Office of Colorado’s Child Protection Ombudsman

LETTER OF COMPLIANCE CONCERN

Case Number 2019-3672

Stephanie Villafuerte,
Child Protection Ombudsman
September 10, 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 2019-3672

(Delivered July 26, 2019)
To: Mr. Nicholas Barela  
Conejos County Department of Social Services  
12989 County Rd. G.6  
Conejos, CO 81129

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

Date: July 26, 2019

Subject: Possible Compliance Concerns, CPO Case 2019-3672

Dear Director Barela,

On May 9, 2019, the Office of the Colorado’s Child Protection Ombudsman (CPO) was contacted by a father regarding the Conejos County Department of Social Services’ (CCDSS) handling of the referral involving his family. The CPO has reviewed the relevant Trails information involving the family. The CPO has identified areas in which the actions of CCDSS may not be in compliance with the guidelines found in Volume 7.

Case Summary

The referral was received on [redacted] by CCDSS. The report indicated that the father resided in the Denver area, while the mother and children lived in Conejos County. The report alleged that the mother of the children had been drinking and driving with the children in the car and had physically abused them. The referral was accepted for assessment and assigned a 5-working day response.

The county department was unable to locate the mother and children. There is no documentation to demonstrate that CCDSS made effort to contact the father of the children during this assessment. On December 21, 2018, CCDSS completed a court database check for both parents. The Trails documentation on this day lists each parent’s existing court history but does not identify that the mother had a new address in Alamosa County.

According to documentation on December 31, 2018, the CCDSS child welfare division was notified that the mother was receiving financial benefits in Alamosa County. The case note states that the assessment

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1 Trails: approved statewide case management system  
2 Code of Colorado Regulations, Social Services Rules, Volume 7  
3 See Trails Referral ID [redacted]
would be transferred to Alamosa County Department of Human Services to investigate the concerns. However, it was closed as “unable to locate” the same day.\(^4\)

**Volume 7 Regulations/Children’s Code Requirements**

Volume 7 and the Colorado Children’s Code collectively make up the minimum guiding principles and standards to which county human service departments are held in assessing and ensuring a child’s safety. The CPO finds the following rules as the most relevant in this case:

Volume 7, 7.104.1 (C)(2) states that assessments must include efforts to engage non-custodial parents.\(^5\) Additionally, Volume 7, 7.104.15 (B) requires county departments to notify the non-custodial parent of the outcome of an assessment.\(^6\)

Volume 7, 7.103.61 (A)(3) states that a referral which is given a 5-working day response time starts on the first business day and ends on the fifth. If the children cannot be located, documented attempts must occur every subsequent five business days.\(^7\)

**Identified Compliance Concerns**

In reviewing the relevant information involving the family, the CPO identified the following areas in the assessment that CCDSS may not have complied with the requirements of Volume 7. Specifically, the CPO observed that:

- There is no documentation that demonstrates efforts were made to contact the father of the children. On December 17, 2018, the assigned caseworker documented that they attempted to visit the mother, father and children at the mother’s home. However, it is clear from the referral narrative that the parents maintained separate households. Therefore, based on documentation there could not have been an attempt to contact the father on this date at the mother’s residence. There is also no documentation to suggest contacts with the father were made at any other time during this assessment. If accurate, this is a violation of contact requirements in Volume 7, 7.104.1 (C)(2) and 7.104.15 (B).

- During the assessment, CCDSS completed a court database check. The check indicates a new address for the mother. There are no documented attempts to contact the family at this

\(^4\) See Trails Referral Assessment, Findings and Assessment Closure and See Trails Referral 2918263, Assessment, Interview

\(^5\) See Volume 7, 7.104.1 (C)(2): “The assessment shall include, documentation of efforts to engage non-custodial parent(s); and other persons identified through the assessment who may have information regarding the alleged abuse and/or neglect.”

\(^6\) See Volume 7, 7.104.15 (B): “Regardless of the outcome of the assessment and as allowable by law, county departments shall notify and document in the state automated case management system:

1. The parent(s), guardian(s), custodian(s), or caregiver(s) of the alleged victim child(ren)/youth of the outcome of the assessments. Non-custodial parent(s) shall also be notified of the outcomes of the assessments unless
   a. Documentation supports efforts to locate the non-custodial parent were unsuccessful; or,
   b. Documentation supports that it is not in the best interests of the child(ren)/youth to give notice to the non-custodial parent.”

