Office of Colorado’s Child Protection Ombudsman

LETTER OF COMPLIANCE CONCERN

Case Number 2019-3622

Stephanie Villafuerte,
Child Protection Ombudsman

October 4, 2019
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.

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.

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 2019-3622

(Delivered August 21, 2019)
To: Ms. Jacque Frenier  
Morgan County Department of Human Services  
800 E. Beaver Avenue  
Fort Morgan, CO 80701

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

Date: August 21, 2019

Subject: Possible Compliance Concerns, CPO Case 2019-3622

On April 12, 2019, the Office of Colorado’s Child Protection Ombudsman (CPO) received an inquiry from a citizen regarding the handling of a child welfare case that was open with the Morgan County Department of Human Services (MCDHS). They expressed concern that a child had been removed from a relative’s home unnecessarily and that MCDHS had not provided therapeutic services for the child. The CPO has reviewed the relevant information in Trails and the Colorado Courts database and has identified four areas in which the actions of MCDHS staff may not be in compliance with requirements in Volume 7.¹

Case Summary

The MCDHS received a referral on January 4, 2019 expressing concern that a mother had been arrested on multiple charges while with her child.² The arrest circumstances centered around shoplifting and possible substance abuse by the mother.³ MCDHS staff responded immediately to the referral and placed the child in the care of a relative. Following removal and placement of the child, a Dependancy and Neglect court action was filed, and an ongoing child welfare case was opened to provide reunification services to the family.⁴ The child remained in the relative’s home until the end of March 2019, when he was returned to the care of his mother. Between January 2019 and August 2019, the department was tasked with engaging the family, assessing the ongoing safety of the child and providing services, when necessary, to address the circumstances that led to the opening of the ongoing case and court action. It is unclear in the county’s documentation what services were provided to the family to support the reunification. The Dependancy and Neglect court case was closed in June 2019. The ongoing child welfare case was closed in early August 2019.

¹ Trails is the statewide case management system, Colorado Courts Access Database, Code of Colorado Regulations-Volume 7  
² See Trails Assessment ID:  
³ Morgan County District Court-  
⁴ Morgan County District Court- , See Trails Case ID: 
Volume 7 Regulations/ Colorado Children’s Code

Volume 7 and the Colorado Children’s Code collectively make up the minimum guiding principles and standards to which county human service departments must adhere to when assessing and ensuring the safety of Colorado’s children.

7.107.11(A-B) provides guidance to child welfare caseworkers in completing the Colorado Family Safety Assessment.\(^5\) It asserts that the tool will be completed during the initial response with household members and that it will be completed using all available information that could alleviate safety concerns for the child.

7.202.1(F) outlines the minimum requirements that county human service departments must follow when contacting a caregiver.\(^6\) It requires that the county maintain contact with the individual(s) that the youth resides with, in addition to the parents and/or the individual(s) to whom the child will be returned. Contact shall occur monthly. Every other month, the contact must be face-to-face. The purpose of these contacts is to discuss and ensure safety and well-being of the child.

7.204 outlines the minimum requirements that county human service departments must follow when contacting and assessing for the safety of a child.\(^7\) It requires that all children, regardless of placement, be contacted, in person, on a monthly basis. For children that are placed out of their home, it requires that two face-to-face contacts be made within the first 30 days that the child is placed in a home. It requires that a portion of every visit take place outside of the presence of the placement provider and that at least every other visit occur where they are living and that an observation of the child or youth’s sleeping arrangements be completed. The purpose of monthly contacts is to ensure the safety and well-being of the child, and to track case progression.

7.301.23(A-C) outlines how county human service departments must document what services have been provided to a family, how those services were provided to them and if the outcomes of those services led to the child or youth being provided safe and proper care.\(^8\)

Identified Compliance Concerns

The CPO has reviewed the assessment and case in Trails, along with relevant rule packages and sections of Volume 7 and Colorado Children’s Code. The CPO identified several areas in which MCDHS may not be in compliance with Volume 7 requirements. Specifically, the CPO observed:

1. During Trails Assessment ID: [redacted], the safety assessment was completed based on a contact with the family that took place on January 14, 2019. Based on documentation, contact with the family initially occurred on January 4, 2019, and as such the safety assessment should have been completed based on the contact that took place on this date. Additionally, section 2 of the tool inaccurately reflects that substance abuse by a caregiver is not a safety concern for the child. Information provided in the referral reflects that the mother was arrested, in part, on drug paraphernalia and unlawful possession of a controlled substance charges. If accurate this is a violation of Volume 7, 7.107.11(A-B).

