

Mandatory Reporters?

By K. Dean Kantaras & Sarah Lincoln

Attorney-client confidentiality is one of the most important principles in the legal system. People need to be able to speak honestly with their attorneys without worrying that private information will automatically be shared with others. Without that protection, attorneys cannot provide meaningful legal advice, and clients may never fully communicate the facts necessary for effective representation. At the same time, mandatory reporting laws exist to protect vulnerable individuals and prevent serious harm. When those two principles conflict, attorneys are placed in a uniquely difficult position.

Mandatory reporting laws require certain professionals to report suspected abuse, neglect, or threats of harm. Teachers, doctors, social workers, and law enforcement officers are commonly required to report this information because of the roles they serve within the community and the access they may have to vulnerable individuals. Attorneys, however, serve a different role.

Lawyers are ethically required to keep most client information confidential. In Florida, Rule 4-1.6 of the Rules of Professional Conduct generally prevents attorneys from revealing information related to the representation of a client. This rule exists because clients cannot receive effective legal advice unless they feel comfortable being fully honest with their attorney, even when discussing difficult or deeply personal situations. But what happens when a client shares information involving possible abuse or danger?

Imagine a woman meeting with a divorce attorney for the first time. During the consultation, she reveals that her husband has been abusive toward both her and their children. She explains that she has never told anyone before because she fears retaliation, financial ruin, and potentially losing custody of the children if the situation escalates too quickly. She says she is finally ready to seek legal help but is terrified that any immediate report could place her family in greater danger before she has a plan in place.

Should the attorney be required to report the allegations immediately, even if doing so may cause the client to shut down or abandon the legal process altogether? Or should the attorney be permitted to maintain



K. Dean Kantaras, Esq.

confidentiality while helping the client safely navigate the legal system and determine the best course of action? Questions like these demonstrate why the issue is far more complicated than it may initially appear.

Supporters of mandatory reporting laws argue that attorneys should not be exempt from obligations designed to protect vulnerable people from serious harm. They contend that public safety may outweigh confidentiality concerns in certain circumstances, particularly when disclosure could prevent continued abuse or danger. Supporters also argue that attorneys, like other professionals, are sometimes in positions where they may become aware of ongoing harm that could otherwise remain hidden from authorities.

Others argue that requiring attorneys to act as mandatory reporters could seriously damage the attorney-client relationship. Confidentiality is not meant to protect wrongdoing. Instead, it allows clients to speak openly so attorneys can provide meaningful legal advice and help clients make informed decisions during some of the most difficult moments of their lives.

Without that trust, some clients may avoid seeking legal help altogether or may withhold important information from their attorneys. In sensitive matters involving domestic violence, mental health struggles, addiction, or family conflict, an attorney may be the only person a client feels safe speaking to honestly.

Mandatory reporting requirements could also discourage early legal intervention. In many situations, clients seek attorneys

precisely because they are attempting to leave dangerous environments, address family crises, or prevent situations from escalating further. If clients fear automatic disclosure, they may wait too long to seek help or avoid the legal system entirely. In some cases, this could leave vulnerable individuals with even fewer resources, protections, or support systems available to them.

There are also broader concerns about the effect mandatory reporting requirements could have on the legal system itself. Attorneys are meant to serve as advocates for their clients, not investigators for the government. Expanding mandatory reporting obligations could blur that role and weaken the trust that effective legal representation depends upon.

At the same time, absolute confidentiality is not always appropriate. Florida's ethics rules already allow or require attorneys to disclose information in limited situations involving death or serious bodily harm. Attorneys are therefore already expected to balance confidentiality with broader safety concerns in certain circumstances.

The real debate is whether attorneys should always be required to report potentially harmful information or whether they should retain discretion to evaluate each situation individually.

There is no easy answer. Protecting vulnerable individuals is critically important, but so is preserving the trust that allows people to seek legal advice openly and honestly. As conversations surrounding mandatory reporting continue to evolve, attorneys will remain at the center of an ongoing debate about where confidentiality should end and public protection should begin. ❖

EDITOR'S NOTE: K. Dean Kantaras is the managing partner of K. Dean Kantaras, P.A., a firm handling cases in family law and immigration. Mr. Kantaras is board certified in marital and family law by the Florida Bar. He has been practicing for over 30 years and is "AV" rated by Martindale-Hubbell. Sarah Lincoln is an Associate Attorney at Kantaras Law and a graduate of Florida State University and Stetson University College of Law. Sarah also volunteers with the Guardian ad Litem Program, where she advocates for children involved in dependency proceedings. Their offices are located at 3531 Alternate 19, Palm Harbor, 34683, (727) 781-0000; 1930 East Bay Drive, Largo, 33771; and 111 S. Albany Ave., Suite 200, Tampa, 33606, kantaraslaw.com.