Office of Colorado’s Child Protection Ombudsman

LETTER OF COMPLIANCE CONCERN

Case Number 2019-3823

Stephanie Villafuerte,
Child Protection Ombudsman
January 16, 2020
Introduction

By design, the Office of Colorado’s Child Protection Ombudsman 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 20 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 2019-3823

(Delivered December 13, 2019)
Possible Compliance Concerns, CPO Case 2019-3823

Dear Director Montoya,

On August 7, 2019, the Office of Colorado’s Child Protection Ombudsman (CPO) received a call from a citizen about a Montezuma County Department of Social Services (MCDSS) child welfare assessment. The contact expressed that safety concerns for a child had not been thoroughly assessed by MCDSS staff. Review of the relevant information identified areas in which the actions of MCDSS may not be in compliance with policy.

Case Summary

On July 23, 2019, a report was made to the MCDSS citing allegations of sexual abuse to a child by her father. The MCDSS determined that a five-working day, High-Risk Assessment (HRA) response was appropriate. The county department worked with local law enforcement to conduct a forensic interview with the child within the assigned response time. The child welfare assessment was closed on October 10, 2019, in which MCDSS found that no sexual abuse to the child had occurred.

Volume 7 Regulations/Colorado Children’s Code

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

7.107.11(A) & (D) provides guidance to child welfare caseworkers in completing the Colorado Family Safety Assessment tool. It asserts that the tool will be completed during the initial response with household members and when additional household members are available.

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1 See Trails Assessment ID: [Redacted]
2 12 CCR 2509-2, 7.107.11(A) & (D)
7.107.18 requires that the Colorado Family Safety Assessment tool be documented in the state automated case management system, Trails, within 14 calendar days following contact with the family.\(^3\)

7.107.24 requires that the Colorado Risk Assessment tool be documented in Trails within 30 calendar days of when the referral is received.\(^4\)

7.104.31(A) requires that HRAs be approved and closed within 60 calendar days of the referral being received.\(^5\)

Identified Compliance Concerns

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

1. In Trails Assessment ID: [redacted], the Colorado Family Safety Assessment tool is based on a contact date of July 30, 2019, though there is no documentation in Trails that correlates to this date. Contact with the mother and the child is documented to have occurred on July 25, 2019, and the Colorado Family Safety Assessment tool should have been completed based on this date. Additionally, the tool was not updated in Trails when contact with the father was completed. If accurate, this is a possible violation of 7.107.11(A) & (D).

2. In Trails Assessment ID: [redacted], utilizing the initial contact date of July 25, 2019, the Colorado Family Safety Assessment tool should have been entered into Trails by August 8, 2019. The tool was created in Trails on October 2, 2019, and approved on October 7, 2019. If accurate, this is a possible violation of 7.107.18.

3. In Trails Assessment ID: [redacted], the Colorado Family Risk Assessment tool should have been completed and documented by August 22, 2019. The Colorado Family Risk Assessment tool was entered in Trails on October 2, 2019. If accurate, this is a possible violation of 7.107.24.

4. Trails Referral/Assessment ID: [redacted] was received on July 23, 2019. To remain in the 60-calendar day timeframe, the assessment should have been closed by September 23, 2019. The assessment was closed on October 10, 2019. If accurate, this is a possible violation of 7.104.31(A).

The CPO contacted MCDSS on October 9, 2019, regarding Trails Assessment ID: [redacted]. The CPO spoke with MCDSS on October 11, 2019, regarding concerns. During this conversation, the MCDSS staff stated that they had completed and closed the assessment that week and that documentation in Trails was up to date.

Conclusion

Pursuant to policies 4.200 and 5.200 in the *Office of Colorado’s Child Protection Ombudsman Case Practices and Operating Procedures*, the CPO will notify any agency or provider if it identifies potential problems.

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\(^3\) 12 CCR 2509-2, 7.107.18  
\(^4\) 12 CCR 2509-2, 7.107.24  
\(^5\) 12 CCR 2509-2, 7.104.31(A)
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 MCDSS’ response, the CPO will submit its original letter and MCDSS’ full response to the CDHS, which serves at the MCDSS’ 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 20 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 MCDSS’ response to the possible violations listed in this letter no later than January 7, 2019.

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

Sincerely,

Sara Embrey

Sara Embrey
Child Protection Systems Analyst

Approved by:

Stephanie Villafuerte

Stephanie Villafuerte
Child Protection Ombudsman
Montezuma County Department of Social Services
(MCDSS)

Response Letter
2019-3823
(Delivered December 17, 2019)
December 17, 2019

Sara Embrey, Chief Analyst, Child Welfare Services
Office of Colorado’s Child Protection Ombudsman
1300 Broadway, Ste. 430
Denver, CO 80203

RE: CPO Case 2019-3823

Dear Ms. Embrey,

For the identified compliance concerns regarding CPO Case ID: 2019-3823, we agree with the 4 CPO compliance concerns stated in your letter dated December 13, 2019.

Let us know if you need anything further.

Sincerely,

Gina Montoya
MCDSS Director

cc: Korey Elger
    Kathryn Redhorse
    Chris Veach
Colorado Department of Human Services

Response Letter

Case 2019-3823

(Delivered January 15, 2020)
We are providing this letter with the Colorado Department of Human Services, Division of Child Welfare (DCW) Response to the Child Protection Ombudsman (CPO) Complaint 2019-3823, regarding Montezuma County Department of Social Services. Our office has reviewed this complaint, the county’s response, and relevant sections of Colorado Regulations 7.107.11(A) & (D); 7.107.18; 7.107.24 and 7.104.31(A), which are detailed below.