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\(^5\) 12 CCR 2509-2, 7.107.11(A-B)
\(^6\) 12 CCR 2509-3, 7.202.1(F)
\(^7\) 12 CCR 2509-3, 7.204
\(^8\) 12 CCR 2509-4, 7.301.23(A-C)
2. In Trails Case ID: [redacted], contacts with the caregiver of the child were entered for the months of January 2019, February 2019 and March 2019. While contacts were documented, no information related to the safety, permanency or general well-being of the child was discussed. If accurate this is a violation of Volume 7, 7.202.1(F).

3. In Trails Case ID: [redacted], contacts with the child are missing for the months of April 2019, July 2019 and August 2019. Additionally, for the months of January 2019, February 2019 and March 2019, contacts that were documented do not discuss any observation of the home, including the child’s sleeping arrangements- which is required when a child is in out-of-home placement. All contacts with the child fail to discuss the child’s general safety and well-being. If accurate this is a violation of Volume 7, 7.204.

4. In Trails Case ID: [redacted], family service plan reviews were completed in March 2019, April 2019 and June 2019. While the reviews were completed within the required timeframes, the content does not discuss what specific services have been provided to the family or how these services have ensured that the child is now being provided safe and proper care. If accurate this is a violation of Volume 7, 7.301.23(A-C).

The CPO contacted the MCDHS on June 28, 2019 and July 3, 2019 by email and has not received a response as of today’s date.

Conclusion

Pursuant to policies 4.200 and 5.200 in the Colorado Child Protection Ombudsman’s (CPO) 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 MCDHS’ response, the CPO will submit its original letter and MCDHS’ full response to the CDHS, which serves at the MCDHS’ supervising entity. (See C.R.S. § 26-1-111 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 the public release.

Please provide the MCDHS’ response to the possible violations listed in this letter no later than September 12, 2019.

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

Sincerely,

Sara Embrey
Child Protection Systems Analyst

Approved by:
Stephanie Villafuerte
Child Protection Ombudsman
Morgan County Department of Human Services

Response Letter

Case 2019-3622

(Delivered August 29, 2019)
8-29-19

Sara Embrey, Chief Analyst- Child Welfare Services
Office of Colorado's Child Protection Ombudsman
1300 Broadway, Suite 430
Denver CO 80203

RE: CPO 2019-3622

Sara Embrey:
I have reviewed the Safety and Risk Assessment and the case

1. I agree the Safety Assessment should have been completed on 1-4-19 the date the worker first met with the child. However, the finding at the time would have been the same as the child was not with his mother, but with a safe adult and the worker was filing a petition for a 72 hour hold on the child to allow the child to stay with the safe adult. The Safety Assessment is designed to determine the Safety of the Child\ren in their present situation. The department was given temporary custody and the child placed with his paternal grandmother.

2. I agree the case worker did not document contacts thoroughly and may not have addressed the safety, permanency or well-being at all of the visits. I noticed the worker visited the home with the Life Skills case aide. She is a long time employee and takes child safety etc. very seriously so I believe these were considered not documented. The manager for the case worker has addressed the documentation concerns with the worker for a few months, now.

3. Again, I am concerned with the lack of documentation. However, this is a CORE case and the workers have frequent contact with families. This worker is not as good at documentation and the issue is being addressed.

4. The main services being provided were mentioned as the Substance Abuse Treatment and Therapy for mother which directly effects the child. It did mention Head Start for the child and his well-being in at least one.

The child and mother in the case were doing well at the close of our case. The courts fully supported the reunification.

I have shared these concerns in your letter with the 4 managers and one lead worker in our Child Welfare Division. Fortunately, most experienced workers do well with documentation and understand all the areas that need to be addressed at each home visit. We have several new workers which will be trained to these expectations, also.

The department has been working hard to train staff do a safety assessment in trails the first time they have contact with the children.

