Office of Colorado’s Child Protection Ombudsman

LETTER OF COMPLIANCE CONCERN

Case Number 2019-3758

Stephanie Villafuerte,
Child Protection Ombudsman
October 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 2019 - 3774

(Delivered August 27, 2019)
To: Ms. Catherine Salazar  
Alamosa County Department of Human Services  
8900 Independence Way, Building C  
Alamosa, CO 81101

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

Date: August 27, 2019

Subject: Possible Compliance Concerns, CPO Case 2019-3758

Dear Director Salazar,

On July 1, 2019, the Office of Colorado’s Child Protection Ombudsman (CPO) was contacted by a mother regarding the handling of her Alamosa County Department of Human Services (ACDHS) child welfare case. The mother expressed concerns that the county was not communicating thoroughly or frequently enough or providing timely services in order to be reunified with her children. She also stated that she had relapsed into substance use and believes it was due to the ACDHS’ failure to provide her with timely mental health/substance use treatment. The mother is concerned that after 12 months, the family has not been reunified and the ACDHS will terminate her parental rights even though she requested services. The CPO has reviewed the relevant Trails information regarding the family.1 The CPO has identified several areas in which the actions of ACDHS may not be in compliance with the assessment and ongoing case requirements in Volume 7.2

Case Summary

On [redacted], the ACDHS received a letter concerning child safety concerns. The contents of the letter are unknown to the CPO as it was not entered into Trails by ACDHS. The referral was reviewed on July 27, 2018 and the framework indicates that the letter was temporarily misplaced in a mailbox and not found until July 26, 2018. The framework from the July 27, 2018 review indicated concerns that the mother and the children were kicked out their housing and were staying with a grandmother. Additionally, the mother was using drugs, and one of the children was having a difficult time coping after witnessing a death.3 The referral was assigned a five-working day response and the assessment was founded for neglect.4

---

1 Trails is the statewide case management system.  
2 Code of Colorado Regulations, Social Services Rules, Volume 7  
3 See Trails Referral ID: [redacted]; Referral and Framework  
4 See Trails Referral ID: [redacted]; Referral Acceptance and Findings
On [redacted], a report was made to ACDHS alleging that a father to one of the children had physically abused his son. The referral was reviewed and assigned a five-working day response. The assessment was closed as inconclusive for physical abuse.

On [redacted], the children were removed from their parents’ custody and placed with a relative. A Dependency and Neglect court action was filed, and an ongoing child welfare case was opened to provide services to the family.

In October 2018, ACDHS created a treatment plan to help mitigate the concerns that led to the children being removed. Initially, the mother’s treatment plan included three objectives: be sober, provide a safe and stable home along with legal means of income and consistently visit with the children. In February 2019, an additional objective was added requiring the mother to attend therapy to help maintain a “healthy lifestyle,” the plan indicated that this therapy should begin as inpatient and transition to outpatient. During a conversation with the mother, she stated that she had completed a mental health/substance abuse evaluation and was not recommended for ongoing substance abuse treatment due to her sobriety at the time.

On December 13, 2018, a 90-day review indicated that the mother’s supervised visitation was occurring, and that the permanency goal remained reunification of the children with their mother. The review identified the mother’s missing drug tests as a barrier to reunification. Documentation shows that the mother had informed her caseworker in October of 2018, that she had stopped receiving calls for drug testing. At this time the caseworker entered a new service referral following notification that she had not been receiving calls.

On April 15, 2019, a 90-day review indicated that the mother had “recently turned herself around” and had been providing negative drug tests. Additionally, the review states that the mother may be able to complete her “treatment plan in six months.” The caseworker noted that “family therapy would be needed to help support reunification” and identified two sources for this service. At this time, the permanency target date was listed as August 30, 2019. The review states that “time tables are still appropriate for the children to return home.”

On June 20, 2019, a contact note in Trails indicated that the some of the children would be returning to the mother’s care in the near future. The mother reported that she wished to be enrolled in counseling and that her anxiety levels had risen as the family approached reunification. The note states that the caseworker indicated that a referral would be submitted, and the mother could begin counseling.

The mother recalls her original request for therapeutic support being made to the caseworker’s supervisor in a face-to-face conversation in May 2019. The mother explained that as reunification approached, she became aware of triggers that jeopardized her sobriety. She requested services again during the case’s Administrative Review on June 20, 2019. Services were authorized on June 21, 2019.