Concern 1: In Trails Assessment ID: [redacted], the Colorado Family Safety Assessment tool is based on a contact date of July 30, 2019, though there is no documentation in Trails that correlates to this date. Contact with the mother and the child is documented to have occurred on July 25, 2019, and the Colorado Family Safety Assessment tool should have been completed based on this date. Additionally, the tool was not updated in Trails when contact with the father was completed. If accurate, this is a possible violation of 7.107.11(A) & (D).

DCW response to concern 1: Volume 7, 7.107.11(A) states the Colorado Family Safety Assessment shall be completed at the time of initial response with household members. Furthermore, 7.107.11(D) states 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. DCW is in agreement that assessment [redacted] is in violation of 7.107.11(A). The date on the safety assessment, July 30, 2019, does not align with the interview date of July 25, 2019. Contact with the father was completed on Oct. 10, 2019, and documented in Trails in accordance with 7.107.11(D). However, the documentation is missing information regarding the father’s response to the allegations, his functioning, parenting practices and disciplinary practices.

Concern 2: In Trails Assessment ID: [redacted], utilizing the initial contact date of July 25, 2019, the Colorado Family Safety Assessment tool should have been entered into Trails by Aug. 8, 2019. The tool was created in Trails on Oct. 2, 2019, and approved on Oct. 7, 2019. If accurate, this is a possible violation of 7.107.18.

DCW response to concern 2: Volume 7, 7.107.18(A) states the Colorado Family Safety Assessment tool shall be completed with household members at the time of the contact and documented in the state automated case management system no later than fourteen (14) calendar days and 7.107.18(B) states the Colorado Family Safety Assessment tool shall be approved by a supervisor as soon as possible and no later than fourteen (14) calendar days from the date the alleged victim child(ren)/youth was interviewed or observed. DCW is in agreement assessment [redacted] is in violation of Volume 7 regulations, 7.107.18(A) & (B). Montezuma County did not enter the safety assessment until Oct. 2, 2019 and it was not approved until Oct. 7, 2019.

Concern 3: In Trails Assessment ID: [redacted], the Colorado Family Risk Assessment tool should have been completed and documented by August 22, 2019. The Colorado Family Risk Assessment tool was entered in Trails on Oct. 2, 2019. If accurate, this is a possible violation of 7.107.24.

DCW response to concern 3: Volume 7, 7.107.24(A) states the completed Colorado Family Risk Assessment shall be documented in the state automated case management system within thirty (30) calendar days from the date the referral
was received. DCW is in agreement that assessment [REDACTED] is in violation of Volume 7 regulation, 7.107.24(A). Montezuma County did not meet the required timeframes for the risk assessment documentation. The risk assessment was entered on Oct. 2, 2019 and approved on Oct. 7, 2019.

Concern 4: Trails Referral/Assessment ID: [REDACTED] was received on July 23, 2019. To remain in the 60- calendar day timeframe, the assessment should have been closed by Sept. 23, 2019. The assessment was closed on Oct. 10, 2019. If accurate, this is a possible violation of 7.104.31(A).

DCW response to concern 4: The Child Protection Ombudsman noted a possible violation of Volume 7, 7.104.31(A), however, the cited rule does not guide time frames for the closure of assessments. DCW asserts that assessment [REDACTED] is in violation of Volume 7, 7.104.131(A). The assessment was closed on Oct. 10, 2019, after the sixty day time frame required by rule.

DCW developed an action plan with the Montezuma County Department of Social Services to address the quality of and meeting the required time frames for safety and risk assessments starting in October 2019, with the tentative end date of April 2020. Specifics of the action plan include DCW completes random sample pulls of weekly assessments, referrals and case documentation, providing feedback on the monitoring through email/phone calls and during monthly in person contacts and providing monthly in person technical assistance. Technical assistance and training on safety and risk assessments was provided to the Montezuma County Department of Social Services on November 18th, 2019 and November 19, 2019. Technical assistance for contacts and case documentation was also provided on December 10th and 11th 2019.

DCW will continue to monitor the action plan and provide supervision and guidance as needed. Please let us know if you have any further concerns or questions.

Sincerely,

Kari Daggett,
Deputy 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: Kathy Redhorse/James Connell</th>
<th>County: Montezuma</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Assigned (by manager): 12/7/19</td>
<td>Due Date: 1/16/19</td>
</tr>
<tr>
<td>Complaint Number: 2019-3823</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>
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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:

x___ 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:

x___ DCW found concerns with county practice, policy, procedure, etc.; specify:

DCW found that the county was out of compliance with the following rules: 7.107.11 (A) & (D); 7.107.18 (A) & (B); 7.107.24 (A) and 7.104.131 (A)

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.):

The Division of Child Welfare developed an action plan with Montezuma County of Social Services and will oversee and continue to provide check-ins and provide supervision and guidance as needed. Technical assistance and training regarding safety and risk assessments was provided to Montezuma County on 11/18-19/2019. Additional technical assistance for contacts and case documentation was provided on 12/10-12/11/2019.

Other (specify):

<table>
<thead>
<tr>
<th>Printed Name AND Signature of DCW County Intermediary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Printed Name AND Signature of DCW County Intermediary Supervisor</td>
</tr>
<tr>
<td>Printed Name AND Signature of DCW Unit Manager</td>
</tr>
</tbody>
</table>

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