Office of Colorado’s Child Protection Ombudsman

LETTER OF COMPLIANCE CONCERN

Case Number 2019-3700

Stephanie Villafuerte,
Child Protection Ombudsman
September 6, 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 2019-3700

(Delivered July 26, 2019)
To: Mr. Dan Makelky  
Douglas County Department of Human Services  
4400 Castleton Court  
Castle Rock, CO 80109

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 2019-3700

Dear Director Makelky,

On May 24, 2019, the Office of Colorado’s Child Protection Ombudsman (CPO) received an inquiry from a mother involved in a Douglas County Department of Human Services (DCDHS) child welfare case. The mother expressed concerns that a lack of communication between her and the caseworker is delaying reunification with her three children. The CPO has reviewed the relevant case information in Trails. The CPO has identified areas in which the actions of DCDHS may not be in compliance with the requirements of Volume 7.

Case Summary

DCDHS received a referral on regarding concerns that three children were living in an unsafe home and were being neglected. The assessment was completed and closed as founded on The children were removed from the home and a case was opened to provide services to the family. The parents separated as a result of ongoing domestic violence. In March 2019, reunification was discussed, and the mother expressed concerns regarding her ability to provide for the children on her own. At this time, the visits with her children went from unsupervised to supervised. The case remains open and the children continue to be in foster care placements.

Volume 7 Regulation/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:

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1 Trails: accepted statewide case management system  
2 Code of Colorado Regulators, Social Services Rules, Volume 7  
3 See Trails Case ID: , Findings
Volume 7, 7.107.11 (A) requires the Colorado Family Safety Assessment to be completed at the time of initial response with household members.4

Volume 7, 7.202.1 (F)(1)(2) outlines the minimum requirements that county departments must follow when contacting parents. It requires contact with the parents at least monthly. Every other month, the contact must be face-to-face.5

Volume 7, 7.301.3 (E) states that the Family Service Plan is required to be reviewed every 90 days to determine whether the child, parents, family members and placement providers, if applicable, are receiving the services mandated by the Family Service Plan. Additionally, it requires that services be appropriate, time frames remain current, and progress is being made towards the specific objectives identified in the plan.6

**Identified Compliance Concerns**

The CPO has reviewed the assessment and case in Trails, relevant court documentation and Volume 7. The CPO identified several areas of concern in which DCDHS may not be in compliance with Volume 7 requirements. Specifically, the CPO observed that:

- The Colorado Family Safety Assessment should have been completed on February 16, 2019, at the initial contact with the family. It was completed on March 5, 2019 but was documented with a contact date of March 16, 2019 at midnight.7 If accurate, this is a violation of Volume 7, 7.107.11.

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4 See Volume 7, 7.107.11 (A): “The Colorado Family Safety Assessment shall be completed: A. At the time of initial response with household members.”

5 See Volume 7, 7.202.1 (F) (1)(2): “The primary purpose for case contacts shall be to assure child safety and well-being and move the case toward achieving identified treatment goals. Documentation in the state automated case management system of at least one monthly contact shall summarize progress toward these goals. In child protection cases in which the children or youth remain in the home and in child protection cases in which the children or youth are placed out of the home, the county department shall have face-to-face and telephone contact with the children or youth and parents and relevant collateral contacts as often as needed (while meeting the minimum expectations below) to reasonably attempt to assure the safety, permanency and well-being of the children. 1. A face-to-face contact with a parent, or the guardian to whom the child or youth shall return, or with a child or youth is defined as an in-person contact for the purpose of observation, conversation, intervention or interview about substantive case issues, such as safety, risk and needs assessment, safety and treatment planning that may help to reduce future risk of abuse and neglect, service agreement development and/or progress. 2. The primary purposes for contacts with parents are to assess the parent(s) ability to provide safely for the child or youth and make progress toward treatment plan goals. When a child protection case remains open with the county department, the county department shall maintain sufficient contact with parents or the guardian with whom the child or youth resides, or to whom the child or youth shall return, to lead to timely resolution of child safety issues and to move the case toward timely resolution of treatment plan goals. Such contact shall occur at least monthly and at least every other month there shall be face-to-face contact. Such contacts shall occur with parents at least until a motion for termination of parental rights is filed, in cases in which the child is not living in the home or in which it is no longer planned that the child will return home.”

