults by any person PAID OR UNPAID specified in paragraph (b) of this subsection (1) who has observed the mistreatment, self-neglect, or exploitation of an at-risk adult or who has reasonable cause to believe that an at-risk adult has been mistreated, is self-neglected, or has been exploited and is at imminent risk of mistreatment, self-neglect, or exploitation.

b.) The following persons are urged to make an oral report within twenty-four hours UPON DISCOVERY:

Assuming mandatory reporting is adopted, then the list of reporters from Title 26 should be incorporated into Title 18 and should read:

18-6.5.XXX **MANDATORY REPORTING REQUIREMENTS.** (1) (A) AN IMMEDIATE ORAL REPORT SHALL BE MADE OR CAUSED TO BE MADE

WITHIN TWENTY-FOUR HOURS UPON DISCOVERY TO A LOCAL LAW ENFORCEMENT AGENCY RESPONSIBLE FOR INVESTIGATING VIOLATIONS OF STATE CRIMINAL LAWS PROTECTING AT-RISK ELDER ADULTS BY ANY PERSON PAID OR UNPAID SPECIFIED IN PARAGRAPH (B) OF THIS SUBSECTION (1) WHO HAS OBSERVED THE PHYSICAL ABUSE, SEXUAL ABUSE, CARETAKER NEGLECT, OR FINANCIAL EXPLOITATION OF A PERSON AGED 70 OR OLDER OR WHO HAS REASONABLE CAUSE TO BELIEVE THAT THE PERSON AGED 70 OR OLDER HAS BEEN PHYSICALLY OR SEXUALLY ABUSE, NEGLECTED, OR EXPLOITED.

(1) (B) THE FOLLOWING PERSONS SHALL MAKE AN ORAL REPORT WITHIN TWENTY-FOUR HOURS UPON DISCOVERY

- PHYSICIANS, SURGEONS, PHYSICIANS' ASSISTANTS, OSTEOPATHS, PHYSICIANS IN TRAINING, PODIATRISTS, AND OCCUPATIONAL THERAPISTS;
- MEDICAL EXAMINERS AND CORONERS;
- REGISTERED NURSES, LICENSED PRACTICAL NURSES, AND NURSE PRACTITIONERS;
- HOSPITAL AND LONG-TERM CARE FACILITY PERSONNEL ENGAGED IN THE ADMISSION, CARE, OR TREATMENT OF PATIENTS;
- PSYCHOLOGISTS AND OTHER MENTAL HEALTH PROFESSIONALS;
- SOCIAL WORK PRACTITIONERS;
- DENTISTS;
- LAW ENFORCEMENT OFFICIALS AND PERSONNEL;
- COURT APPOINTED GUARDIANS AND CONSERVATORS;
- FIRE PROTECTION PERSONNEL;
- PHARMACISTS;
- COMMUNITY-CENTERED BOARD STAFF;
- PERSONNEL OF BANKS, SAVINGS AND LOAN ASSOCIATIONS, CREDIT UNIONS, AND OTHER LENDING OR FINANCIAL INSTITUTIONS;
- A CARETAKER, STAFF MEMBER, OR EMPLOYEE OF OR VOLUNTEER OR CONSULTANT FOR A LICENSED OR CERTIFIED CARE FACILITY, AGENCY, HOME, OR GOVERNING BOARD, INCLUDING BUT NOT LIMITED TO HOME HEALTH PROVIDERS.
- EMERGENCY MEDICAL SERVICES PROVIDERS;
- PHYSICAL THERAPISTS;
- CHIROPRACTORS; AND

- CLERGY (AS DEFINED IN THE CHILDREN’S CODE – CRS 19-3-304(2)(AA) AND CRS 13-90-109(1)(C)).

One member of the Task Force advocated for a different approach to the list of mandatory reporting. It was argued that the current list in Title 26 might be too vague to just be cut-n-pasted into the criminal code and still satisfy the stringent standards of proof for a criminal case. That is, it might not put all mandatory reporters on notice of their duty to report. Such a vagueness challenge, if successful, would undermine the entire mandatory reporting scheme. It was also suggested that the scope of listed mandatory reporters should be applied to all volunteers and also attorneys in certain circumstances. This approach was justified [INSERT]. The language proposed is attached as appendix 3.

Comment [GP1]: David, is this the document you handed out on 9/12 regarding mandatory reporters?

However, the advocate of this different approach could not garner support from any other Task Force members. It was determined that expanding mandatory reporting to all volunteers would chill recruitment and complicate training. Attorneys on the Task Force, other than the advocate, cited ethic requirements – specifically attorney/client privileges as trumping reports of abuse. And generally other members of the Task Force did not want to re-draft the list of mandatory reporters as it might confuse the public when compared to the list in Title 26.

Another concern was raised regarding the Task Force recommendation to include Clergy in the list of reporters to report in only limited circumstances. Other members of the Task Force were comfortable acknowledging the so called “priest/penitent privilege” but would not extend such a privilege to religious leaders acting in any capacity. Perhaps most persuasive to the members of the Task Force is the definition recommended is consistent with how clergy are treated in the child abuse statutes.

Investigations

The Task Force discussed whether any statutory change was needed to make investigations mandatory – not just reporting. The Task Force unanimously decided a statutory change was needed within Title 18 to specify law enforcement’s obligations with regard to these reports. While law enforcement is required to make an oral report to APS, law enforcement is not required to document the report. Therefore, the Task Force unanimously agreed to the recommendation that the following language be added to Title 18 mandating certain action be taken by law enforcement officials when a report is taken:

18-3-XXX. UPON RECEIVING A REPORT OF A VIOLATION OF ANY CRIMINAL STATUTE AGAINST AN AT-RISK ELDER ADULT, LAW ENFORCEMENT IS REQUIRED TO MAKE A VERBAL REPORT TO THE COUNTY DEPARTMENT ADULT PROTECTIVE SERVICES UNIT WITHIN 24 HOURS OF RECEIPT OF THE INFORMATION. LAW ENFORCEMENT MUST DOCUMENT THE CIRCUMSTANCES OF THE REPORT. THE LAW ENFORCEMENT AGENCY

Comment [JG2]: Of the verbal report?

