Letter of Compliance Concern

Case Number 2019-3774

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 July 26, 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: July 26, 2019

Subject: Possible Compliance Concerns, CPO Case 2019-3774

Dear Director Salazar,

On May 9, 2019, the Office of Colorado’s Child Protection Ombudsman (CPO) was contacted by a father who had concerns regarding the Alamosa County Department of Human Services’ (ACDHS) handling of an assessment involving his family. The CPO has reviewed all relevant information in Trails and has identified several areas in which the actions of ACDHS may not be in compliance with assessment guidelines outlined in Volume 7.¹

Case Summary

A referral was made to ACDHS on alleging that the mother of the four children was using illegal substances, the children were being left alone, and the children were being slapped in the face as a form of discipline.² The referral was accepted for assessment and assigned a 5-working day response time.³ The assessment was closed as unfounded on February 21, 2019.⁴ The four children live with their mother in Alamosa County, while the father resides in Denver County.

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:

Volume 7, 7.103.61 (C) requires that county departments attempt to make contact with the family by the assigned response time.⁵

¹ Trails: statewide case management system and Code of Colorado Regulations, Social Services Rules, Volume 7  
² See Trails Referral ID  
³ See Trails Referral ID  
⁴ See Trails Referral ID  
⁵ See Volume 7, 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
Additionally, Volume 7, 104.1 requires county departments to include all parents in the assessment process.\(^6\)

Volume 7, 7.107.1 and 7.107.22 requires that the county use the Colorado Family Risk and Safety Assessment Tools correctly to inform the next steps of the assessment.\(^7\)

Identified Compliance Concerns

In reviewing the family’s relevant history, the CPO identified several areas of concern in which ACDHS may not have complied with Volume 7 requirements. Specifically, the CPO observed that:

- The first contact noted for the family was January 4, 2019. This is outside of the 5-day response time, which would have been December 28, 2018. If accurate, this is a violation of response time requirements in Volume 7, 7.103.61 (3).

- There is no documentation of attempts to contact the father of the children during the assessment.\(^8\) He was not notified of the assessment, allowed to participate in the assessment or notified of the outcome. If accurate, this is a violation of the assessment requirements in Volume 7, 7.104.1 (C) (2) and 7.104.15 (B).

- The Colorado Family Risk Assessment Tool was completed with inaccurate information. The tool indicated that the mother did not have a substance abuse problem, the tool noted that the family has not received services while they have had 10 assessments, one case and six referrals that were screened out. The family also has a history of domestic violence. This family should have scored as high risk. This led to ACDHS not holding the required family engagement meeting. If accurate, this is a violation of the assessment requirements in Volume 7, 7.107.23.

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\(^6\) See Volume 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.”

\(^7\) See Volume 7, 7.107.11 and 7.107.22: “The Colorado Family Safety Assessment shall be completed:
A. At the time of initial response with household members.
B. As soon as additional household members are available, each household member shall be assessed using the current or impending dangers identified in the Colorado Family Safety Assessment tool.
C. If household members are not available at the time of initial response, the Colorado Family Safety Assessment shall be completed based on the information available and based on the interview or observation of the alleged victim child(ren)/youth.
D. If no current or impending danger is identified within 14 calendar days through the Colorado Family Safety Assessment, interviews with additional household members identified outside of the 14 calendar days, shall be documented in the state automated case management system.
E. At the time of contact with the alleged victim child(ren)/youth or other family members and current or impending danger is identified, the entire Colorado Family Safety Assessment tool shall be completed.
F. The tool shall be completed using available information and accessible household members to mitigate the danger.
G. Prior to end dating a safety plan.
H. Whenever there is a significant change in household circumstances or situations that might pose a new or renewed threat to the safety of child(ren)/youth.
I. Prior to reunification.
J. Prior to child(ren)/youth returning home.
K. In all program area 5 (PA 5) referrals being assessed, except:1.Institutional abuse assessments, as described in section 7.104.22;2.Fatality assessments when there are no surviving siblings, or;3.When caregivers have abandoned an infant as described in C.R.S. 19-3-304.5.” and “The Colorado Family Risk Assessment tool shall be completed with the family, and shall address all areas of risk on the tool.”

\(^8\) See Trails Referral ID [redacted] Interview Contacts
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 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

Approved by:

Stephanie Villafuerte
Stephanie Villafuerte
Child Protection Ombudsman
September 13, 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 2019-3774

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 2019-3774.

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

1. Regarding first contact noted for the family was January 4, 2019 being outside the 5-day response time. We are attaching a series of screen shots from the TRAILS system which represents a timeline of Alamosa County DHS’s involvement in TRAILS Referral [redacted]. Alamosa County DHS received the Referral in TRAILS on 12/31/2018. As noted at the bottom of page four of the attached document:

   Per Referral Notes in Referral # [redacted] - Supervisor [redacted] notes the following:
   “This referral was reported on 12/23/2018 and received by Conejos County DSS. This referral was transferred to the Alamosa County Inbox eight (8) days later on 12/31/2018 after hours and the office was closed on 1/1/2019. The ACDHS on call worker was not informed of a new referral. This referral was RED Teamed on 1/2/2019.”

   Note: Alamosa County DHS office was closed at 12:00pm on 12/31/2018 and all day on 1/1/2019. When Conejos County transferred the Referral to Alamosa County, they should have called the Department to notify staff of the transfer before 12:00pm, or if after 12:00pm on 12/31/2018 they should have contacted the On-Call Worker to notify them of the transfer. Based on all the above Alamosa County did not have an opportunity to meet the assigned response time.