6 See Volume 7, 7.301.3 (E): “E. The family services plan shall be reviewed in conference with the caseworker and the supervisor.

Documentation by the caseworker and approval by the supervisor shall be entered in the state automated case management system within 90 calendar days from the initial treatment plan and then within 90 calendar days from the prior review and thereafter. The court report, when entered in the state automated case management system, or six-month administrative review of children in out of home placement, may substitute for a 90-day review. The conference shall address: 1. The Safety needs of the child to include: if a new referral was received how it was managed, and if a new assessment was completed a summary of the outcome; 2. The appropriateness of the child’s current residence and how it meets the child’s needs; 3. Whether the child, parents, family members and placement providers if applicable, are receiving the specific services mandated by the family services plan, and services are appropriate, time frames are current and progress is being made towards the specific objectives identified in the plan; 4. Identification of the barriers hindering the progress and how they are being addressed. What strengths are being used to mitigate barriers; 5. Appropriateness of the child’s permanency goal, time frames to achieve permanency and efforts to finalize a permanent plan; 6. Summary of initial and ongoing family search and engagement efforts and steps taken to develop ongoing supports. These efforts shall continue per section 7.304.52, C. 1-4.”

7 See Trails Case ID: [redacted], Assessments, Safety
• The documentation available in Trails does not demonstrate that the Volume 7 requirements were met for monthly parent contacts. There is no documentation showing an attempt to make face-to-face or phone contact with either parent in May 2019. The contact for June 2019 does not demonstrate a conversation that would address any progress or services with either parent. If accurate, this is a violation of Volume 7, 7.202.1 (F) (1)(2). The Administrative Review Division (ARD) reviewed this case in October 2018 and May 2019. The ARD review noted the same concern for monthly parent contact, at each review.

• Documentation in Trails does not fully review the services that the family are required to participate in and complete. Additionally, domestic violence has been a concern for the last 18 months but was not included in the assessment. The DCDHS did not require the parents to begin a domestic violence evaluation until June 2019, which has the potential to delay reunification with the children. If accurate, this is a violation of Volume 7, 7.301.3.

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 DCDHS response, the CPO will submit its original letter and DCDHS’ full response to the CDHS, which serves as the DCDHS 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 DCDHS 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

Amanda Pennington

Child Protection Systems Analyst
Douglas County Department of Human Services

Response Letter
Case 2019-3700
(Delivered August 12, 2019)
August 12, 2019

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

RE: Possible Compliance Concerns, CPO Case 2019-3700

Dear Ms. Pennington,

This letter is in response to a complaint filed with your office regarding Trails Case # and your subsequent review of the case outlined in your letter, dated July 26, 2019. In your letter you outline three areas of concern. While this letter will address each area that you outlined, it is not clear how all three of these concerns are related to the client’s complaint.

Regarding the safety assessment in referral #. The initial family contact occurred on February 16, 2019, which was in compliance with the 3-calendar day response. No current or impending danger was identified at that time, therefore according to 7.107.11 the caseworker had 14 calendar days to complete the safety assessment tool. The tool should have been submitted and approved no later than March 2, 2019. The worker was 3 days late submitting and indicated the incorrect date (likely a typo) of initial client contact. Caseworker documented March 16, 2018 as initial contact; however, it was clear that she saw mother and the children on February 16, 2018. These documentation errors however do not impact the current concern of reunification. Regarding the domestic violence concerns. Those were not identified until after case transfer. The original assessment did not identify DV concerns.

The second area of concern is documentation regarding parent contacts, specifically that there is no documentation showing contact or attempts in May 2019 or that the contact for June 2019 includes discussion of progress or services. The mother attended an Administrative Review (ARD) held on May 22, 2019. The face to face contact note for this meeting was entered in Trails on July 30, 2019. During this review, progress on the mother’s treatment plan was discussed. The father was out of state during the month of May 2019 due to job training. Contact was not made with him in May. The contact with both parents in June occurred during a case management conference (June 18, 2019). This meeting did include discussion of the parents’ treatment plans, specifically progress and status regarding their visits, the father’s work status/progress, and the domestic violence evaluation.