Very sincerely yours;

[Signature]

Jacque Frenier, Director
October 3, 2019

Dear Ms. Villafuerte,

We are providing this letter with the Colorado Department of Human Services Response to Complaint #2019-3622 regarding Morgan County Department of Human Services. Our office has reviewed this complaint along with Section 26-1-114 C.R.S. and Section 7.605.1.

Code of Colorado Regulation, 7.104.13 Conclusion Of Assessment - Timing, Findings, Services [Eff. 3/1/18]
7.104.131 Timing [Eff. 3/1/18] C, that The Colorado Family Safety Assessment tool shall be approved in the state automated case management system by a certified supervisor as soon as possible and no later than fourteen (14) calendar days from the date the alleged victim child(ren)/youth was interviewed or observed. Morgan County conducted the Family Safety Assessment tool on January 14, 2019 and the documentation was completed timely. However, after reading the safety assessment, it appears that the worker did not complete this tool with the family at the time of the removal. Morgan County acknowledged this concern in the response and the Division of Child Welfare (DCW) will connect with the county to assure they have the resources needed to address this concern.

Regarding the concerns of case contacts with both the caregiver and the child lacking in essential information and contacts not being documented monthly; this is a rule violation. DCW will be discussing these concerns with Morgan County and will provide guidance and resources to improve the quality, timeliness, and consistency of case contacts being documented in trails as it pertains to CCR 7.107.18., 7.107.3 and 7.107.14. Morgan County managers will also be overseeing this practice to ensure case contacts are addressing the safety, permanency, and well-being of children/youth in all case contacts.

The final rule violation concern is regarding substance abuse by a caregiver not being identified as a safety concern for the child. The reviews in the family services plan did address substance abuse and mental health compliance with the treatment plan, however, these reviews did not address all of the areas of concern that need to be addressed. Morgan County will be provided an updated 90-day review training and template that was developed by DCW to help guide workers when completing 90-day reviews.

The Division of Child Welfare will be providing information, training and other materials to Morgan County to assist. Morgan County has also implemented a process to monitor documentation and compliance with their managers and lead workers. DCW is in agreement with this plan and will oversee and continue to check-in and provide supervision and guidance as needed. Please let us know if you have any further concerns or questions.

Sincerely,

Kari Daggett, MSW
Interim Director Division of Child Welfare

Minna Castillo Cohen, Director
Stephanie Villafuerte
Child Protection Ombudsman Colorado
1300 Broadway Suite 340
Denver, CO 80209

Jared Polis, Governor  |  Michelle Barnes, Executive Director
Grievance/Inquiry Review Form

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

<table>
<thead>
<tr>
<th>Unit/Intermediary:</th>
<th>County: Morgan</th>
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</thead>
<tbody>
<tr>
<td>Date Assigned (by manager):</td>
<td>Due Date: 10/03/19</td>
</tr>
<tr>
<td>Complaint Number:</td>
<td>Complainant Role (Select from the following):</td>
</tr>
<tr>
<td>Comments:</td>
<td>___ Parent, Guardian, Legal Custodian</td>
</tr>
<tr>
<td></td>
<td>___ Office of Colorado’s Child Protection Ombudsman</td>
</tr>
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<td></td>
<td>___ Attorney</td>
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<tr>
<td></td>
<td>___ Other: Specify Role: _________________________</td>
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</tbody>
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The basis of grievance/inquiry (mark all that apply):

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

DCW assessment of county disposition of grievance/inquiry:

___ Agree with county disposition
___ Disagree with county disposition

DCW assessment of action/s taken by county:

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

Findings and Action/s taken by DCW:

___ DCW did not find a violation of federal/state statute and/or of the administrative rules; therefore, no further action will be taken by DCW.

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

Regarding the concern of case contact during the months of January 2019, February 2019 and March 2019 the contact had no information related to the safety, permanency or general well-being, the Division of Child Welfare will be discussing this concern with Morgan and provide resources for case contacts as pertains to CCR 7.107.18., 7.107.3 and 7.107.14 to prevent this from occurring in the future.

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

Technical assistance (TA) and/or guidance (i.e. date, actions, next steps etc.)

Please see letter attached.

Printed Name AND Signature of DCW County Intermediary

Printed Name AND Signature of DCW County Intermediary Supervisor

Printed Name AND Signature of DCW Unit Manager

_____ Date review form sent to county and client services
_____ (CPO Only) Date response sent