Office of Colorado’s Child Protection Ombudsman

LETTER OF COMPLIANCE CONCERN

Case Number 2018-3281

Stephanie Villafuerte,
Child Protection Ombudsman
February 4, 2019
Introduction

By design, the Office of Colorado’s Child Protection Ombudsman (CPO) serves as an independent, neutral problem solver that helps citizens navigate a complex child protection system in an expert and timely manner. The Ombudsman has independent access to child protection records that are not otherwise available to the public. This allows the CPO to objectively review and investigate complaints, deliver recommendations and drive systemic reform through research and education. Through objective study the CPO works to improve the delivery of services to children and families within the child protection system.

Jurisdiction

The CPO receives “complaints concerning child protection services made by, or on behalf of, a child relating to any action, inaction, or decision of any public agency or any provider that receives public moneys that may adversely affect the safety, permanency, or well-being of a child. The ombudsman may, independently and impartially, investigate and seek resolution of such complaints, which resolution may include, but need not be limited to, referring a complaint to the state department or appropriate agency or entity and making a recommendation for action relating to a complaint.” See C.R.S. §19-3.3-103(1)(a)(I)(A).

Pursuant to C.R.S. §19-3.3-101-110, the CPO does not have the authority to:
- Investigate allegations of abuse and/or neglect.
- Interfere or intervene in any criminal or civil court proceeding.
- Review or investigate complaints related to judges, magistrates, attorneys or guardians ad litem.
- Overturn any court order.
- Mandate the reversal of an agency/provider decision.
- Offer legal advice.

Identified Compliance Concerns

If, through the course of any case the CPO determines that an agency or provider may have violated any rules or laws, the CPO will issue a letter to the agency or provider outlining its compliance concerns. The agency or provider will be given 15 business days to provide a response to the CPO.

The CPO’s letter, and any response submitted by the agency or provider, will then be provided to the agency or provider’s supervising entity. The supervising entity will then make the final determination of whether a violation of law or rule occurred and provide any relevant remedies. The supervising entity will have 15 business days to make their determination and respond to the CPO. After the supervising entity submits its response, the CPO will post its letter, the agency or provider’s response and the supervising entity’s determination on the CPO’s website.
Public Disclosure

In meeting its statutory requirements to “improve accountability and transparency in the child protection system and promote better outcomes for children and families involved in the child protection system,” as stated in C.R.S. §19-3.3-101(2)(a), the CPO will provide the public and stakeholders any recommendations it makes to an agency/provider.

Impartiality

To maintain its impartiality – and in keeping with statute – the CPO will independently collect information, records and/or documents from an agency/provider when reviewing and/or investigating a complaint. “In investigating a complaint, the ombudsman shall have the authority to request and review any information, records, or documents, including records of third parties, that the ombudsman deems necessary to conduct a thorough and independent review of a complaint so long as either the state department or a county department would be entitled to access or receive such information, records, or documents.” See C.R.S. §19-3.3-103(1)(a)(II)(A)
Office of Colorado’s Child Protection Ombudsman

Letter of Compliance Concern

Case 2018-3281

(Delivered December 17, 2018)
To: Donna Rohde, Director  
Otero County Department of Human Services  
13 West 3rd Street  
La Junta, CO 81050

From: Sara Embrey, Child Protection Systems Analyst  
Office of Colorado’s Child Protection Ombudsman  
1300 Broadway, Suite 430  
Denver, CO 80203

Date: December 17, 2018

Subject: Possible Compliance Issues

Dear Director Rohde,

On August 28, 2018, the Child Protection Ombudsman (CPO) received an inquiry from a father concerned about Otero County Department of Human Services’ (OCDHS) handling of an ongoing case involving his children. Specifically, the father alleged that he has not been provided an adequate opportunity to address the OCDHS’ concerns about his parenting. Additionally, the father stated he was not provided visits with his children in a timely manner. The CPO has reviewed the family’s history in Trails, analyzed other relevant documentation and interviewed collateral parties involved in the case. Through that review, the CPO has identified areas in which the actions of OCDHS may not be in compliance with contact guidelines in Volume VII.

Case Summary

In January 2018, the family became involved with OCDHS through a Dependency and Neglect case originating from an assessment alleging physical abuse of the children by the father. The children were initially able to remain in the mother’s care and the father was removed from the residence through a protection order and not allowed visitation. In September 2018, the mother violated the protection order by allowing the father to have contact with herself and the children, the children were removed from her care and placed with a relative.

The above information was obtained through conversations with collaterals, review of Colorado Courts minute orders and Trails Family Service Plan (FSP) Review notes. The CPO observed there to be minimal documentation of contacts between the caseworker and the father and members of his family in the statewide Trails database. Trails FSP Review notes reference ongoing contacts with the father and members of his family and providers, however, there are no corresponding report of contact notes that

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1 Trails Case ID:  
2 Otero County District Court - , Trails Assessment ID:  
3 Otero County Court- 2 &  
4 Trails Case ID: - FSP Reviews July 2, 2018, August 7, 2018, October 4, 2018, November 13, 2018
include the mandatory elements of assessment of child safety, wellbeing, and progress toward identified treatment goals.