Additionally, your letter states that both ARD Reviews noted concerns for parent contact. The monthly contact requirements with parents was changed in 2017 to monthly face to face contact instead of every other month, per 7.202.1 (F) (1) (2). The October 2018 ARD Review noted that the caseworker did not see the mother face to face in August and September. However, it was noted that telephone contact did occur both months on several occasions. There was extensive discussion in
those phone calls as well as in an email to the mother regarding her progress on the treatment plan. Contact with the father was also missed in September and the reviewer noted there was phone contact with him that month. The May 2019 ARD Review found that there was no face to face contact with the mother in November. There is telephone contact documented with the mother that does talk about the status of her mental health. The review also found that there was no face to face contact with the father in December and February. There was telephone and texting contact with the father in December that discussed visitation and parenting. There was also telephone contact with the father on two occasions in February that addressed visits and the father’s living situation as he was working in Wyoming at the time, both are components of his treatment plan. While the caseworker has missed a few months of face to face contact with the parents, there has only been one month that she missed contact with the father. The caseworker has maintained contact with the mother every month throughout this case.

The third area of concern is regarding Trails documentation not fully reviewing services that the family is required to participate in. This includes the domestic violence evaluation not being required for the father until June 2019 and the potential to delay reunification. There have been timely 90-day reviews throughout this case that have reviewed progress on services required by the treatment plan. Both ARD Reviews found that these 90-day reviews were in compliance with rule and were not missing any required components or that they did not address treatment plan progress.

Regarding the domestic violence evaluation, as noted previously, the domestic violence issues were not known to the Department at the time of the assessment; therefore having not been known for the last 18-months. The domestic violence issues were not known until after the Court adopted the treatment plans, May 21, 2018 for the mother and June 4, 2018 for the father. Nevertheless, the father’s treatment plan should have been amended to include the domestic violence evaluation sooner than June 2019. However, not amending the treatment plan has not delayed reunification. There have been several other issues that have been barriers to reunification to include the father’s inconsistency with visits, the father not maintaining stable employment to include working and training in two different states, the father also indicated he wanted to move to Wyoming earlier this year and then changed his mind. The father was also in a relationship and living with another woman during the case with a concerning criminal and Trails background. The father’s girlfriend was not cooperative in working with the Department to address her background.

While these issues were being addressed with the father, the mother struggled with her mental health, being able to parent the children and addressing their needs during visits and with financial stability. There have been two attempts to return two of the children home, with the mother and each time she questioned if she could manage the return home. At a court review on April 8, 2019, the mother reported she was not ready for the kids to return home. At this hearing, the father was still living with his girlfriend. On April 26, 2019, at a Family Partnership Meeting, the parents reported they were back together, and they were going to move into an apartment together in June (they had not been together in a relationship since early on in the case). The father was training in Texas for a new job at the time. It was agreed upon at this meeting that the parents could start doing supervised visits together and their visits would continue to just be monitored when they are not together. On June 18, 2019, the domestic violence evaluation was brought up at the Case Management Conference to ensure the past domestic violence concerns are being addressed due to the parents continuing to remain in their relationship. The father agreed to completing the evaluation and his treatment plan was amended and adopted by the Court on July 22, 2019. A family
partnership meeting was held on July 25, 2019. At this meeting it was reported that the parents had moved in together, the father’s domestic violence evaluation was scheduled, the parents are financially stable, the father completed mental health services and the mother continues in hers, the parents are addressing healthy communication in family counseling and that the parenting of the children and addressing their significant needs is improving. It was agreed one of the children would start having overnights with the parents on August 2, 2019. It was also agreed a reunification staffing would be set up to discuss next steps to reunification. The case is currently progressing towards reunification.

Thank you and please let me know if you need further clarification in addressing the issues relevant in the current case regarding the complaint.

Sincerely,

Ruby Richards
Deputy Director
Colorado Department of Human Services

Response Letter

Case 2019-3700

(Delivered September 4, 2019)
September 4, 2019

Dear Ms. Villafuerte,

I hope you are well. We are providing this letter with the Colorado Department of Human Services Response to Complaint # 2019-3700 regarding Douglas County Department of Human Services. Our office has reviewed this complaint along with Sections 7.107.11.A (12 CCR 2509-2), 7.202.F.1-2 (12 CCR 2509-3), and 7.301.3.E (12 CCR 2509-4).

