Office of Colorado’s Child Protection Ombudsman

LETTER OF COMPLIANCE CONCERN

Case Number 2019-3985

Stephanie Villafuerte,
Child Protection Ombudsman
January 29, 2020
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 2019-3985
(Delivered December 10, 2019)
To: Julie Krow, Director  
El Paso County Department of Human Services  
1675 West Garden of the Gods Rd., 3rd Floor  
Colorado Springs, CO 80907

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

Date: December 10, 2019

Subject: Possible Compliance Concerns, CPO Case 2019 - 3985

Dear Director Krow,

On November 7, 2019, the Office of Colorado’s Child Protection Ombudsman (CPO) was contacted by a mother regarding a lack of family services plan and poor communication by the El Paso County Department of Human Services (EPCDHS) in her family’s child welfare case. The mother believes that these issues are causing a delay in permanency and/or reunification for her children. The CPO has reviewed the available information regarding the family. The CPO has identified areas in which the EPCDHS may not be in compliance with the requirements of Volume 7 and the Colorado Children’s Code.1

Case Summary

On July 27, 2019, the EPCDHS received a report concerning a drug exposed newborn and 6-year-old sibling.2 The report was assigned, and the EPCHDS had three-calendar days to make contact with the family. The EPCDHS met with the family and developed a plan to address the concerns, this included opening a court and child welfare case. The plan failed and the children were removed from their parents’ care on October 2, 2019.3 The EPCDHS placed the children with kin until October 11, 2019, when they were emergently moved to a foster home.4

The review of the family service plan on November 18, 2019, notes that although both parents signed releases of information allowing services to be initiated, there were no services in place for the parents. The review states that the caseworker would be making attempts to gather information about existing external services.5 At this time, the children remain in foster care.

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1 Code of Colorado Regulations, 12 CCR 2509  
2 See Trails Referral ID: Referral  
3 Colorado State Courts Data Access – El Paso  
4 See Trails Case ID: FSP Placements  
5 See Trails Case ID: FSP Review 11/18/2019
Volume 7 Regulations and Children’s Code Requirements

Volume 7 and the Colorado Children’s Code contain the minimum guiding principles and standards to which county human services departments are held in assessing and ensuring a child’s safety. The CPO found that the following rule and law the most relevant to the identified compliance concern is Volume 7, 7.301.21 and the Colorado Children’s Code 19-3-209.

Identified Compliance Concerns

The CPO has reviewed the documentation in Trails along with the relevant rule package and sections of Volume 7. The CPO found an area in which the EPCDHS may not be in compliance with state regulation and law. This information was last verified on December 5, 2019. Specifically, the CPO observed:

1. Documentation does not demonstrate that a family services plan has been created. If accurate, this is a violation of Volume 7, 7.301.21 and the Colorado Children’s Code 19-3-209.

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 EPCDHS’ response, the CPO will submit its original letter and EPCDHS’ full response to the Colorado Department of Human Services (CDHS), which serves at the EPCDHS’ supervising entity. (See C.R.S. § 26-1-11 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 EPCDHS response to the possible violations listed in this letter no later than January 3, 2020.

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

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6 Trails: comprehensive child welfare information system
7 See Trails Case ID: FSP Treatment Plan
8 12 CCR 2509-4, Rule 7.301.21 and Colorado Children’s Code 19-3-209
Approved by:

Stephanie Villafuerte

Stephanie Villafuerte
Child Protection Ombudsman
El Paso County Department of Human Services

Response Letter

Case 2019-3985

(Delivered December 31, 2019)
December 27, 2019

Amanda Pennington, Child Protection Systems Analyst
Office of Colorado's Child Protection Ombudsman
1300 Broadway, Suite 430
Denver, Colorado 80203

Subject: Possible Compliance Concerns, CPO Case 2019-3985

Dear Ms. Pennington,

Please find this letter as the formal response to the above listed possible compliance concerns as well as additional information. The treatment plan for Mr. and Mrs. [redacted], the placement provider and the EPCDHS has been created and entered in Trails. The treatment plan had been created previously but had not been entered in Trails as this case had not had the dispositional hearing as of the date of the complaint. Oftentimes there are items included in the family service plan that are omitted per the Judge at the dispositional hearing as you are aware, and this caseworker was waiting to enter the court adopted family service plan into Trails. We recognize that Volume VII Rules and Regulations requires the family service plan to be created within 60 days of the referral date and the scheduled court date for the dispositional hearing should not impact this. Our caseworkers will be reminded of the family service plan timeframes per Volume VII Rules and Regulations.