Comment [D3]: I would say no, a report may come in via the internet/email/in-person, etc.

SHALL THEN FORWARD A COPY OF THE FINAL WRITTEN REPORT TO THE COUNTY DEPARTMENT AND TO THE DISTRICT ATTORNEY'S OFFICE WITHIN 24 HOURS OF THE COMPLETION OF THE REPORT. THE LAW ENFORCEMENT AGENCY SHALL COMPLETE A CRIMINAL INVESTIGATION WHEN APPROPRIATE AND UPON COMPLETION OF THE INVESTIGATION FORWARD A COPY OF THE COMPLETED REPORT TO THE COUNTY DEPARTMENT OF ADULT PROTECTIVE SERVICES AND THE DISTRICT ATTORNEY'S OFFICE.

THE REPORT SHALL INCLUDE, AT A MINIMUM: THE NAME, AGE AND ADDRESS, AND CONTACT INFORMATION OF THE ELDER OR AT-RISK ADULT; THE NAME, AGE, ADDRESS AND CONTACT INFORMATION OF THEIR CARETAKER IF ONE IS KNOWN; THE CRIMINAL ALLEGATIONS INCLUDING BUT NOT LIMITED TO THE NATURE AND EXTENT OF THE ELDER OR AT-RISK ADULT'S INJURY, WHETHER PHYSICAL OR FINANCIAL; THE NATURE AND EXTENT OF THE CONDITION THAT NECESSITATED A REPORT TO BE MADE; THE REPORTING PARTY'S NAME, ADDRESS AND CONTACT INFORMATION; THE ALLEGED PERPETRATOR; AND ANY OTHER PERTINENT INFORMATION.

Task Force Recommendation: *Colorado should implement mandatory reporting:*

- *For persons 70 years of age and older;*
 - *In instances of physical abuse, sexual abuse, caretaker neglect and exploitation (excludes self—neglect);*
 - *By all currently urged reporters listed in Title 26, whether paid or unpaid, plus emergency medical technicians, physical therapists, chiropractors, and clergy as defined in Child Protection; and*
 - *With a requirement that law enforcement document any report of elder abuse and also orally notifies APS within 24 hours .*
-

II. *Concerning the provision of protective services by county departments to at-risk elder adults who are mistreated or exploited.*

As stated in the beginning of this report, Colorado will need sufficient system infrastructure to provide for the needs of individuals identified by mandatory reporting once the initial report and investigation are complete. Requiring mandatory reporters to report abuse of those 70 and older will impact county departments of human services. Additional county APS caseworkers will be needed to answer phones, record calls, investigate reports within statutorily prescribed time frames,

identify community resources to enable elders to remain self-sufficient, and provide on-going case management.

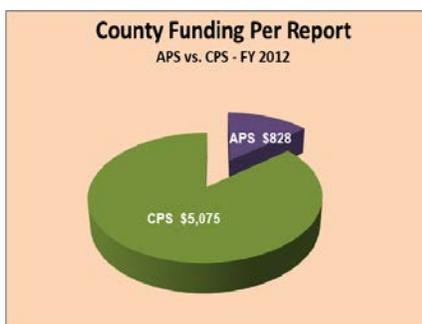
As stated in SB12-078, the intent of the General Assembly is that the task force's recommendations "will lead to the implementation of a complete system of reporting of mistreatment and exploitation of at-risk elderly adults by September 1, 2013 *subject to the availability of sufficient funding for such implementation at the state and county levels* [emphasis added]..." (CRS 26-3.1-301). Sustainable funding is imperative for the implementation of mandatory reporting. Without comprehensive workload analysis, it is difficult to truly calculate the additional revenue needed per year to handle mandatory reporting. While an estimate of workload impacts is a stated deliverable of the SB12-078 task force, the task force did not have the expertise or the funding to contract for a workload analysis.

In order to try to estimate the impact of mandatory reporting on the APS system the Task Force thoroughly examined the fiscal note from April 24, 2012 (Appendix 4: April 24, 2012 Fiscal Note), reviewed key data from the state demographer's office, examined the current reporting trends in other mandatory reporting states (Appendix 5: Impact of Mandatory Reporting in Other States), developed scenarios to attempt to modify data from other states in a manner that might fit Colorado's proposed model and conducted a thorough review of national standards related to APS systems. Ultimately, the Task Force was only able to agree on a couple of key points:

- 1) APS caseloads are expected to increase given *current* reporting trends.
- 2) The target population age 70 and over is expected to increase significantly over the next decade given state demographer estimates.
- 3) Data from other states to determine the impact of mandatory reporting did not provide much of a guide for Colorado because the models adopted by these states differed in significant ways, such as the populations targeted for mandatory reporting and the list of mandatory reporters identified.
- 4) Other??

The Task Force relied heavily on the structure and approach of the Colorado Child Protection System (CPS) because it was often the best analogue. The Task Force discussed that while the needs of the two populations are different, many tools and resources in the CPS system could be very useful to the APS system.

Certain comparisons are particularly telling of the discrepancies between the two systems. While the Task Force does not believe the APS system will need to match the level of resources dedicated to CPS, the accompanying chart clearly demonstrates a significant imbalance between the two systems.



This chart shows county funding per report, including those reports that result in simple information and referral to those that require a full investigation and possibly other related interventions. Counties receive more than six (6) times the funding per report for CPS

activities than for APS activities. As the table below demonstrates, child protections receives a significant amount of funding from Title XX federal funds, which cannot be diverted away from child protection. There is a total lack of equivalent federal funds to assist in curbing elder abuse. This is an issue the General Assembly should engage the Colorado Congressional delegation on and either identify additional funding sources (i.e., grants) or encourage a more balanced approach from the Federal Government. Peg - Will most likely need one more update on the chart; add funding source chart.]