\(^7\) See Volume 7, 1.103.61 (A)(3): “A five (5) working day response is required when:

A. A referral indicates an absence of safety concerns.

B. The five (5) day count starts on the first business day following the receipt of a referral and expires at the end of the fifth business day at 11:59 PM following the receipt of the referral.

C. If the victim child(ren)/youth cannot be located within the initial timeframe, subsequent face to face contact attempts shall continue to be made within every subsequent five business days.”
address. The documentation contains one attempt made by CCDSS to contact the family at the original Conejos County address. If accurate, this is a violation of Volume 7, 7.103.61 (A)(3), as the county department should have attempted to contact the family every subsequent five-business days.

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 CCDSS response, the CPO will submit its original letter and CCDSS’ full response to the CDHS, which serves as the CCDSS 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 CCDSS response to the possible violations listed in this letter no later than August 16, 2019.

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

Sincerely,

Amanda Pennington

Child Protection Systems Analyst

Approved by:

Stephanie Villafuerte

Stephanie Villafuerte
Child Protection Ombudsman
Conejos County Department of Human Services

Response Letter

Case 2019-3672

(Delivered August 15, 2019)
August 15, 2019

RE: Possible Compliance Concerns, CPO Case 2019-3672

Dear Ms. Pennington:

I am writing in response to your letter, dated July 26, 2019. In it, you advise that the Office of Colorado’s Child Protection Ombudsman (CPO) was contacted by a father regarding the Conejos County Department of Social Services’ (the Department’s) handling of a referral involving the family. Because the CPO is conducting an investigation authorized by statute, the Department is authorized to disclose “records and reports” of “child abuse or neglect”. See C.R.S. § 19-1-307(2)(u).

The Department provides, first, background on the case; second, responses to the CPO’s concerns; and, finally, a conclusion.

Background

By way of background, this assessment lasted a total of 20 calendar days from start to finish. The Department received a referral on Tuesday, December 11, 2018. The referral contained extremely limited contact information. It provided, as relevant here, that:

- The father of the children (FOC) lived in Denver, Colorado. The referral does not give a street address or contact information (including a phone number) for FOC.
- The mother of the children (MOC) had also lived in Denver, Colorado. The referral does not give a street address for this prior residence.
- MOC had moved to La Jara, Colorado. The referral does not give a street address or contact information (including a phone number) for MOC.
- The children might attend La Jara Elementary.

Also on Tuesday, December 11, 2018, the Department screened the referral in for a five-working-day response. The five-day response only counts working days. Thus, the Department was obligated to respond by Tuesday, December 18, 2018.¹

¹The five business days would be: Wednesday (12/12); Thursday (12/13); Friday (12/14); and, skipping the weekend, Monday (12/17); and Tuesday (12/18).
On Monday, December 17, 2018, the Department attempted — without success — to make contact with the family. Before this attempt, the Department was able to find a street address for MOC by searching Colorado Courts Data Access. The search revealed a 2018 domestic relations case, and an address for MOC in La Jara, Colorado. Supervisor [redacted] went to this address in an attempt to contact the family.

Around this time, the Department did not have contact information for the FOC. If Supervisor [redacted] had made contact with the family, she would have requested contact information for FOC. At this early stage, the Department was focused on putting eyes on the Children.

Because the Department had attempted to contact the family on Monday, December 17, 2018, the Department did not need to make another attempt until five business days later — that is, until Monday, December 24, 2018.²

On Friday, December 21, 2018, the Department made a second attempt to contact the family. The Department noted: “A physical address was not provided for this family and CW [i.e., case worker] is unable to contact the school districts, to confirm the Children are in the schools reported in the referral, based on all schools being closed for the Christmas holiday.” On this date, the caseworker reviewed a copy of the school schedule to confirm that the school was closed. The caseworker does not recall whether she visited the school in this instance; it is her practice to visit the school; however, given the date, she may not have done so. The case worker investigated this option in hopes of being able to set up a face-to-face contact at the school. Also on December 21, 2018, the caseworker added the results of the Department’s routine checks. The checks of Data Access revealed several protection orders between FOC and MOC, and at least one conviction for FOC for violating a protection order. The Department was concerned that it might put the family at risk if it conveyed information to FOC about MOC’s location. The Department continued to prioritize face-to-face contact with the Children over engaging the FOC. Because the Department had attempted contact on Friday, December 21, 2018, the Department did not need to make another attempt until five business days later — that is, until Monday, December 31, 2018.³

On December 31, 2018, the Department identified another residence for the family in a separate county (Alamosa County); found that the family was receiving benefits in that county; found that there was an open assessment in that county; and closed the assessment.⁴

After the assessment was closed, the CPO sent a letter raising three concerns about compliance with Volume 7. The Department, respectfully, suggests that its actions complied with Volume 7.

