Office of Colorado’s Child Protection Ombudsman

LETTER OF COMPLIANCE CONCERN

Case Number 2019- 3741

Stephanie Villafuerte,
Child Protection Ombudsman
October 15, 2019
**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 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 2019-3741

(Delivered July 26, 2019)
To: Ms. Angela Lytle  
Arapahoe County Department of Human Services  
14980 E. Alameda Drive  
Aurora, CO 80112

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 2019-3741

Dear Director Lytle,

On June 24, 2019, the Office of Colorado’s Child Protection Ombudsman (CPO) was contacted regarding the handling of an Arapahoe County Department of Human Services (ACDHS) child welfare case. The mother was concerned that communication from ACDHS was not thorough or frequent enough to complete her treatment plan and, ultimately, have her boyfriend return to the home. The mother believes that, as a result, the household has lost significant support and has caused them financial hardship. The CPO reviewed the relevant information in Trails. The CPO found several areas in which ACDHS may not be in compliance with the requirements of Volume 7.

Case Summary

On February 15, 2019, ACDHS received a report regarding a domestic violence incident during which two children were present. The assessment was founded on the mother’s boyfriend and he was removed from the home. A voluntary case was opened to provide services to the family. The mother and boyfriend were instructed to participate in and complete services in order to decrease the risk for child abuse/neglect and allow the boyfriend to return home. After five months, the family has yet to be reunified.

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: statewide case management system
2 Code of Colorado Regulations, Social Services Rules, Volume 7
3 See Trails Referral ID: [redacted], Findings
Volume 7, 7.103.61 (A)(2) requires county departments to meet the referral’s assigned response time or document the attempt to meet the response time.4

Volume 7, 7.107.22 requires county departments to complete the Colorado Risk Assessment Tool with the family and 7.107.24 (A) requires it be entered into Trails within 30 days from the referral date.5

Volume 7, 7.104.1 (C)(2) requires that county departments document the efforts to engage non-custodial parents regarding the assessment. Additionally, 7.104.15 (B) requires that notification regarding the outcome of the assessment be made to parents.6

Volume 7, 7.301.21 (A) requires that county departments create a Family Service Plan to mitigate the concerns identified in the assessment and to provide clarification around services and progress towards services. 7.301.21 states that the plan must be created in collaboration with the family and be created within 60 days of the county receiving the referral. 7.301.231 (A-C) requires that the plan must include information gathered in the safety and risk tools. The plan must also be reviewed timely to address progress or lack of progress in order to meet the plan goals. And, 7.301.3 (E), states that the reviews must occur every 90 days and include each member of the treatment plan and address all services that the family is participating in.7

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4 See Volume 7, 7.103.61 (A)(2): “A three (3) calendar day response is required when a referral indicates that:
   a. There may be impending danger of moderate to severe harm; or,
   b. The alleged victim child(ren)’s vulnerability and/or factors such as drug and alcohol abuse, violence, isolation, or risk of flight, increase the need for intervention in the near future.
   c. The three (3) calendar day count starts on the day following the receipt of a referral and expires at the end of the third calendar day at 11:59 PM following receipt of the referral. D. 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 three calendar days.”

5 See Volume 7, 7.107.22: “The Colorado Family Risk Assessment tool shall be completed with the family and shall address all areas of risk on the tool” and 7.107.24 (A): “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.”

6 See Volume 7, 7.104.1 (C)(2): “The assessment shall include documentation of efforts to engage non-custodial parent(s); and other persons identified through the assessment who may have information regarding the alleged abuse and/or neglect” and 7.104.15 (B): “Regardless of the outcome of the assessment and as allowable by law, county departments shall notify and document in the state automated case management system:
   1. The parent(s), guardian(s), custodian(s), or caregiver(s) of the alleged victim child(ren)/youth of the outcome of the assessments. Non-custodial parent(s) shall also be notified of the outcomes of the assessments unless:
      a. Documentation supports efforts to locate the non-custodial parent were unsuccessful; or,
      b. Documentation supports that it is not in the best interests of the child(ren)/youth to give notice to the non-custodial parent.”

7 See Volume 7, 7.301.21 (A): “Within sixty (60) calendar days of the referral date in the automated case management system for children in their own homes, including Core Services program cases in which the children are not in out-of-home placement. There may be one Family Services Plan for the family in these cases” and Volume 7.301.231 (A-C): “A. Safety and risk assessments completed in the assessment portion of the automated case management system shall automatically become a part of the case, when a case is opened. Safety concerns identified on the safety assessment will be included in Part 3A and will be the basis for developing treatment plan objectives. C. Risk concerns identified on the assessment will be included in Part 3A and shall be used in developing treatment plans” and Volume 7.303.3 (E): “The family services plan shall be reviewed in 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 7.304.32, C, 1-4.”
Volume 7, 7.204 (A) requires that the county department have at least monthly parent contact, either face-to-face or by telephone. Specifically, face-to-face contact must occur at least every other month.8

Identified Compliance Concerns

In reviewing the relevant case information, the CPO identified several areas in which ACDHS may not be in compliance with the Volume 7 requirements. Specifically, the CPO observed:

- The referral was assigned a 3-calendar day response time, which was February 18, 2019. The documentation does not demonstrate an attempt to contact by the due date.9 If accurate, this is a violation of Volume 7, 7.103.61 (A)(2).