A. No definitive way to determine the impact of mandatory reporting

As stated earlier, Colorado's population of persons over age 70 is expected to increase by 28% by 2017 and by 142% by 2032. Relative to other states, Colorado has a smaller base population of 65+, but will soon experience a rapid increase as more "Baby Boomers" begin to hit retirement age. Colorado's elder population is the fastest growing segment of the population. The strain of increased services for this population will vary regionally as demand goes up. With this in mind, estimates for the county's increased caseloads and associated cost drivers must adjust accordingly to capture Colorado's aging population.

Colorado's source of APS data is housed within the Colorado Benefit Management System (CBMS). CBMS was designed as a financial payment system for food and cash assistance programs and was never designed to provide case management and service data. It does not meet the *basic* requirements for case documentation and statistical data collection and analysis. For example, the current system does not allow for the collection of basic data such as the number of allegations that are substantiated, the reason for case closure, the outcome of the intervention, and so on.

Colorado needs a system that will allow the state to track, monitor, and report on outcomes and performance within its APS system. Without reliable, consistent data it is challenging to identify what is currently occurring in APS, much less best practices that successfully protect elder adults.

Additionally, recording information in CBMS is inefficient and unwieldy for caseworkers. Caseworkers have a great deal of difficulty accurately documenting case activities, causing them to spend time going back to correct errors rather than spending that time on other activities. APS needs to be supported by a case management focused data system that is not tied to CBMS. Doing so would help APS to track trends in client needs, identify innovative strategies that reduce risk to elder adults and increase the amount of time caseworkers are in the field assisting clients.

Additionally, a casework system that would allow for complete case documentation in one place could lead efficiencies for both the county programs and for the State APS unit. For example, paper files would no longer be needed; case reviews could be completed entirely in the data system without the need to have the county mail a paper file; and county APS caseworkers would not be documenting in multiple systems, such as CBMS, Word, and a county parallel system. A new case management and data system would align with the Governor's goals of efficiency, effectiveness, and elegance.

For more information about Data System Options, please see Appendix 6: Options for Purchasing or Developing a New Data System for Adult Protective Services (APS)

Task Force Recommendation: *Colorado should implement a data system that will accurately measure the impact of mandatory reporting in Colorado and adjust county resources accordingly rather than relying on data from other states. The costs and details of the proposed data system are included in Appendix 6.*

B. Unsustainable caseload per worker.

The April 24, 2012 SB12-078 fiscal note assumes that APS caseworkers will maintain an active caseload of 34 cases. The National Adult Protective Services Association (NAPSA) standard for APS workers recommends an ongoing caseload of 25. By way of comparison, Child Welfare Services caseworkers have national standard of 12 cases per worker for intake and 17 cases per worker for ongoing cases. An aging population presents complex issues that require skilled workers providing increased case management and monitoring for safety. Workloads that reflect caseloads close to the national recommendation of 25 to 1 will improve outcomes and help retain quality county APS staff.

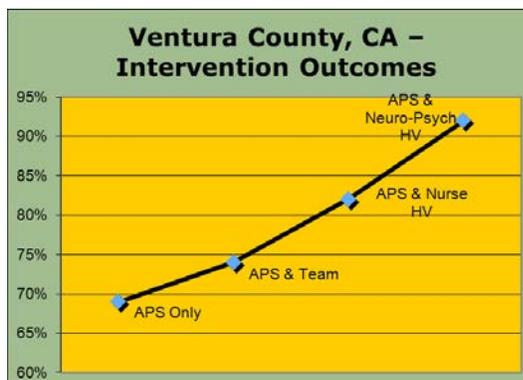
While APS caseworkers are the county's front line staff, APS supervisors oversee the work and county attorneys intervene when necessary. These specialized staff members should increase in proportion with the increase in caseworkers.

Task Force Recommendation: *The task force recommends:*

- *The current county deficit in caseload ratio be brought to the recommended standard of 25:1. The caseload average statewide in Colorado is 34:1. An additional \$2.1 million (the equivalent of approximately 35 county FTE) would be needed to bring Colorado to the recommended staff to case ratio.*
 - *Colorado assumes a conservative 15% increase in reported cases once mandatory reporting is implemented for a total of \$xxx,xxx.*
 - *These amounts were derived using factors included in the April 24, 2012 fiscal note for S.B. 12-078*
-

C. Additional Safety Net Resources

By statute, when an investigation substantiates mistreatment, counties are required to, “immediately provide or arrange for the provision of protective services.” Key to ensuring the emergency needs of APS clients can be met is the ability to provide protective services such as emergency shelter, food, deep cleaning, home repairs and modifications, utility payments, or medical care. APS cases may require specialized services such as extended medical evaluations, cognitive capacity evaluations or forensic accounting services. Currently, counties partner with agencies in their communities to provide services as available. If individual counties and the community at large are not able to provide these funds, critical service needs cannot be met for APS clients unless pro bono services can be found. Although small and medium sized counties may have fewer APS cases than urban counties, the unmet service need may be greater in rural areas where there are fewer providers available.



services. Add appendix on the supervisors survey }

The Task Force researched best practices in service provision to APS clients.

A study conducted by Ventura County, California’s APS program, showed clear outcome improvement for APS clients when specialists were available to assist APS with interventions. Joint home visits with APS specialists to conduct a medical evaluation or a capacity evaluation clearly provided the most benefit to the client’s outcome of intervention. [CPS dollars for

Task Force Recommendation: *Consistent with the April 24, 2012 fiscal note for S.B. 12-078, the task force recommends an appropriation of \$1,000,000 to allow county departments to access protective services for elder adults. This funding enhances existing infrastructure for expected caseload increases associated with expected population growth and increased reporting associated with mandatory reporting.*

We need to verify whether there are any costs to law enforcement. David to contact CDAC? Other?