Section 7.107.11 addresses the parameters for use of the Colorado Family Safety Assessment. The referral was assigned a three calendar day response following a Red Team decision documented in the Comprehensive Child Welfare Information System (CCWIS), determining there was no current harm. Section 7.107.11.D allows a 14 day time frame for completion of the safety assessment. This was not an administrative rule violation. The county department acknowledged that the assessment was submitted three days late, which was a violation of administrative rule.

An incorrect date was entered for the initial contact with the family following the February 13, 2019 referral. The date was identified as March 16, 2018 in the safety assessment. A review of the CCWIS shows that initial contact occurred on February 16, 2018, which was within the three day response required. There was no violation of administrative rule. This was a data entry error in the CCWIS. The county department acknowledged the error.

Section 7.202.F.1-2 addresses monthly contact in child protection cases. The report issued by the Child Protection Ombudsman (CPO) indicated that in an October 2018 administrative review, a concern was noted that face to face contact did not occur. A review of the record shows that the administrative reviewer indicated that documentation of face to face contact did not occur for certain months for the parents. The reviewer also indicated that telephone contact with the parents was documented in the record for those months. Until December 2018, the contact rule was as follows: While a child or youth remains in out-of-home placement, the county department shall have at least monthly contact with the parent, parent surrogate or guardian, with face-to-face contact occurring at least every other month. There was no administrative rule violation.

The CPO report indicated that face to face contact did not occur with either parent in May 2019 and there was no documentation of telephone contact. The rule does not require telephone contact. It should be
noted that in April 2019, Section 7.202.F was revised to clarify monthly parent engagement and a requirement to document the reason a face to face contact did not occur. A review of the CCWIS indicates that an administrative review was held on May 22, 2019. An invitation to the review was sent to both parents on May 3, 2019. One of the parents did not appear in person or by telephone. The parent was out of state and enrolled in vocational training. The other parent was in attendance. Discussion about the progress of the treatment plan was documented. The county department acknowledged that the May contact with the parent who was out of state was missed. This was a violation of administrative rule.

There is also documentation that on May 15, 2019, the caseworker had contact via email and requested feedback from both parents by email, regarding decision-making for the educational program for one of the children. While this does not constitute face to face contact, it does show an attempt by the county department to engage the parents in treatment planning. There was no administrative rule violation regarding the parent who was out of state for vocational training. The parent was there on his/her own volition and chose not to, or could not participate in the administrative review. There was no administrative rule violation for the other parent.

Section 7.301.3.E addresses family service plan (FSP) reviews and updates. Ninety day reviews were completed timely. It is unclear which services the CPO believed were not identified for the family. Domestic violence was not revealed until the treatment plan was established on May 21, 2018. Within a short time, there were legal interventions initiated by a parent to self-protect, which ultimately led to dissolution of the marriage. The county department believed this mitigated the issue. The county department believed that based on the parents’ statements and actions, neither parent had any intention of resuming the relationship.

One of the parents was engaged in a relationship and living with another person. In January 2019, this individual was included as a Special Respondent. The FSP was not updated to indicate this, however the relationship ended shortly thereafter as evidenced in documentation in the CCWIS. The parents reported in a Family Partnership Meeting held on April 26, their intention to get an apartment together in June 2019, when one of the parents returns permanently to the state following vocational training.

In a June 18, 2018 case management conference the county department identified that a referral for a domestic violence evaluation would be initiated. This was incorporated into the FSP as an objective for the parent in the treatment plan on July 22, 2019. The county department acknowledged that the referral for domestic violence services should have been initiated sooner.

Throughout the case, nine facilitated Family Partnership Meetings and a variety of services continued intensively for both parents, all with the goal of working towards reunification.

Douglas County DHS acknowledged missing a safety assessment timeline, a face to face contact, and that services for domestic violence should have been provided more quickly. DCW staff will follow up with Douglas County DHS to determine the steps taken to monitor the timeliness of safety assessments and monthly face to face contacts, as well as steps provided to clarify these practice areas with staff.

The Division of Child Welfare 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