Office of Colorado’s Child Protection Ombudsman

LETTER OF COMPLIANCE CONCERN

Case Number 2019-3831

Stephanie Villafuerte,
Child Protection Ombudsman
December 27, 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 - 3831

(Delivered November 6, 2019)
Dear Director Homlar,

On August 21, 2019, the Office of Colorado’s Child Protection Ombudsman (CPO) was contacted by a father regarding the Denver Department of Human Services’ (DDHS) handling of his family’s child welfare case. The father was concerned that the lack of a treatment plan and communication with the county department was causing delays in permanency for their child. The CPO has reviewed the relevant Trails information regarding the family.\(^1\) The CPO has identified several areas in which the actions of DDHS may not be in compliance with the assessment and ongoing case requirements in Volume 7.\(^2\)

### Case Summary

On September 22, 2018, the DDHS received a report of child abuse and neglect alleging parental substance abuse.\(^3\) The referral was reviewed, accepted and given a five-working day timeframe.\(^4\) The assessment was closed as unfounded on November 6, 2018. Trails documentation states that the assessment, “will close at this point and children will remain in parental custody.”\(^5\)

On October 11, 2018, the DDHS received a report concerning two children in the home. The report alleged lack of supervision, neglect and sexual abuse of one of the children.\(^6\) The referral was reviewed, accepted and given a five-working day timeframe.\(^7\) The assessment was closed as founded for sexual abuse with a sibling as the perpetrator. The closure summary indicated that a case would be open to, “provide services and complete court order to investigate for services and placement.”\(^8\)

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\(^1\) Trails is the comprehensive child welfare information system.

\(^2\) Code of Colorado Regulations, Social Services Rules, Volume 7

\(^3\) See Trails ID: , Referral

\(^4\) See Trails ID: , Referral Acceptance

\(^5\) See Trails ID: , Closure Summary

\(^6\) See Trails ID: , Referral

\(^7\) See Trails ID: , Referral Acceptance

\(^8\) See Trails ID: , Closure Summary and Trails ID: 
On November 14, 2018, a summons was issued to the sibling for juvenile delinquency charges. On July 5, 2019 the sibling was placed into the legal and physical custody of DDHS through the juvenile delinquency case. The sibling remains in out-of-home placement as of October 28, 2019.

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

Volume 7 contains the minimum 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:

**Volume 7, 7.202.1 (F)(1)(2)** requires that the county department meet the minimum requirements when attempting to contact parents. It requires that the county department attempt contact with the parents at least monthly.

**Volume 7, 7.204** outlines specific requirements that the county department must follow for case contacts. **(B)** requires that children/youth placed out-of-home are seen twice in their first 30 days out of home. One of these contacts must occur at the placement. After the first 30 days, county departments are required to have monthly face-to-face contact with the youth.

**Volume 7, 7.301.21 (A)** requires that the Family Service Plan (FSP) treatment plan be completed and documented within 60 calendar days of the referral date. The FSP is used to address the areas of need identified in the assessment. Additionally, **Volume 7, 7.301.41** requires specific out of home placement documentation to be entered as to each youth’s specific placements.

**Volume 7, 7.301.3 (E)** requires that the FSP be reviewed every 90 days to determine whether the youth, parents, family members and placement providers, if applicable, are receiving the services mandated by the plan. Additionally, it requires that services be appropriate, timeframes remain current and progress be made toward the specific objectives identified in the plan.

**Identified Compliance Concerns**

The CPO has reviewed the assessments and case in Trails along with relevant rule packages and sections of Volume 7 and the Colorado Children’s Code. It is important to note that documentation demonstrates that this case opened May 1, 2018. It is unclear how this date was determined as there are no prior referrals or cases for this family prior to September 22, 2018. There is no documentation to suggest that either parents or children were contacted prior to September 2018. During its review, the CPO has utilized the September 22, 2018 timeframe as the case open date.

The CPO found several areas in which the DDHS may not be in compliance with state regulations. This information was last verified by the CPO on October 9, 2019. Specifically, the CPO observed:

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9 CO Courts Data Access,
10 12 CCR 2509-7, Rule 7.202.1 (F)(1)(2)
11 12 CCR 2509-7, Rule, 7.301.21 (A)
12 12 CCR 2509-7, Rule 7.301.3 (E)
1. Documentation does not demonstrate that DDHS made efforts to contact either parent during April 2019. If accurate, this is a violation of 7.202.1 as this does not meet the monthly contact requirement.13

2. Documentation does not demonstrate that the sibling was seen twice during the first 30 days in out-of-home placement. The sibling was placed in the DDHS custody on July 5, 2019. The sibling was seen by the assigned caseworker on July 31, 2019 at the placement. The sibling was required to be seen a second time by August 4, 2019. The documentation does not demonstrate a second visit within the required timeframe. If accurate, this is a violation of 7.204 as this does not meet the contact requirement.14