D. Public Guardianship/Conservatorship

The State of Colorado does not have a public guardianship program for persons in need of guardianship who have no appropriate family or friend available to act as the guardian and no

resources for a professional guardian. Currently, the State relies upon a patchwork system of private and volunteer guardians and Adult Protective Services staff to provide guardianship services for elder adults with no other appropriate guardian available.

Guardianships and conservatorships are the most intrusive and intensive interventions used in APS. For APS clients with adequate resources, a private guardian or conservator can be appointed as there are assets available to pay the guardian and conservator fees. But, for many APS clients there are not adequate resources to cover the costs of a private guardian or conservator.

Some counties do have a public administrator available to take on the role of conservator. In these situations, APS will generally file the petition for conservatorship with a recommendation to appoint to public administrator. Currently, the State of Colorado does not have a public guardianship program that can assume this role for clients in need of a guardian. The Denver metro area and the Colorado Springs metro area do have a volunteer guardianship organization that may be utilized for some clients, but this type of organization is not available in other areas of the state. Volunteer guardianship programs have limitations, particularly in the type of client they can serve and the overall number of clients they can serve. Volunteer organizations generally do not take on very difficult clients as wards.

County APS units are the guardian and conservator of last resort and the county departments look to others to step in as a client's guardian whenever possible. Family members, clergy, neighbors, and so on are identified and reviewed to determine if they would be appropriate to serve as the client's guardian. But, in many situations, APS is the only appropriate guardian available. In FY 2012, counties held a total of 325 guardianships and 15 conservatorships. APS may petition for guardianship and/or conservatorship on behalf of another party or the public administrator and data on the number of these petitions is not available.

The costs associated with guardianship and conservatorship cases are many and vary from case to case. Guardianship and conservatorship cases can consume a worker's time on one case. County attorneys, supervisors, Adult Protection Team members and directors often contribute time to guardianships. Workers are required to have monthly contacts with wards and protected persons, coordinate and monitor ongoing services, make medical and placement decisions, communicate with family and interested parties, manage financial assets, provide court reports, in addition to APS required reports and documentation.

The task force is aware and supportive of the current work occurring under Judge Leith's leadership. Judge Leith chairs a statewide judicial committee looking at various probate issues, including public guardianship. The committee is currently researching other state practices in public guardianship and anticipates launching a pilot project soon.

***Task Force Recommendation:** The task force supports efforts that may lead to a comprehensive public guardianship program, which would eventually take over the role of petitioning and acting as guardians and conservators from APS.*

E. Financial Exploitation

Financial exploitation is the fastest growing category of elder abuse. Incidents of financial exploitation have increased 3% to 21% of all reported mistreatment categories over the past four years. The Task Force discussed issues of prevention, intervention, reporting, investigating, and prosecution of these types of cases and the overwhelming consensus of the group was that this is an extremely complicated topic worthy of a separate task force to make recommendations to the legislature on effective options for preventing this type of exploitation.

The Task Force found that C.R.S. 6-21-103 has not been as effective at curbing financial exploitation as was originally hoped. This legislation was an attempt by the General Assembly to protect at-risk adults from financial exploitation by facilitating access to an at-risk adult's account at a financial institution. Under C.R.S. 6-21-103, a financial institution is required to offer an at-risk adult a consent form for the release of financial records so that law enforcement or the Department of Human Services can access an at-risk adult's account when there is suspected financial exploitation. A majority of at-risk adults have refused to sign the consent form. This has been a financial and public relations cost to financial institutions without the result anticipated by the legislature.

***Task Force Recommendation:** In order to develop a comprehensive strategy to combat financial exploitation in Colorado, the General Assembly may want to consider a dedicated task force for this purpose. Additionally, the task force recommends repealing C.R.S 6-21-103*

III. What is the minimum age an individual should be considered an at-risk elder adult?

As stated above, the Task Force recommends that individuals age 70 years and older should be considered at-risk elder adults for the purposes of mandatory reporting. In FY 2011-12, 55% of all APS reports were associated with individuals' ages 70 years and older. A more thorough discussion of this decision is included on page **XX**

Task Force Recommendation: *The Task Force recommends that elders age 70 and older be considered as the initial population considered for mandatory reporting. Mandatory reporting should be expanded to the population over 18 and at-risk as soon as is fiscally feasible.*

IV. What is the estimated cost, including workload impacts to be incurred by county departments and law enforcement agencies of the state as a result of mandatory reporting?

The Task Force had a difficult time assessing the true workload impact to be incurred by counties if mandatory reporting is implemented. The reasons for this are varied, many of which have been outlined above. Specifically, the Task Force identified a number of flaws associated with using other states as a proxy for what would happen in Colorado when mandatory reporting was implemented. In addition, the past few years of a national economic downturn left counties feeling especially uncomfortable with any estimates by the Task Force without a comprehensive workload study performed by an entity especially trained for such analysis. The counties, along with CCI, sent a letter to this effect dated September 24, 2012 (Appendix 7: CCI's Letter to SB12-78 Task Force). In addition, fears about the implications of federal sequestration on county budgets are cited by counties as another reason for a workload study.

The Task Force did not receive any funding in S.B. 12-078 for a workload study and Task Force members did not possess the knowledge necessary to perform such a detailed analysis. Therefore, the Task Force sought to gather data as it could and come to consensus on fiscal assumptions, which are contained throughout this report.