2. Regarding there is no documentation of attempts to contact the father of the children during the assessment. During the RED Team held by Alamosa County DHS on 1/2/2019, there was discussion regarding mother and children “living in San Luis Valley since August 2018 - left domestic violence relationship”. Therefore there were concerns with the Department’s contacting the father of the children and making him aware of a referral. The assigned
Caseworker reports to us that he had a phone discussion with the father of the children but neglectfully did not document that conversation in TRAILS or anywhere else.

3. The Colorado Family Risk Assessment Tool was completed with inaccurate information. The question regarding Primary Caregiver has a substance use problem on the Colorado Risk Assessment Tool, was answered “No” due to the Colorado Risk Assessment Tool’s definition of this question saying “Current drug problem.” The mother of the children provided two specimens during the Assessment (1/7/2019), one was a urine sample which showed positive THC result and the hair sample showed positive drug use result for cocaine, within the past 90 days. The question regarding has there been a previous Child Welfare Case was answered “No.” The Caseworker and Supervisor interpreted the question to read was the household currently receiving services. Our answer was incorrect.

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

Respectfully submitted by,

Laurie Rivera, MSW
Deputy Director

Approved by:

Catherine Salazar
Director

Attachments: TRAILS Screen Shots re: Referral
12/23/18 Referral submitted from Hotline by HCCC.

12/23/18 to 12/31/18 Appears that it was hung-up at HCCC or in Conejos County somewhere.
12/31/18 Conejos County Inbox

12/31/18 it is now in the Alamosa County Inbox
1/2/19 Alamosa County accepted Referral #12345

1/2/19 Alamosa County Caseworker John Doe was assigned Referral #12345 for Assessment.
Per Referral Notes in Referral # [redacted] - Supervisor [redacted] notes the following:

“This referral was reported on 12/23/2018 and received by Conejos County DSS. This referral was placed in Alamosa County Inbox eight (8) days later on 12/31/2018 after hours and the office was closed on 1/1/2019. The ACDHS on call worker was not informed of a new referral. This referral was RED Teamed on 1/2/2019.”

Note: Alamosa County DHS office was closed at Noon on 12/31/2018 and all day on 1/1/2019. If Conejos County transferred the Referral to Alamosa County, they should have called the Department to notify staff of the transfer if before Noon, or if after Noon on 12/31/2018 they should have contacted the On-Call Worker to notify them of the transfer.

Based on all the above Alamosa County did not have an opportunity to meet the assigned response time.
Colorado Department of Human Services

Response Letter

Case 2019-3774

(Delivered October 4, 2019)
Stephanie Villafuerte  
Child Protection Ombudsman Colorado  
1300 Broadway Suite 340  
Denver, CO 80203

October 7, 2019

Dear Ms. Villafuerte,

I write this letter as a supplement to the Colorado Department of Human Services Response to Complaint 2019-3774 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 each of the points of concern that were raised by the Office of the Child Protection Ombudsman (CPO).

The CPO identified three potential compliance concerns with regard to this case. Among these concerns, the CPO identified that the county did not respond to the referral within the assigned five working-day response time. DCW agrees that the response time was not met, and finds that this action is a violation of 12 CCR 2509-2, 7.104.1(A). However, DCW also notes the county’s disposition in the response to this complaint and agrees that there was no way that the county could have responded within the assigned window because of the delay in receiving the transferred referral from another county. DCW acknowledges that the county documented this issue in Trails and responded as quickly as possible upon receiving the referral, and does not find that additional intervention at the county is necessary as a result of this violation. DCW staff will follow up with the county who received the initial referral regarding procedures for transferring jurisdiction.

Another point of concern identified by the CPO in review of the case concerns 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. DCW finds that the county did not document attempts to contact the non-custodial parent or reasons that the non-custodial parent was not provided information about the outcome of the assessment, in violation of 12 CCR 2509-2, 7.104.1(C)(2) and 7.104.15(B). The county also acknowledges this oversight in their response to the complaint. DCW staff will provide technical assistance to the county in order to improve documentation of communication with non-custodial parents in Trails.

Finally, the CPO expressed concern that the county violated 12 CCR 2509-2, 7.104.23 by failing to hold a family engagement meeting despite the family’s high risk. However, as the CPO outlines in describing the case, the county did not find that the family’s risk was high enough to warrant holding a family engagement meeting, so this rule was not violated. The county does, however, admit that the Colorado
Family Risk Assessment Tool was not completed accurately due to some misinterpretations of the items on the assessment tool. DCW therefore finds that the county is in violation of 12 CCR 2509-2, 7.104.22, which requires that the county follow procedures for completing the tool. DCW staff will provide technical assistance to the county to ensure that the tool is properly understood and completed according to Colorado regulations in the future.

DCW staff are preparing to address these violations with Alamosa County, and we feel confident that the county can correct these issues with technical assistance. DCW will continue to support and monitor the county’s improvement in these areas. 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</th>
<th>County</th>
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<tbody>
<tr>
<td>Youth Services/S. Garrett</td>
<td>Alamosa</td>
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<thead>
<tr>
<th>Date Assigned (by manager)</th>
<th>Due Date:</th>
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<tbody>
<tr>
<td>9/16/19</td>
<td>10/7/19</td>
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<thead>
<tr>
<th>Complaint Number</th>
<th>Complainant Role (Select from the following):</th>
</tr>
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<tbody>
<tr>
<td>2019-3774</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>
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**Comments:**

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

___ 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 according to the assigned response time
7.104.1(C)(2): The county did not document attempts to engage the non-custodial parent
7.104.15(B)(1)(b): The county did not document that it was not in the best interest of the children not to give notice of the assessment result to the non-custodial parent
7.107.22: The county did not follow procedures for completing the Colorado Family Risk Assessment Tool

**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 around documentation of non-custodial parent contacts in Trails and procedures for completing the Colorado Family Risk Assessment Tool.

**Other (specify):**

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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