Contact Requirements

Volume VII and the Colorado Children’s Code collectively make up the minimum guiding principles and standards to which county human services departments are held to in assessing and ensuring a child’s safety. The two rules most pertinent to the CPO’s review of this case are:

- Volume VII 7.202.1 (F): Monthly contact between the county human service department and the family is required to track the progress of the family, to ensure ongoing child safety and discuss case direction on an ongoing basis.

- Volume VII 7.204: Contact between county human service departments and the family must be documented in the state automated case management system.

Identified Compliance Concerns

The CPO reviewed the case in Trails and discussed the case with OCDHS. Based on the reviewed information, the CPO has concerns the OCDHS has failed to document contacts with the involved children and parents throughout the course of the ongoing case. Failure to document contacts may be a violation of Volume VII 7.202.1(F) & 7.204.

Conclusion

Pursuant to policies 4.200 and 5.200 in the Case Practices and Operating Procedures, the CPO will notify any agency or provider if it identifies potential violations of law or rule. The CPO will NOT make a final determination of whether the violation took place. Instead, the CPO will ask the relevant agency or provider to respond to the CPO’s concerns in writing.

After receiving the OCDHS’ response, the CPO will submit its original letter and OCDHS’ full response to the CDHS, which serves as the OCDHS’ supervising entity. (See C.R.S. § 26-1-11 and C.R.S. § 26-1-118.) The CDHS will then determine whether any violations occurred and any relevant remedies. The CDHS will have 15 business days to make its determination and respond to the CPO in writing. After receipt of the CDHS’ response, the CPO will post this correspondence and both responses to the CPO’s website. All child and family information will be redacted prior to public release of the correspondence package. Please provide the OCDHS’ response to the possible violations listed in this letter no later than January 10, 2019.

Thank you for your time and please do not hesitate to contact me if you have any questions.

Sincerely,  

Approved by:

Sara Embrey
Child Protection Systems Analyst

Stephanie Villafuerte
Child Protection Ombudsman
December 28, 2018

Sara Embrey, Child Protection Systems Analyst
Office of Colorado’s Child Protection Ombudsman
1300 Broadway, Suite 430
Denver, CO 80203

Dear Ms Embrey:

Thank you for your letter of December 17, 2018 regarding possible compliance issues and the opportunity to respond to your findings and questions.

Regarding the identified compliance concerns raised; i.e., failure to document contacts in the case, the Department is in agreement that complete documentation was not completed in this case. While we stand by the decisions made in the case, the fact remains that the contacts are not entered timely. The Department is working diligently to enter the data on this case and others where the documentation may be lacking as well. The Department understands the importance of meeting Volume 7 requirements regarding documentation and the importance of doing so timely.

Please do not hesitate to contact me should you need further information or have further concerns.

Sincerely,

[Signature]

Donna Rohde, Director
Otero County DHS
Colorado Department of Human Services

Response Letter

Case 2018-3281

(Delivered January 29, 2019)
Grievance/Inquiry Review Form

[To be completed by the assigned Division of Child Welfare (DCW) County Intermediary]

<table>
<thead>
<tr>
<th>Unit: CPS-Intake Unit</th>
<th>County: Otero</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Assigned: December 2018</td>
<td>Due Date: 1/29/19</td>
</tr>
</tbody>
</table>
| Complaint #: 2018-3281 | Complainant Role (Select from the following):
|                       | _X_ Parent, Guardian, Legal Custodian |
|                       | _X_ Office of Colorado’s Child Protection Ombudsman |
|                       | ___ Attorney |
|                       | ___ Other, Specify Role: ________________ |

The basis of grievance/inquiry (mark all that apply):

_ X_ Federal/State Statutory violation
_ X_ Administrative rule violation
___ Other county practice, policy, procedure, etc.; specify: ____________________________

DCW assessment of county disposition of grievance/inquiry:

_ X_ Agree with county disposition
___ Disagree with county disposition

DCW assessment of action/s taken by county:

_ X_ Agree with action/s taken by county
___ Disagree with action/s taken by county

Findings and Action/s taken by DCW:

___ DCW found no violation of federal/state statute and/or of the administrative rules; therefore, no further action will be taken by DCW.

_ X_ DCW found violations of the following federal/state statute and/or of the administrative rules:

Volume VII 7.202.1(F) and 7.204

Based upon this finding, the following action/s will be taken by DCW:

___ Technical assistance (TA) and/or guidance will be provided
_ X_ Other, specify: DCW has reviewed the complaint and county response. Otero County acknowledged that contacts were not entered timely. Otero County is committed to entering all documentation for this case as well as any others they identify. DCW will follow up on this specific case to ensure that documentation is or has been added to reflect past contacts, and continue to work with Otero County through regular contact to address this and any other concerns that arise.

Completed by Laura Solomon for Yolanda Arredondo 1/14/19

Printed Name AND Signature of DCW County Intermediary Date
Laura Solomon

Printed Name AND Signature of DCW County Intermediary Supervisor

1/14/19

Lucinda Wayland Connelly

Printed Name AND Signature of DCW Unit Manager

1/14/19