Services have been offered for Ms. [redacted]. Service authorizations began on August 7th, 2018 for substance abuse evaluation. Ms. [redacted] did not agree to any services at that time. There is a current service authorization for life skills to address stability, parenting and employment with community provider, Four Feathers. Ms. [redacted] completed an evaluation at Beverly Hawpe and Associates in July 2019. She refused to participate in follow-up treatment services. This evaluation was completed before DHS became involved therefore Ms. [redacted] had not signed releases for DHS to receive a copy of this evaluation at that time. The caseworker received this evaluation on November 13th, 2019.

Ms. [redacted] and her caseworker went over her evaluation recommendations in November 2019 wherein Ms. [redacted] stated that she wanted to participate in inpatient treatment services where she could have her children with her. The caseworker called four different inpatient facilities, all of which would not allow the older child to reside with Ms. [redacted] during her treatment program. The caseworker had discussed the treatment plan with Ms. [redacted] and Ms. [redacted] stated that she would participate in any treatment recommended earlier this month.

Ms. [redacted] is currently not participating in any treatment services. Ms. [redacted] has services open at Beverly Hawpe and Associates. She has not gone in to complete the intake paperwork that would enable random UAs, participation in individual therapy and group therapy. Ms. [redacted] has taken two UAs; the first tested positive for THC (taken 14 days after requested) and the second tested positive for methamphetamines.
Ms. [redacted] is set up for random UAs at Urban Labs and has not taken any UAs at this location. Mr. [redacted] is not participating in services currently.

The older child is participating in individual therapy at Kids Crossing and has a therapist that checks in with him at school.

On November 5th the caseworker attended a medical appointment so that Ms. [redacted] could be present. In addition, an extra visit was scheduled for Friday, 12/20/19 so that Ms. [redacted] can watch her older child’s Christmas program at school.

Please do not hesitate to contact me if you have questions or need additional information at (719) 444-5770. Thank you for your time in this matter.

Sincerely,

Jill Bradley,
Manager, Children, Youth and Family Services

Jill Calvert
Director, Children, Youth and Family Services
Colorado Department of Human Services

Response Letter

Case 2019-3985

(Delivered January 28, 2020)
Stephanie Villafuerte  
Child Protection Ombudsman Colorado  
1300 Broadway Suite 340  
Denver, CO 80203

February 3, 2020

Dear Ms. Villafuerte,

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 2019-3985, regarding El Paso County Department of Social Services. Our office has reviewed this complaint, the county’s response, and relevant sections of Colorado Regulations 7.301.21 which are detailed below.

Concern 1: Documentation does not demonstrate that a family services plan has been created. If accurate, this is a violation of Volume 7 (7.301.21) and the Colorado Children’s Code 19-3-209.

DCW response to concern 1: Volume 7, 7.301.21 (A) states The Family Service Plan document must be completed within sixty (60) days of the referral date in the automated case management system for children/youth. DCW is in agreement with the violation to 7.301.21 (A). The county did not complete the Family Service Plan document within sixty (60) days of the referral date.

DCW has developed a plan with the El Paso County Department of Social Services specifically with Jill Bradley, the manager for Children, Youth and Family Services in El Paso County. There was a meeting held with the leadership team and the managers on January 13, 2020 and the supervisors in El Paso County will be auditing cases to address the timely completion of the Family Service Plan within 60 days.

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
Grievance/Inquiry Review Form

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

<table>
<thead>
<tr>
<th>Unit/Intermediary: Matt DeHerrera-Lopez</th>
<th>County: El Paso</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Assigned (by manager): 1-3-2020</td>
<td>Due Date: 02/03/20</td>
</tr>
<tr>
<td>Complaint Number: CPO Case 2019-3985</td>
<td>Complainant Role (Select from the following):</td>
</tr>
<tr>
<td>Comments: Failure to complete Family Service Plan timely</td>
<td>___ Parent, Guardian, Legal Custodian</td>
</tr>
<tr>
<td></td>
<td>___ 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
- 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:
- DCW found concerns with county practice, policy, procedure, etc.; specify: State Rule violation discovered: 7.301.21. The failure to complete The Family Service Plan document within sixty (60) calendar days of the referral date in the automated case management system for children/youth.

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 reached out to Jill Bradley at El Paso County and discussed specific concerns around this rule violation. DCW has developed a plan with the El Paso County Department of Social Services specifically with Jill Bradley, the manager for Children, Youth and Family Services in El Paso County. There was a meeting held with the leadership team and the managers on January 13, 2020 and the supervisors in El Paso County will be auditing cases to address the timely completion of the Family Service Plan within 60 days.

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