3. Documentation does not demonstrate that a FSP treatment plan was created with the family. This was due November 21, 2018. If accurate, this is a violation of 7.301.21 and 7.301.24 as this has yet to be developed for the family.15

4. Documentation does not demonstrate that the FSP has been reviewed. If accurate, this is a violation of 7.301.3, as the FSP is required to be reviewed every 90 days.16

5. Additional practice concerns were found by the CPO. These include the fact that the sibling’s placement pages within the Trails FSP and Client Demographics have not been updated to reflect the sibling’s circumstances.17

On October 9, 2019, the CPO communicated the concerns regarding the missing FSP treatment plan, case open date and the parent’s concern about the lack of communication with DDHS. DDHS responded and clarified that there was a FSP treatment plan, although it was not documented in Trails. The CPO confirmed that this has been updated in Trails with a start date of January 23, 2019. If accurate, this remains outside of the required timeframe.

Conclusion

Pursuant to policies 4.200 and 5.200 in the Colorado Child Protection Ombudsman’s 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 DDHS’ response, the CPO will submit its original letter and DDHS’ full response to the CDHS, which serves as the DDHS’ 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.

13 See Trails ID: , Contacts
14 See Trails ID: , Contacts
15 See Trails ID: , FSP, Treatment Plan
16 See Trails ID: , FSP, Review
17 See Trails ID: , FSP Placements and Client Gen Info
Please provide the DDHS’ response to the possible violations listed in this letter no later than November 29, 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
December 2, 2019

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

RE: CPO Case 2019-3831

Dear Ms. Pennington,

Thank you for your letter. Denver Human Services ("DDHS") strives to provide parents and children with the services and supports they need to live together safely. We welcome the chance to review how we are accomplishing that goal. As to the above-referenced case, we agree that the family’s record in Trails was confusing. We hope to clarify DDHS’ involvement through this letter and have updated all records in Trails.

The family at issue first came to DDHS as a Medicaid-only case. That case opened on May 1, 2018, which is the date you found in your review of the records. An assessment by child welfare was first opened in September 2018. That assessment was closed, without further recommendations. A second assessment was opened in October 2018. Although the family presented a number of complicated parenting issues, including divorce, adoption, medical concerns, substance use by a parent and sexual acting out behaviors by one child, the family was also found to be resourceful and committed to meeting the needs of the children.

During the pendency of the October assessment, the child became involved in a delinquency case. On November 15, 2018, DDHS was ordered to assess for services and placement for and therefore, a Program Area 4 - Youth in Conflict case was opened. Services were provided in accordance with Social Services Rule, 12 C.C.R. § 2509-3:7.201.1, which states:

A. Youth in Conflict services shall be based on the assessment completed in accordance with 12 CCR 2509-2; 7.105, and the conflict between the parent/caregiver and the child/youth. Services shall be offered that preserve the child/youth’s permanency with their family, caregiver, kin and/or community whenever possible. If placement is required, the child/youth shall be placed in the least restrictive setting, consistent with the child/youth and family’s assessed needs. When the child/youth cannot be safely returned to the family from whom they were removed, services shall be provided to achieve an alternative permanency plan that provides for the child/youth's safety and well-being in a timely manner.

B. At the point of case opening, county departments shall ensure pertinent information regarding child/youth safety, permanency, and well-being are transferred to any newly assigned caseworker. This shall be accomplished through at least one of the following methods, based on the nature of the case and the capacity of the county department, and shall be documented in the state automated case management system:
   a. 1. Family engagement or other equivalent review team meeting involving caseworkers and/or supervisors, family and community providers; or
b. 2. Staffing between caseworkers and/or supervisors.

On December 10, 2018, DDHS held two family engagement meetings (one for each father) to discuss the needs of [redacted] and his siblings. It was determined at the family engagement meetings that the [redacted] would provide needed therapeutic services through community resources and therefore, no further intervention by DDHS would be recommended in the form of a treatment plan.

On January 4, 2019, the delinquency court denied DDHS’ request to close out involvement. Therefore, a treatment plan was created 19 days later, on January 23, 2019. The assigned caseworker had ongoing monthly contact with the [redacted] including in court on April 26, 2019. There are two ROC notes reflecting the contacts in Trails.

The caseworker also had ongoing contact with [redacted] including visits in his out of home placement. [redacted] was placed in a DDHS placement on July 8, 2019. He was seen by his caseworker on July 31st and August 13th, 2019 in placement. On November 15, 2019, the court returned custody of [redacted] to his father [redacted]. All DDHS services have been terminated and the case will be closed on December 15, 2019. At this time, the Trails record is up-to-date, including the 90-day reviews and the FSP 4B/C.

Please contact me if I can provide further clarification.

Respectfully,

[Signature]

Mimi Scheuermann
Director, Child Welfare and Adult Protection

CC: Jennifer Yeaw
Katie Smith
I hope you are well. We are providing this letter with the Colorado Department of Human Services, Division of Child Welfare (DCW) Response to Child Protection Ombudsman (CPO) Complaint 2019-3831 regarding Denver Department of Human Services (DDHS). Our office has reviewed this complaint, the county’s response, and relevant sections of Colorado Regulations 7.202(1), 7.204, 7.301.21(A), 7.301.3(E) which are detailed below.