The Task Force was able to agree on a few recommendations related to county workload that might allow Colorado to move forward and implement mandatory reporting. Those recommendations have been discussed above, but are reflected again here for simplicity:

1. Given existing APS caseloads of 34:1, bring the county caseload ratio to the National Adult Protective Services Association's recommended standard of 25:1. Distribute these funds using current APS reporting levels in Colorado. This results in an increase to counties of \$2,730,217 to allow for the hiring of additional case workers, supervisors and attorneys, using the same rates included in the S.B. 12-078 fiscal note.
2. Provide funding for a new data system for APS that will allow the state to accurately track the impact of mandatory reporting on the State. Collect data for two years after mandatory reporting is implemented and make appropriate adjustments to county funding to keep the counties at the national caseload standard recommended by NAPSA. Cost for a new data system is estimated to be \$250,000 the first year and \$160,000 subsequent years.

Comment [GP4]: This is different than the \$2.1 million referenced earlier, why? Is this the total – considering both the deficit and the new cases?

3. Provide a \$1,000,000 increase to the counties to be used flexibly by counties to provide safety net and other services needed by individuals identified in APS investigations.

The Task Force also recommends that following the implementation of mandatory reporting and a new APS data system, an APS workload study should be funded and initiated by the state. Workload studies can be key to producing better outcomes for clients and identifying reasonable and manageable workloads. The study should focus on implementation impacts realized by county departments of human services, county and municipal law enforcement and district attorney offices. The following is a general outline of topic areas that the study should focus on. It is not meant to be exhaustive or prescriptive.

For county departments of human services, the workload study should identify how county human services caseloads have changed since the implementation of mandatory reporting. The study should look at all aspects of APS case management, from intake to ongoing case management. Additionally, the study should explore what effect, if any, mandatory reporting has had on the lives of elders. Questions that capture whether or not outcomes for elders have improved are encouraged. Finally, the study should offer suggestions on how to achieve efficiencies and improve Colorado's APS system.

For local law enforcement, the workload study should evaluate how workloads in the county sheriff's office and municipal police departments have changed since the implementation of mandatory reporting. All aspects of the law enforcement process, from receiving reports of alleged mistreatment and abuse to reporting findings should be analyzed. A concerted effort should be made to isolate and quantify direct costs associated with the new mandatory reporting policy requirement. To the extent possible, the study should also track internal decisions that shift the use of resources at the local level to addressing elder abuse allegations and away from some other law enforcement priority.

Task Force Recommendation: *Provide \$XXX,XXX to bring county caseloads to the national standard, provide \$250,000 for a new data system for APS to track the impact of mandatory reporting, and provide \$1,000,000 in funding for safety net services for seniors identified through the APS system and \$xxx,xxx for a workload study two years after implementation of mandatory reporting.*

V. Identify sustainable sources of funding, including but not limited to new revenues that may be used to offset the costs to be incurred by the state department, county departments and law enforcement agencies of the state as a result of mandatory reporting.

The Task Force developed a Financial Subcommittee to work on the cost estimates for the recommendations and to identify possible sources of financing for mandatory reporting. The S.B. 12-078 Finance Subcommittee explored the following revenue options as options to sustainably fund an Adult Protective Services system under mandatory reporting.

Each possible funding source was evaluated for the amount of revenue likely to be generated, the longevity and consistency of the revenue source, and the applicability of the revenue source to the elder population.

The Task Force does not recommend reallocation of county funding from child protection or any other dedicated source to enhance adult protection.[]

The table below outlines the discussion by subcommittee members.

Revenue Source	Overall Viability		Comments
	Not likely to generate substantial and sustainable revenue	Would generate substantial and sustainable revenue	
Surcharge on Birth/Death Certificates	X		
Increase in County Fees for various financial and legal documents	X		
Surcharge on at-risk criminal convictions	X		
Cost savings associated with changing the penalties on crimes against 60-70 year olds from a felony to a misdemeanor		X	
Create a means test for the senior homestead exemption and use the balance for APS	X		
OAP Sponsor deemed income savings		X	
Medicaid Waiver on long term care		X	
Surcharge on Probate Cases on wills	X		
Long Term Care Estate Recovery		X	

In the end, three possible sources of sustainable revenue were identified to have possible political feasibility.

- 1.) Changing penalties from felony to a misdemeanor.

Presently, under the criminal code, “at-risk adult” is defined as a person age sixty and above. See 18-6.5-102(1), C.R.S. When crimes such as theft, assault, neglect and robbery are perpetrated upon an at-risk adult the criminal penalty is enhanced. This enhancement is particularly pronounced for the crime of theft. If the definition of “at-risk adult” under the criminal code is changed to those age seventy and above, then those who are 18 and older could still be considered “at-risk” if they possessed a disability. Crimes against those 18 to 69 would still be prosecuted but perpetrators would not receive an enhanced criminal penalty. This modification to the criminal code could result in savings that could be used for mandatory reporting implementation costs.

There are a number of benefits associated with making this change. While there would continue to be enhanced penalties for crimes committed on the elderly, the change corresponds with an adjustment in the age classification or at-risk in such a manner that is more in line with society’s understanding of who is “elderly”. The modification could also generate substantial savings. One drawback is that some vulnerable adults in their 60’s would no longer have “at-risk” status.

2.) Old Age Pension (OAP) Sponsor Deeming Savings

In 2010, the General Assembly passed HB 10-1384 which made modifications to the OAP program related to qualified aliens applying for the state’s Old Age Pension program. The initial phase of the bill implemented a five year bar from benefits. This means that qualified aliens are not eligible to receive OAP benefits until they have been in the United States for at least five years. This change resulted in a \$13 million savings to the General Fund in the first year of implementation and approximately \$14 million in savings in subsequent years.

The second phase of the bill will be implemented January 1, 2014. This phase will implement sponsor deeming of income and resources to any qualified alien who applies for OAP benefits. Any person who sponsors a qualified alien to come to the United States, signs a Federal agreement to provide for up to 125% of poverty level support for that alien. Currently, only sponsors who are non-relatives and sponsors who are spouses have their income deemed to the qualified alien. Beginning January 1, 2014, the OAP program will deem all income and resources of the qualified alien’s sponsor(s), no matter the sponsor’s relationship to the qualified alien, to the qualified alien. This phase is expected to save an additional \$15 million annually beginning in FY 2013-14.