- There is no documentation that ACDHS assessed the family for risk during this assessment.10 If accurate, this is a violation of Volume 7, 7.107.22.

- The children in this assessment have different biological fathers. There is no documentation that suggests ACDHS attempted to obtain the names and contact information of either father, engage them or notify them of the outcome of the assessment. If accurate, this is a violation of Volume 7, 7.104.1 and 7.104.15.

- The Family Service Plan was completed almost six weeks after its due date. The treatment plan does not include the required members: the mother, biological fathers, and county department. Additionally, the plan has also not been reviewed according to the 90-day requirement.11 If accurate, these are violations of Volume 7, 7.301.21.

- The mother was contacted face-to-face in February 2019 and by telephone in March 2019. There are no later documented attempts to visit or speak with the mother, per the required face-to-face or telephone requirements. There is no documentation to show contact with the secondary caregiver (person alleged responsible for the abuse), or either biological father.12 If accurate, these are violations of Volume 7, 7.204.

The CPO contacted ACDHS regarding the concerns, and ACDHS acknowledged that the mother should have been included in the treatment plan and that case documentation did not meet the county standard. The ACDHS staff member was unable to acknowledge the referral and assessment concerns.13

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

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8 See Volume 7, 7.204 (A): “The county department shall have at least monthly face-to-face contact with the child or youth. The county department shall have at least monthly face-to-face or telephone contact with the parent, parent surrogate or guardian, with face-to-face contact occurring at least every other month.”

9 See Trails Referral ID: [Redacted], Contacts

10 See Trails Referral ID: [Redacted], Assessments, Risk

11 See Trails Case ID: [Redacted], FSP

12 See Trails Case ID: [Redacted], Contacts

13 Per phone conversation with ACDHS supervisor and CPO, July 9, 2019.
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
To: Amanda Pennington, Child Protection Systems Analyst  
Office of Colorado’s Child Protection Ombudsman  
1300 Broadway, Suite 430  
Denver, CO 80203

Date: August 14, 2019

Subject: Compliance Concerns, CPO Case 2019-3741 Response

This is a response to the concerns raised during a response made by your office to a complaint by this family. In our review, we did identify a few areas that certainly required attention and addressing.

Arapahoe County acknowledges this family was not seen within the 3-calendar day response time. The referral was not reviewed in a timely fashion as it was not reviewed by a Red Team until February 19, 2019. This is not common Arapahoe County practice as reflected in consistent high scores in met response times in CStat measures and in Administrative Reviews.

Trails typically records completion of Risk Assessments. During this timeframe, there was a Statewide Trails glitch that impacted such documentation as a result of the new TRAILS modernization. It took months for the State to fix this issue unfortunately. While the Risk Assessment could have been completed on paper with pen, counties did not become aware of the Trails glitch until late, not realizing those completed had not been saved.

Arapahoe County acknowledges there is no documentation that supports sufficient attempts to identify or contact biological fathers of the children within the assessment. In past referrals, fathers of the children were reported not involved. However, it was reported that one of the children had recently started to talk with her father sometimes. We were able to identify his whereabouts as in Arizona, but we do not currently have his current contact information. Father’s first name of the other child is [redacted], last name unknown. Our Permanency team will continue to work with our Family Finders to make contact with and involving the fathers.

Moving on to the concerns raised in the permanency case, the supervisor and caseworker acknowledge that the Treatment Plan was not completed timely, nor did it articulate well as many areas as it could have. However, [redacted] and [redacted] were part of a LINKS meeting on March 21, 2019, where treatment needs and concerns were clearly outlined and next steps were created and documented well that all agreed to in order to make progress. The 90 day reviews that were in the review section of Trails did not do as good of a job articulating this work as the Links reports do, so updated 90 day reviews for May 2019 will be entered to
mirror the information in the Links reports and then will ensure the August 2019 is well done as well.