Prior to addressing the concerns of the CPO, it is important to preface our comments detailing what we believe to be an error in Trails regarding this case. Under the general information tab in the youth’s client information, it indicates DDHS became involved with this youth as a Program Area 4 (PA4) on 5/1/18. Our understanding is that the services opened on 5/1/18 should have been through a Program Area 6 (PA6 - specialized services). This can be resolved to reflect that the youth was identified for assessment on 10/11/19, which is when the PA6 should have closed, and the PA4 should have begun. For the purposes of this communication, 10/11/18 is the date of the assessment and such date will be utilized for the purposes of timeliness determinations.

Concern 1: Documentation does not demonstrate that DDHS made efforts to contact either parent during April 2019. If accurate, this is a violation of 7.202.1 as this does not meet the monthly contact requirement.

DCW response to 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), Trails. DCW disagrees with the conclusion that the monthly contact was not met for April. Both parents were in attendance for a court review hearing on 4/26/19, and case notes were entered which reflect the minute orders from that date.

Concern 2: Documentation does not demonstrate that the sibling was seen twice during the first 30 days in out-of-home placement. The sibling was placed in the DDHS custody on July 5, 2019. The sibling was seen by the assigned caseworker on July 31, 2019 at the placement. The sibling was required to be seen a second time by August 4, 2019. The documentation does not demonstrate a second visit within the required timeframe. If accurate, this is a violation of 7.204 as this does not meet the contact requirement.

DCW response to concern 2: Volume 7, 7.204 (B) states that “Contact shall occur at a minimum of two face-to-face visits with the child or youth during the first thirty (30) days following the out-of-home placement, at least one of which shall be in the out-of-home placement, and a minimum of monthly face-to-face contact with the child or youth after the first month.”
DCW does agree that the required contact with the youth in question was not met. There should be two face-to-face contacts within the first 30 days of placement. It appears that the youth was placed on 7/8/2019 (custody changed on 7/5/19, efforts were made to locate placement). The worker did meet with the youth in the placement on July 31, 2019, which is only one contact instead of the required two contacts. The next contact with the youth was 8/13/19.

Concern 3: Documentation does not demonstrate that a Family Services Plan (FSP) treatment plan was created with the family. This was due November 21, 2018. If accurate, this is a violation of 7.301.21 and 7.301.24 as this has yet to be developed for the family.

DCW response to concern 3: DCW does not agree that there was not an FSP developed with the family. There is an FSP dated 1/23/19. The record indicates that this assessment came in on 10/11/19 with an FSP due date of 12/10/19. DCW does agree that this FSP was not entered timely per 7.301.21, within 60 days.

Concern 4: Documentation does not demonstrate that the FSP has been reviewed. If accurate, this is a violation of 7.301.3, as the FSP is required to be reviewed every 90 days.

DCW Response to concern 4: There are 90 day reviews for this case dated 01/26/2019, 4/26/2019, 07/25/2019, and 10/23/2019. Given that the case was opened on 10/11/18, the dates for review would have been 1/9/19, 4/10/19, 7/9/19, and 10/7/19. DCW agrees that these 90 day reviews were not documented timely.

Concern 5: Additional practice concerns were found by the CPO. These include the fact that the sibling’s placement pages within the Trails FSP and Client Demographics have not been updated to reflect the sibling’s circumstances.

DCW Response to concern 5: DCW does not agree that the placement and demographic information are not up to date. The information is present.

DCW has developed an action plan with DDHS to provide technical assistance to address 7.204 requirements of two face-to-face contacts with the child within 30 days of placement, timeliness of creating the FSP, timeliness of 90 day reviews, and correcting the unintended error in Trails to reflect accurate DDHS involvement. DCW will follow up at the next quarterly meeting that will be scheduled in January 2020 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,
Deputy Director, Division of Child Welfare

CC: Amanda Pennington, Child Protection Systems Analyst
Grievance/Inquiry Review Form

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

<table>
<thead>
<tr>
<th>Unit/Intermediary: Laura Carter-Beck</th>
<th>County: Denver</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Assigned (by manager): 12/5/19</td>
<td>Due Date: 12/12/19</td>
</tr>
<tr>
<td>Complaint Number: 102-2019</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:

x ___ Agree with county disposition
x ___ Disagree with county disposition

DCW assessment of action/s taken by county:

x ___ 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:

DCW did find that there were some violations of rule. DCW also disagreed with some of the violations listed by CPO. The specific violations and DCW’s assessment of those are clearly stated in the response letter.

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.):

TA and Guidance to Denver Department of Human Services (DDHS) as defined in the letter.

Other (specify):

DCW has also identified an error in TRAILS which can be resolved and will provide that information to the county.

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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