OAP funds that are unused (savings) flow into the General Fund. All or a portion of this projected savings could be used for mandatory reporting and related infrastructure improvements without negatively impacting existing funding for other programs. It is a revenue neutral solution to the need for increased funding for APS and the criminal justice

system that will be impacted by mandatory reporting. This legislation has already been passed so there is no identified downside related to this option.

3.) Targeted Case Management

Medicaid case management services help beneficiaries receive care by identifying needed services, finding providers, and monitoring and evaluating the services delivered. Targeted Case Management (TCM) refers to case management restricted to specific beneficiary groups defined by disease or medical condition, by geographic regions, or other groups identified by a state and approved by CMS. TCM reimbursement is currently used for APS in eight (8) states we are aware of with an average annual reimbursement of approximately \$1,000,000 per state.

Adults currently receiving TCM in Colorado include Medicaid eligible persons with:

- A developmental disability
- A mental illness who are in need of case management services
- A need for substance abuse treatment

TCM reimbursement could be a viable source of funding for Colorado APS as it is estimated that APS caseworkers assist up to 50% of their clients with applying for and accessing Medicaid services. However, TCM spending has increased rapidly and adding another target population might be challenging as it requires a state plan amendment to CMS. Coordination with current TCM providers, DDD, and Behavioral Health, could minimize any perception of competition for funding. Workload considerations at the county level include requiring caseworkers to track their time, meet educational eligibility requirements, and county participation in post payment reviews of TCM.

This is an appropriate funding source to cover the costs of mandatory reporting, as well as the supportive services that will be necessary as Colorado's elder population increases. This fund source could be used flexibly between the counties and the Area Agencies on Aging to address the needs of a broad swath of seniors, but also that portion of the population that is identified as elder, at-risk and in need.

Comment [PR5]: What is this paragraph referring to?

Task Force Recommendation: ?

VI. *What training is needed by state and county employees to use outcome-based best practices in the provision of protective services to at-risk elder adults?*

State-Sponsored Training

State statute requires APS investigations and the subsequent provision of protective services to be conducted by trained workers. The APS program historically has had limited staff resources and operating funds with which to develop and provide adequate training.

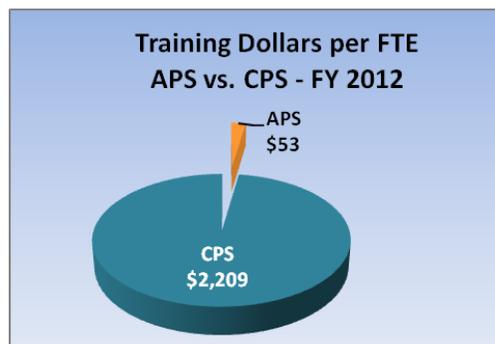
Historically, the primary funding available for training APS caseworkers, case aides, and supervisors comes from Title XX Social Services Block Grant (SSBG). Title XX funds are earmarked for training purposes and are available as a grant to county departments, Child Welfare, and Adult Protective Services. Each year for the past decade APS has submitted a grant request for Title XX funds to support the APS training needs of county and state staff. The grants approved have been decreasing in amount from an initial \$37,000 per year to \$14,000 in FY 2012.

In the past three years, the Field Administration unit has provided APS with \$3,000-4,000 of its Title XX award to supplement the APS grant. In FY 2012, the amount provided by Field Administration was \$4,100, for a total Title XX training budget of \$18,100. Additional operating funds allocated to the Division of Aging and Adult Services have been utilized to cover costs beyond the Title XX allocation. For SFY 2012, APS spent approximately \$23,723 to train county APS staff. Not all costs to attend the training was covered for county APS staff. For example, mileage to the training sites and per diem were not included for APS workers attending regional training events or Training Academy. The state training budget in FY 2012 provided for the following training events:

- 28 new caseworkers attended Training Academy in person.
- 75 caseworkers and supervisors attended one of three regional training opportunities in person.
- 20-25 county APS programs were represented at each quarterly training meeting, either in person or via teleconference.
- 8 new supervisors attended New Supervisor Training via webinar.
- 286 caseworkers and supervisors attended other state provided training opportunities via webinar.

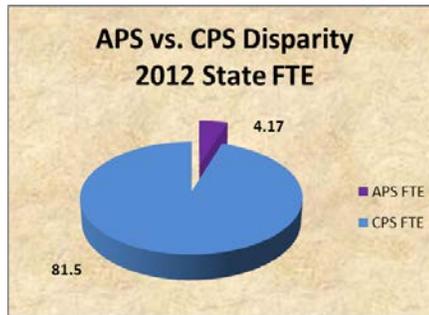
What this \$23,723 did not cover, was a statewide training conference and additional in-person training opportunities, which are key to real learning and growth in skills. Because of limited funds and limited staff, the number of in person training opportunities that can be provided is not optimal.

This chart provides another demonstration of the differences between the Child and Adult Protection systems in the area of training. CPS receives more than nine (9) times the funding per FTE than does APS for training caseworkers and other staff.



APS' funding is 76% Federal funds and the remaining is state funds. CPS' funding is 50% Federal funds and 49% state and 1% local funds.

Staff resources at the State to develop and conduct training and to complete all other duties of supervising the APS program, is lacking, as well. Currently, the State APS unit consists of three full time program specialists and a half time manager. These 3.5 FTEs are charged with developing and providing training to county APS staff, handling technical assistance requests, responding to legislative initiatives, writing rules and setting policy, identifying best practices, training workers on the CBMS APS module and providing technical support in using the data system, assisting the Program Integrity and Assurance Unit with on-site program reviews, conducting desk top reviews, data analysis, and so on. CPS has nearly 20 times as many FTE than APS to supervise the program as outlined above, while responding to less than (8) times as many reports.