---

5 See Trails Referral ID: [redacted], Referral Acceptance
6 See Trails Referral ID: [redacted], IART and Findings
7 See Trails Case ID: [redacted], Removal and Placements
8 See Trails Referral ID: [redacted], IART
9 See Trails Case ID: [redacted], FSP
10 See Trails Case ID: [redacted], 90 Day Review
11 See Trails Case ID: [redacted], Contacts
12 Per email authored by ACDHS to the CPO on August 8, 2019
According to the mother, she relapsed in early June 2019.\textsuperscript{13}

As of August 21, 2019, the CPO noted the last documented communication with the mother was June 26, 2019.\textsuperscript{14} Based on the mother’s recount of a recent conversation with ACDHS, she believes the county department will be pursuing a termination of her parental rights.

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

Volume 7 and the Colorado Children’s Code contain the guiding principles and standards to which county human services departments are held in assessing and ensuring a child’s safety. The CPO finds that the following rules are the most relevant to the identified compliance concerns:

\textbf{C.R.S. §19-3-308 (1)(a)} states that “the county department shall respond immediately upon receipt of any report of a known or suspected incident of intrafamilial abuse or neglect to assess the abuse involved and the appropriate response to the report. The assessment shall be in accordance with rules adopted by the state board of social services to determine the risk of harm to such child and the appropriate response to such risks.”

\textbf{Volume 7, 7.103.61 (A)(3)} requires county departments to assign the appropriate response time for assessments based upon the date the referral is received using the following criteria. Specifically, a five-working day response is required when a referral indicates an absence of safety concerns; the five day count starts on the first business day following the receipt of a referral; and 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.

\textbf{Volume 7, 7.104.1} requires that the assessment shall begin as soon as reasonably possible according to the assigned response time. The assessment must include face-to-face interviews or observation of the alleged victims and the interviews must relate information relevant to the allegations and safety concerns. If the child does not have the ability to be interviewed, then there must be documentation addressing this. Additionally, when children are unable to be interviewed within the assigned response time, caseworkers shall document interviews with household members and collaterals to determine whether the children are safe or in current or impending danger. Documentation shall support why the children were unable to be interviewed.

\textbf{Volume 7, 7.107.23} requires that county departments utilize the Colorado Family Risk Assessment Tool. If the risk assessment is high, the county department must document reasonable efforts to hold a family engagement meeting to discuss next steps for the family.

\textbf{Volume 7, 7.204} sets specific requirements for monthly case contact to assure child safety and well-being along with moving the case forward and achieving treatment goals. Volume 7.204 (B) states that children placed in out-of-home placement, must be seen face-to-face every month to assure child safety and well-being. In the first 30 days of placement, the caseworker must see the child twice; one of those must occur in the placement. After the first 30 days, monthly contact must be in placement at least every other month. 7.204 (D) states that while children remain in out-of-home placement, the county

\textsuperscript{13} Per telephone conversation between the CPO and mother on July 16, 2019

\textsuperscript{14} See Trails Case ID: [Redacted]. Contacts
must have at least monthly face-to-face contact with the parents and intended permanent caregiver to the children.

**Identified Compliance Concerns**

The CPO has reviewed the assessments and case in Trails along with relevant rule packages and sections of Volume 7 and Colorado Children’s Code. The CPO found several areas in which the ACDHS may not be in compliance with state regulations. Specifically, the CPO observed:

1. The two referrals during this case were each assigned a five-working day response time. The referral received on [redacted] was due for response by [redacted]. ACDHS did not document efforts to respond prior to July 30, 2018, which was noted as a failed attempt. Subsequent attempts to see the family every five-working days is not documented.15 If accurate, this is a violation of Volume 7, 7.103.61 (A)(3) and Colorado Children’s Code, C.R.S. §19-3-308 (1)(a).

2. The referral received on [redacted] was due for response by August 29, 2018. ACDHS made contact with the father the following day but did not document efforts to interview the child until September 13, 2018.16 If accurate, this is a violation of Volume 7, 7.103.61 (A)(3) and Colorado Children’s Code, C.R.S. §19-3-308 (1)(a).

3. The assessment began on [redacted]. The ACDHS was required to interview the children regarding the allegations of the referral, determine functioning, and assess for safety during the assessment. There is one attempt to contact the children on July 30, 2018. ACDHS made contact with the children and removed them from their parental custody on August 30, 2018. Documentation states that the caseworker saw the children at the relative’s home and “did not have any concerns for them staying with” the relative.17 Efforts were not made to interview the children until September 6, 2018 and September 13, 2018. If accurate, this is a violation of Volume 7, 7.104.1.

4. On August 30, 2018 the Colorado Family Risk Assessment Tool was completed and the family scored as high. There are no documented attempts to hold family engagement meetings at any time during the assessments or during the case. If accurate, this is a violation of 7.107.23.

5. The documentation demonstrates that ACDHS has not had required monthly contacts with the children. In January and February 2019, four of the five children were not contacted. The youngest child does not appear to have been seen by ACDHS during the months of September and October 2018, and not seen in placement until December 2018 and was not seen in February 2019.18 If accurate, this is a violation of Volume 7, 7.204 (B).