We recognize that notes reflecting communication have not been consistently entered into TRAILS as timely as they should have been. Arapahoe County has a clear policy mandating entry of ROCs into Trails within an articulated number of days post the contact. All communications (contacts) have since been updated in Trails. In reviewing Trails, the caseworker did not have face to face contact with either [redacted] or [redacted] as required. Both were seen at the LINKS meeting in March 2019, but not again until July 2019. This is unacceptable and has been addressed with both the caseworker and supervisor who will both assure requirements for parent contact will be met going forward. This is not considered a systemic issue for Arapahoe County per ongoing ARD Reviews.

The treatment plans, 90-day reviews, and face-to-face contacts have all been updated and will continue to be updated promptly after contact with the family. Moreover, this family will continue to have LINKS meetings at least every 90 days for as long as this case is open. The LINKS meetings will serve as a hub for the treatment team and the family to recognize strengths and opportunities about the successful completion of the agreed-upon treatment plan.

If you have any questions, please feel to contact me directly, my phone number is (303) 636-1683.

Respectfully Submitted,

Arapahoe County Department of Human Services
CAPS Permanency Supervisor

Arapahoe County Department of Human Services
CAPS Intake Administrator
Colorado Department of Human Services
Response Letter
Case 2019-3741
(Delivered October 15, 2019)
I hope you are well. We are providing this letter with the Colorado Department of Human Services, Division of Child Welfare (DCW) Response to CPS Complaint 2019-3738, regarding Arapahoe County Department of Social Services. Our office has reviewed this complaint, the county’s response, and relevant sections of Colorado Regulations (Volume 7, 7.202.1 (F) (1-2)) which are detailed below.

Concern 1: Volume 7, 7.202.1 (F) (1-2) states the purpose of monthly contacts shall be to assure child safety and well-being and move the case toward achieving family services plan goals. Furthermore, (F) (1-2) defines face to face contact and requirements for child/youth, parents, guardians, and the intended permanent caregivers. Additionally all face-to-face contacts are required to be documented in the Comprehensive Child Welfare System (CCWIS).

DCW response to concern 1: DCW is in agreement with the violation to 7.202.1 (F) (1-2). The county did not consistently meet with the biological father face-to-face monthly.

Concern 2: Volume 7, 7.202.1 (F) (1-2) states the purpose of monthly contacts shall be to assure child safety and well-being and move the case toward achieving family services plan goals. Furthermore, (F) (1-2) defines face to face contact and requirements for child/youth, parents, guardians, and the intended permanent caregivers. Additionally all face-to-face contacts are required to be documented in the Comprehensive Child Welfare System (CCWIS).

DCW response to concern 2: DCW is in agreement with the violation of 7.202.1 (F) (1-2). The county did not consistently meet with the biological mother face-to-face monthly.

DCW has developed an action plan with the Arapahoe County Department of Social Services to provide technical assistance to address quality and monthly face-to-face contacts with parent(s), guardians and prospective permanent caregivers. DCW staff will provide technical assistance by providing guidance templates for executing the following areas of concern: quality face-to-face monthly parent(s) contacts and timely completion and review of the treatment plan within 90 days (7.301.21). The templates will be provided to the county by October 4, 2019 to implement in county wide practice. DCW will follow up at the next quarterly meeting that will be scheduled for the month of October 2019 and ongoing monitoring will occur at subsequent quarterly meetings.

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

Sincerely,

Kari Daggett,
Interim Director, Division of Child Welfare
Grievance/Inquiry Review Form

[To be completed by the assigned Division of Child Welfare (DCW) County Intermediary]

| Unit/Intermediary: Adrianna Hernandez | County: Arapahoe |
| Date Assigned (by manager): 9/27/19 | Due Date: 10/21/19 |
| Complaint Number: 2019-3738 | Complainant Role (Select from the following):
  | ___ Parent, Guardian, Legal Custodian
  | ___ Office of Colorado’s Child Protection Ombudsman
  | ___ Attorney
  | ___ Other: Specify Role: __________________ |

The basis of grievance/inquiry (mark all that apply):
___ Federal/State Statutory violation
___ 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
___ 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.
___ DCW found the following violation federal/state statute and/or of the administrative rules: __________________ |

Address the following Vol. 7, 7.02.1 (F) (1-2)
Engage non custodial parents/ fathers |

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.): __________________ |

Intermediary will devise a plan to address following rule violations.

Other(specify):

Adrianna Hernandez  
Printed Name AND Signature of DCW County Intermediary 
Digitally signed by Adrianna Hernandez  
Date: 2019.10.15 13:13:02 -06'00' |

Lisa Mayer  
Printed Name AND Signature of DCW County Intermediary Supervisor 
Digitally signed by Lisa Mayer  
Date: 2019.10.15 14:10:14 -06'00' |

Korey ELger  
Printed Name AND Signature of DCW Unit Manager 
Digitally signed by Korey ELger  
Date: 2019.10.15 12:16:29 -06'00' |

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