The state recently worked with counties to establish minimum training requirements for APS caseworkers. While it is difficult to meet the statutory training requirement with limited funding, the State APS Team has found ways to create efficiencies and to leverage resources in a way that allows for maximum training on a minimalist budget, such as aligning regional training events to quarterly meetings to reduce travel costs or providing webinar training when appropriate. Additionally, the APS program has committed to work closely with Child Welfare to determine whether there are cross-training opportunities, particularly for caseworkers with both Child Protection and APS duties.

Even with new training mandates and an increase in focus by the State APS unit on developing and providing necessary and requested training, deficits continue to exist. It is imperative that the State have additional resources for training for a number of reasons:

- While webinars are helpful for some types of training and program updates, research into adult learning shows that adults retain knowledge and skills better if they have immediate opportunities for hands-on practice. And, the ability to “network” and discuss cases with other APS staff persons has time and again been cited on training evaluations as one of the most valuable parts of in person training opportunities.
- Research also shows that adults learn better when information is provided through several different sensory channels. In person training includes visual, auditory and kinesthetic channels, while webinars lack kinesthetic and active visual learning. By layering in person training with basic information followed by hands on exercises, shared experiences and other cognitive hooks not available through the webinar experience, caseworkers are better equipped to recognize critical information in real-life situations.

- Having the funds and staff resources to provide more APS trainings with a smaller number of trainees per session would net the best outcomes for trainees as research shows that the ideal class size for adult learners is no more than 20.
- Training and program monitoring are activities that identify strengths that can be shared with other county programs as well as identifying areas of concern that need to be remedied before a tragedy occurs.

Finally, it should be recognized that training results in costs for counties as well. While the state covers some of the costs associated with county caseworkers traveling to training events, county workers are unavailable to help clients when they are out of the office attending a training. This is an unfortunate reality of training that is felt statewide but is perhaps more acute in smaller and medium sized counties where there are so few caseworkers and these caseworkers are typically generalists working both child welfare and adult protective cases.

B. Quality Assurance and Program Integrity

Another key component to training for the APS program is quality assurance and compliance with APS program directives. Currently, the Division of Aging and Adult Services has just one a two-thirds (2/3) FTE for quality assurance activities across the 64 county APS programs. This allows for an on-site review of each county APS program just once every three to four years. This is not an effective method of ensuring that counties are providing appropriate interventions for elder adults. Additionally, when a statewide review of data or desktop review of a county program identifies critical issues that require in-depth quality assurance activities and potentially lengthy on-site reviews to remedy the issues, the regular schedule for on-site review must be adjusted to accommodate the newly identified critical need. These types of program integrity reviews are critical to ensuring that elder adults statewide are receiving appropriate and effective intervention.

Since 2009, the APS program has completed on-site reviews in 31 counties. The reviews have highlighted a common problem across all counties related to documentation of APS activities. In almost every county, there was missing or inadequate documentation of the justification for APS involvement, the results of the investigation and client assessment, the case plan for protective services, and the reason the case was closed. Without APS' actions clearly documented, the County Department is vulnerable in the event of a lawsuit. Missing documentation means that a client, and possible the caseworker if a perpetrator is involved, is even more vulnerable in the event the original caseworker becomes ill or takes another job and a new caseworker is assigned.

Even more concerning are counties and caseworkers that are not meeting the basic requirements of casework. For example, a caseworker failed to adequately investigate multiple reports of caretaker neglect of an adult with a developmental disability. The discovery of the man, near death, led to a very public news story of the County's failure to act within APS program guidelines.

During reviews, the counties have overwhelmingly voiced the need for increased funding, reduced caseloads, increased training opportunities, additional assistance from the State, and additional community resources as the largest needs for the APS program.

The state has begun working with counties on process improvement activities and sharing best-practices across counties. This effort is generating an ongoing discussion and improvements in outcomes for the APS system, such as timely response to reports of abuse and neglect. These efforts allow counties to identify wasted activities and other inefficiencies in their processes and practices. Some of this work occurs in regional meetings and some improvements are done through on-site reviews, which allow counties to receive one-on-one technical assistance and training that they would not normally receive.

More frequent on-site reviews would lead to more one-on-one assistance, and thus to better outcomes for APS clients. Early identification of potential issues with the implementation of the Adult Protective Services program at the county level will assist the county and the state in correcting these deficits before a serious, negative client outcome occurs. In addition, ensuring that adequate supervision of the county program is occurring may prevent lawsuits due to inappropriate intervention or lack of intervention by the County APS program.

Task Force Recommendation:

- 1.) Provide funding of \$xxx,xxx for the additional impact of mandatory reporting on county training budgets.***
 - 2.)The task force recommends funding one (1) new FTE for the Colorado Department of Human Services' APS Program to conduct Quality Assurance activities with regard to county APS programs. Funding for this purpose would allow the state to conduct on-site reviews of county APS programs every one to two years as opposed to on-site reviews every three to four years and would allow the state to provide technical assistance, eliminate waste and promote best practices in county APS units.***
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C. Law Enforcement

The task force is recommending that mandatory reporting be located in the criminal code, Title 18 C.R.S. The reasons for this recommendation can be found on **page XX**. As a result, it will be law enforcement officers who will be required to take the mandatory reports of mistreatment of elders. Law enforcement will need additional training on working with elders, screening the reports to

determine the need for investigation and follow-up, and when to involve APS. Heidi to add language on POST board and whether there is a cost.