² The five business days would be: Tuesday (12/18); Wednesday (12/19); Thursday (12/20); Friday (12/21); and, skipping the weekend, Monday (12/24).

³ The five business days would be: Monday (12/24); and, skipping Christmas, Wednesday (12/26); Thursday (12/27); Friday (12/28); and, skipping the weekend (12/31).

⁴ Referral [redacted]. This referral was received on 12/23/2018 and accepted for assessment in Alamosa County.
Responses to the CPO’s Concerns

1. The CPO’s had concerns about efforts to engage FOC and notify him of the outcome.

The CPO expressed concern that “[t]here is no documentation that demonstrates efforts were made to contact the father of the Children.” The CPO cited Volume 7, 7.104.1(c)(2) and 7.104.15(B), which provide:

7.104.1(c)(2): “The assessment shall include . . . 2. Documentation of efforts to engage non-custodial parent(s) . . . .”

7.104.15(B)(1): “Regardless of the outcome of the assessment and as allowable by law, county departments shall notify and document in the state automated case management system: 1. The parent(s), guardian(s), custodian(s), or caregiver(s) of the alleged victim child(ren)/youth of the outcome of the assessments. Non-custodial parent(s) shall also be notified of the outcomes of the assessments unless: a. Documentation supports efforts to locate the non-custodial parent were unsuccessful; or, b. Documentation supports that it is not in the best interests of the child(ren)/youth to give notice to the non-custodial parent.”

This assessment lasted a total of 20 calendar days from start to finish. During this time, the Department prioritized efforts to make face-to-face contact with the children. The Department also had almost no contact information for the FOC. The Department would have, if the assessment had lasted longer, sought contact information from the MOC and the family.

The Department’s limited efforts to locate the FOC was unsuccessful.

In addition, the Department was concerned about conveying information to the FOC in light of cases that raise concerns about domestic violence between the FOC and MOC. The Department determined that it was not in the Children’s best interests to provide notification to FOC.

2. The CPO had concerns about a new, potential address for MOC.

The CPO expressed concern that the Department found a new, potential address for the MOC, but “[t]here are no documented attempts to contact the family at this new address.” The CPO did not cite a provision of Volume 7 as to this specific concern. The CPO appears to be referring to the address in another county (Alamosa County). When the Department discovered this address, the Department also discovered an ongoing assessment in this county. The Department contends that, at this point, it was appropriate to close its case and let Alamosa County continue with its assessment. It would not have made sense to have two counties conducting the same assessment.
3. The CPO had concerns about the number of attempts to contact the family.

The CPO expressed concern that the Department’s documentation “contains one attempt made by [the Department] to contact the family at the original Conejos County address.” In this regard, the CPO cited Volume 7, 7.103.60(A)(3),\(^5\) which provides:

A five (5) working day response is required when:

a. A referral indicates an absence of safety concerns.

b. The five (5) day count starts on the first business day following the receipt of a referral and expires at the end of the fifth business day at 11:59 PM following the receipt of the referral.

c. If the victim child(ren)/youth or child/youth in conflict cannot be located within the initial timeframe, subsequent face to face contact attempts shall continue to be made within every subsequent five business days.

Here, the Department fully complied with this rule, attempting contact at least every five business days, to wit: The Department screened the referral in on Tuesday, December 11, 2018. Therefore, the Department had until Tuesday, December 18, 2018, to respond. The Department attempted to contact the family on December 17, 2018, and documented this attempt. Thereafter, the Department had until December 24, 2018 to make another attempt. The Department again attempted to contact the family on December 21, 2018, and documented the attempt. At that point, the Department had until December 31, 2018 to make another attempt. On December 31, 2018, the Department determined that another county was assessing the same family and the same allegations. Therefore, the Department closed its case.

**Conclusion**

The Department respectfully submits that its actions complied with Volume 7.

DATED: 8/5/19.

Conejos County Department of Social Services

By: ___________

Nicholas Barela, Director

By: ___________

Michelle Ferrera, Supervisor

\(^5\)The letter refers to Volume 7, 7.103.61(A)(3) and 1.103.61. However, the language quoted in footnote seven comes from Volume 7, 7.103.60(A)(3).
September 6, 2019

Dear Ms. Villafuerte,

I write this letter as a supplement to the Colorado Department of Human Services Response to CPS Complaint 2019-3672 regarding Conejos County Department of Social Services. Our office has reviewed this complaint, the county’s response, and relevant sections of Colorado Regulations (Volume 7).