---

15 See Trails Referral ID: [redacted], Contacts
16 See Trails Referral ID: [redacted], Contacts
17 See Trails Case ID: [redacted], Contacts
18 See Trails Case ID: [redacted], Contacts
6. The documentation demonstrates that ACDHS has not had required monthly contact with the mother of the children. There is no documentation regarding efforts made to face-to-face contact with the mother during the months of October 2018, January 2019, February 2019, April 2019, and July 2019. If accurate, this is a violation of Volume 7, 7.204 (D).

The Administrative Review Division identified monthly contact concerns on January 15, 2019 and again on June 20, 2019.

On July 26, 2019, the CPO contacted ACDHS in an effort to discuss the concerns. ACDHS responded on August 8, 2019 and reported that there had been a conversation between a supervisor and the mother that had not been entered into Trails. The supervisor does not recall the date of the conversation but acknowledged that the mother requested therapy in order to address mental health concerns. The supervisor indicated that they would provide the request to the caseworker.

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 ACDHS response, the CPO will submit its original letter and ACDHS’ full response to the CDHS, which serves as the ACDHS’ 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 ACDHS response to the possible violations listed in this letter no later than September 18, 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

---

19 See Trails Case ID: , Contacts
20 See Trails Case ID , Review
21 Per Email from ACDHS to CPO on August 8, 2019
Approved by:

Stephanie Villafuerte

Stephanie Villafuerte
Child Protection Ombudsman
Alamosa County Department of Human Services

Response Letter

Case 2019-3758

(Delivered September 18, 2019)
September 18, 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 2019-3758

Dear Ms. Pennington,

Please accept this letter as a response from Alamosa County Department of Human Services regarding the Ombudsman Letter of Compliance Concern, CPO Case 2019-3758.

For each of the six identified compliance concerns we have provided a response below.

1. **Two referrals during case assigned a five-working day response time.** Referral received July 16, 2018 was due for response by July 23, 2018. ACDHS did not document efforts to respond prior to July 30, 2018, which was noted as a failed attempt. The July 16, 2018 referral was made through interoffice communication on paper by an ACDHS staff person. The written referral was placed in Deputy Director Laurie Rivera’s in office mail box. Ms. Rivera was out of the office on approved personal time from July 16, 2018 and returning July 26, 2018. During that time Ms. Rivera’s in office mail box was not checked by anyone. ACDHS acknowledges that in this case the business process needs to be changed. Effective August 28, 2019 Supervisor __________ will be responsible for checking Ms. Rivera’s mailbox daily in her absence. One of the other three Child Welfare Supervisors will check Ms. Rivera’s mail box daily in the absence of both Ms. Rivera and __________.

2. **The referral received on August 22, 2018 was due for response by August 29, 2018.** We acknowledge that the Caseworker did not document her attempts to contact or interview the victim child in Referral 2879362 until September 13, 2018. However, it is important to note that there were two Assessments __________ and __________ assigned and being worked by the same Caseworker for the same family. The Caseworker did document in Assessment __________ that she observed all the children in the grandmother’s home on August 30, 2018 and did not have any concerns for the children staying with the grandmother. The victim child in question is listed as being seen in the grandmother’s home. We acknowledge that this is late in meeting the response time, it is not documented in the correct Assessment and it does not take the place of appropriate documentation of a child interview or observation.

3. **The assessment began on July 16, 2018.** The ACDHS was required to interview the children regarding the allegations of the referral, determine functioning, and assess for safety during the assessment. We acknowledge there was a delay in the assignment of this Assessment. The Caseworker went out on July 30, 2018 and did not find the family, leaving her business card. The Caseworker did not document in Trails her continued attempts to contact the family.

4. **On August 30, 2018 the Colorado Family Risk Assessment Tool was completed and the family scored as high.** No documented attempts to hold family engagement meeting. In Assessment __________

---

Department of Human Services
P.O. Box 1310 • 8900-C Independence Way
Alamosa, CO 81101

Phone: 719-589-2581
Fax: 719-589-9794
www.alamosacounty.org
the Risk Assessment scored high and although it is stated an FEM was held on September 14, 2018, an FEM is not documented in Trails.