***Task Force Recommendation:** Training should be developed and be mandatory for law enforcement officers. Law enforcement officers should conduct the training for law enforcement personnel to increase the receptivity of the training. Additionally, law enforcement personnel should be encouraged to identify liaisons within their ranks to foster relationships and nurture collaboration. This training is under the purview of the Police Officers Safety Training Board, which already has funding for training development for new officers.*

D. Community Education and Mandated Reporters

Groups identified as mandated reporters may have questions on their reporting requirements and on when and where to report. The Task Force recommends that a standardized training be developed and posted to a website for access by mandatory reporters and/or their employers as a self-directed or employer provided training. Licensing boards operated by the Department of Regulatory Agencies should be required to notify their constituencies of the mandatory reporting requirements and the web-based training.

Additionally, community education is needed and should be targeted to professionals, service providers, and members of the community at large who interact with elder adults on a semi-regular basis such as persons with jobs that bring them in contact with elder adults, (e.g., cable repair personnel, plumbers, or pizza delivery drivers) or members of the community at large that may have contact with an elder (e.g., neighbor, fellow church member, friend).

The task force recommends that public service announcements and a statewide media campaign be developed for educating the broader community. There are a variety of outreach methods that could be used ranging from social media tools to radio and print ads. For example, the cost of printing brochures is \$0.25/brochure whereas the cost of a 30-second radio ad in the Denver metro area is \$194. A radio ad in Fremont County runs \$228 a week. The Task Force recommends an initial media campaign of one month to highlight the new requirements and then xxx on going? Appendix 8 outlines advertising costs throughout the state that the Colorado Department of Health Care Policy and Financing developed as an internal resource.

It should be noted that counties regularly provide outreach and educational opportunities in their communities. Counties with an Adult Protective Services team are mandated to provide a minimum of five community education activities each fiscal year. Many collaborate with community partners to raise awareness of abuse in the at-risk adult population. Outreach efforts take on many forms but can include brochures in salons, grocery stores, and banks; informational bookmarks in meals on

wheels; displays in public libraries; live presentations to a community or professional group; sponsorship of a community Elder Abuse Awareness Day or similar event; etc. The cost of each activity varies greatly but can range from no cost to as much as \$8,000, depending on the activity. The community education is not funded at the State level so County Departments currently utilize their own discretionary funds to support these events.

Task Force Recommendation: *Wide-spread education and training will be necessary for mandatory reporters, including why, when, how and to whom to report:*

1. *Establish a one month public media campaign to inform the public at large about the mandatory reporting requirement and the signs of mistreatment and exploitation (Cost?).*
 2. *Develop a web-based training for mandatory reporters that can be easily accessed by employers and the public.*
 3. *Utilize existing county public education events to educate the community and mandatory reporters. Inform the public about web-based training, best practices, and other resources related to mandatory reporting.*
-

VII. *Are existing criminal penalties adequate for offences against at-risk adults as described in Title 18, Article 6.5?*

Law enforcement agencies must be equipped to investigate and judicial districts must be equipped to prosecute crimes against elder adults. HEIDI LANGUAGE.

[. – Add Sean’s language on changes to criminal penalties. How to make prosecutions easier.]

The majority of the group believes that a misdemeanor 3 for those who fail to report is appropriate. A misdemeanor 3 under CRS 18-1.3-501 may result in a fine between \$50-\$750 or up to six (6) months in the county jail. The reasons for this decision include:

- 1.) For egregious incidents, jail time may be an appropriate penalty;
- 2.) This penalty mirrors the Child Welfare statute for failure to report; and
- 3.) If jail time is not an option, these crimes will be not be prioritized for prosecution.

Additionally, a “Good Faith” Immunity Clause is imperative.

Comment [GP6]: Waiting for agreed upon language explaining why it’s imperative. Additionally it should be stated that a class 3 misdemeanor already exists for giving a false report.

Those Task Force members who opposed a class 3 misdemeanor penalty argued that a class 2 petty offense (fine only/no jail time) should be the penalty for the first incident of failing to report. Those who routinely fail to report should be subject to class three misdemeanors. [Minority Report by Colorado Health Care Assn.]

VIII. Should the definition of “at-risk adult” in section 26-3.1-101 C.R.S. be reconciled with the definition of “at-risk adult” in section 18-6.5-102 (1), C.R.S.?

As stated on page XX, Title 26 and Title 18 perform very different functions with regard to adult reporting and protection. It is important that APS maintain its charge to investigate and provide services for all vulnerable adults who cannot manage their own health and safety. The criminal codes of Title 18 provide a vehicle to prosecute crimes, regardless of mental or physical capacity.

Conclusion...

H. Background Checks for Caretakers **Add comprehensive paper from Darla**

Background and criminal history checks can provide for cost effective preventative and responsive strategies to address elder abuse. Background checks are currently required for county employees engaged in protective services but not for caretakers.

It is recommended that a comprehensive state and federal criminal history check specific to any and all caretakers as defined in CRS 26-3.1-101(2)(c) be mandated. It is also recommended that Colorado apply for CMS national background check funding to help cover the cost of this requirement.

Additionally, it is recommended that entities involved in the investigation of any act of mistreatment, neglect and exploitation to at risk adults have access to all relevant department specific databases to determine if there is a history of allegations or substantiations. The ability to cross reference disparate databases would help protect at risk adults. Databases that should be open to coordinated searches include: _____?_____

Comment [PR7]: This is extremely problematic and I don't think the group would want to go to this extreme. I think there needs to be serious discussion about this. This definition would include volunteers, spouses, family members, neighbors, etc. I think there is a need to ensure that all PAID caregivers are subject to a background check...but I think they already are. I don't think we want to start background checking the 87 year old husband...or the 60 year old parent of a DD adult. I certainly would have to strongly oppose this language.

Comment [PR8]: This, too, is very problematic. APS cannot provide access to its data system to all of these agencies, which would include law enforcement, DAs, CCBs, CDPHE, and the ombudsmen. Confidentiality issues would be huge. Again, this will require some serious discussion.