The Office of the Child Protection Ombudsman (CPO) identified two potential compliance concerns with regard to this case. Among these concerns, the CPO identified potential compliance violations with regard to diligent efforts to locate and contact the family every five working days until the assessment could be completed. As outlined in the county’s response to this concern, the documentation for the case does demonstrate renewed attempts to contact the family every five working days from the time the referral was received. However, the documentation of these attempts is minimal, and the Division of Child Welfare (DCW) intends to provide technical support to the county to ensure that documentation includes more thorough information regarding when, where, and how the department attempted to contact the family with each failed attempt at contact.

The other point of concern identified by the CPO in review of the case concerned the county’s failure to engage the non-custodial parent in the assessment and failure to inform the non-custodial parent of the outcome of the assessment. However, in our review of the case we determined that the Conejos County’s errors were related to a failure to follow appropriate procedures for transfer of jurisdiction after determining that the family was living in Alamosa County. If the county had successfully transferred the assessment to Alamosa, Alamosa would have been responsible for engaging the non-custodial parent in assessment and informing the non-custodial parent of the outcome of the assessment, per 12 CCR 2509-2, 7.104.1(C)(2) and 7.104.15(B).

After reviewing the case documentation, DCW has determined that the county failed to comply with rule regarding transfer of jurisdiction. As the CPO noted in the case review, despite the fact that Conejos County was able to locate this family in Alamosa County, the assessment was closed and the reason given was inability to locate the family. Procedures for transfer of jurisdiction of an assessment are outlined in 12 CCR 2509-2, 7.103.11. Had the county followed these procedures, the assessment would not have been closed in this way, and there would have been no need for Conejos County to engage the non-custodial parent or inform required parties of the assessment outcome.

Documentation of information and communication with Alamosa County, as outlined in this section of Volume 7, was not completed by Conejos County.
DCW Staff are preparing to address these violations with Conejos County, including supporting plans to improve documentation of assessment details in Trails and reviewing procedures for transfer of jurisdiction per Volume 7. The Division of Child Welfare is in agreement that the county’s actions were not aligned with Volume 7 with regard to this assessment, and we feel confident that the county can correct these issues with technical assistance. We will continue to support and monitor the county’s improvement in this area. Please let us know if you have any further concerns or questions.

Sincerely,

Kari Daggett, MSW
Interim Director
Division of Child Welfare
Grievance/Inquiry Review Form
[To be completed by the assigned Division of Child Welfare (DCW) County Intermediary]

<table>
<thead>
<tr>
<th>Unit/Intermediary: Youth Services/S. Garrett</th>
<th>County: Conejos</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Assigned (by manager): 8/15/19</td>
<td>Due Date: 9/6/19</td>
</tr>
<tr>
<td>Complaint Number: CPO 2019-3672</td>
<td>Complainant Role (Select from the following):</td>
</tr>
<tr>
<td>Comments: ________________________________</td>
<td>___ Parent, Guardian, Legal Custodian</td>
</tr>
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<td></td>
<td>x Office of Colorado’s Child Protection Ombudsman</td>
</tr>
<tr>
<td></td>
<td>___ Attorney</td>
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<tr>
<td></td>
<td>___ Other: Specify Role: _____________________</td>
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The basis of grievance/inquiry (mark all that apply):
___ Federal/State Statutory violation
x ___ Administrative rule violation
___ Other county practice, policy, procedure, etc. (specify): ___________________________________

DCW assessment of county disposition of grievance/inquiry:
___ Agree with county disposition
x ___ Disagree with county disposition

DCW assessment of action/s taken by county:
___ Agree with action/s taken by county
x ___ Disagree with action/s taken by county

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.
x ___ DCW found the following violation federal/state statute and/or of the administrative rules:
___ DCW found concerns with county practice, policy, procedure, etc.; specify:

 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.):

DCW staff will provide technical assistance to the county to improve county practice around transfer of jurisdiction and thorough documentation of case details in Trails.

Other(specify):

Samantha Garrett
Printed Name AND Signature of DCW County Intermediary

Digitally signed by Samantha Garrett
Date: 2019.08.23 15:25:24 -06'00'

Printed Name AND Signature of DCW County Intermediary Supervisor
Kristin Melton
Digitally signed by Kristin Melton
Date: 2019.08.23 16:37:15 -06'00'

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