5. **The documentation demonstrates that ACDHS has not had required monthly contacts with the children.** In January 2019, there is no documentation in Trails in regards to contact with the four oldest children. The Caseworker believes the contact for the four oldest children was not made due to poor time management, other case obligations and not planning the visit by the end of the month. In February 2019, the Caseworker had a death in the family and had taken time off. Because of the significant amount of time off the Caseworker took in the month of February the contacts were not made. In this case the Supervisor failed to complete these contacts herself or find other means to complete the required monthly face-to-face contacts with the children. The youngest child had been observed on many occasions, but it was not documented in Trails. The issue was addressed with the Caseworker regarding the missed contacts and it was explained by the Caseworker that he did not understand that even though the youngest child could not be interviewed, a contact/observation of the child and the child’s developmental needs, safety concerns, etc. need to be documented. The Caseworker recalled several times that he saw the child in various locations, but he did not document these contacts in Trails.

6. **The documentation demonstrates that ACDHS has not had required monthly contact with the other of the children.** October 22, 2018 there is a Face-to-Face (DSS Office) in Trails Case # documented. It was a staffing that mother attended at ACDHS. In regards to contacts with mother in January and February 2019, the mother was uncooperative and could not be located. Neither the Caseworker nor anyone in the Department had heard from or located mother in January or February 2019. There are no “attempted contacts” for mother documented in Trails during this time. The face-to-face contact for April 2019 was entered on August 28, 2019. There is no face-to-face contact documented for July 2019 with mother.

7. **Additional documentation requested via e-mail on September 13, 2019.** Attached to this document are:
   A) All evaluations with SLVBHG completed by mother during this case; 
   B) drug test results completed by mother during this case, both urine and hair follicle testing; 
   C) medical appointment documentation for child (JTA) for the last six months.

If there are any questions or concerns regarding our response as listed above, please contact us at your earliest convenience.

Respectfully submitted,

Laurie Rivera, MWS  
Deputy Director

Approved by:

Catherine Salazar  
Director

Attachments: SLVBHG documentation, drug test results, medical appointment documentation
Colorado Department of Human Services

Response Letter

Case 2019-3758

(Delivered October 4, 2019)
October 4, 2019

Dear Ms. Villafuerte,

I write this letter as a supplement to the Colorado Department of Human Services Response to Complaint 2019-3758 regarding Alamosa County Department of Social Services. Staff at the Division of Child Welfare (DCW) have reviewed this complaint, the county’s response, and relevant sections of the Colorado Code of Regulations (Volume 7). This letter includes a response to the points of concern that were raised by the Office of the Child Protection Ombudsman (CPO).

The CPO identified multiple compliance concerns regarding the response time to the referrals connected to this case, including failure to meet the response time and failure to document interviews with the children within the assigned timeframe. The county did not dispute these points in its response, and DCW agrees that the county was in violation of 12 CCR 2509-2, 7.104.1(A) and 12 CCR 2509-2, 7.104.1(B)(1) in this case. The county included in its response a plan to avoid future issues with response time for handwritten referrals that arrive at the county office. A DCW staff member has worked with the county to ensure that the plan was implemented successfully. DCW staff has also supported the county in creating plans to ensure that documentation in Trails for assessment protocols occurs in an appropriate and timely manner.

The CPO additionally identified multiple compliance concerns regarding documentation of required family contacts including a family engagement meeting, monthly face-to-face contacts with the children, and monthly face-to-face contacts with the mother of the children. The county did not dispute these claims in their response, admitting to some missed contacts and several failures to document contacts or attempts at contact. DCW agrees that the county is in violation of 12 CCR 2509-2, 7.103.23; 12 CCR 2509-3, 7.204(B); and 12 CCR 2509-3, 7.204(D). A DCW staff member has discussed these violations with county supervisory staff and provided assistance in creating plans to ensure that monthly contact documentation requirements are met.
DCW will continue to support and monitor the county’s improvement in these areas and the success of these plans. In addition, the county supervisory staff have requested additional training on the use of the Colorado Safety and Risk Assessment Tools, and DCW will support this effort to improve county assessment practice. Please reach out to DCW 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: Alamosa</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Assigned (by manager): 9/18/19</td>
<td>Due Date: 10/9/19</td>
</tr>
<tr>
<td>Complaint Number: 2019-3758</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>x Office of Colorado’s Child Protection Ombudsman</td>
</tr>
<tr>
<td></td>
<td>___ Attorney</td>
</tr>
<tr>
<td></td>
<td>___ Other: Specify Role: _________________________</td>
</tr>
</tbody>
</table>

### 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:

7.104.1(A): The county did not respond to the referral as soon as reasonably possible within the assigned response time

7.104.1(B)(1): The county did not document an interview with the alleged victim child within the assigned response time

7.107.23: The county failed to document a family engagement meeting held in response to high risk

7.204(B): The county failed to meet and/or document required monthly contacts with the children

7.204(D): The county failed to document attempts at monthly contact with the mother of the children

### 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 regarding meeting referral response times, meeting expectations for monthly contact, and better documentation in Trails.

Other(specify):

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