Office of Colorado’s Child Protection Ombudsman

LETTER OF COMPLIANCE CONCERN

Case Number 2019-3733

Stephanie Villafuerte,
Child Protection Ombudsman

October 11, 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)(l)(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 - 3733

(Delivered August 8, 2019)
To:  Ms. Tonia Burnett  
Crowley County Department of Human Services  
631 Main Street, Suite 100  
Ordway, CO 81063

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

Date:  August 8, 2019

Subject:  Possible Compliance Concerns, CPO Case 2019-3733

Dear Director Burnett,

On June 17, 2019, the Office of Colorado’s Child Protection Ombudsman (CPO) received an inquiry concerning child welfare referrals regarding a family. The contact indicated that child safety concerns were not being investigated by the Crowley County Department of Human Services (CCDHS). The CPO has reviewed the relevant information in Trails and has identified two areas in which the actions of CCDHS may not be in compliance with the requirements in Volume 7.¹

Case Summary

Between June 14, 2018 and July 19, 2019, there were seven reports of child safety concerns made to CCDHS regarding one family. The county department reviewed each of these referrals and determined that none of the referrals met criteria for assessment. The referrals included:

On June 14, 2018, a referral was made to CCDHS regarding concerns that the mother and newborn had tested positive for marijuana upon delivery. (Trails Referral ID: [Redacted])

On June 18, 2018, a referral was made to CCDHS regarding concerns that the father of the family’s six children was using marijuana in the home. (Trails Referral ID: [Redacted])

On March 25, 2019, a referral was made to CCDHS regarding “heavy traffic” at the family home. The reporter was concerned that the parents were distributing drugs while the children were home. (Trails Referral ID: [Redacted])

On May 16, 2019, a referral was made to CCDHS concerning: an alleged instance of physical abuse on a child; concerns that both parents are using and distributing marijuana with the children present; concerns that there are at least 10 people living in the two-bedroom home; and concerns that the home is “filthy” and has roaches. (Trails Referral ID: [Redacted])

¹ Trails: statewide case management system and Code of Colorado Regulations, Social Services Rules, Volume 7
On July 4, 2019, a referral was made to CCDHS regarding: the children using fireworks without supervision; an incident in which a parent may have exposed themselves to a child; and concerns that the parents continue to use marijuana in the presence of the children. (Trails Referral ID: )

On July 10, 2019, a referral was made to CCDHS concerning an unrelated child who recently moved in with the family. The report alleged that the child may be in an inappropriate relationship with the family’s caregivers, and that the child has a history of being violent with younger children. (Trails Referral ID: )

**Volume 7 Regulations/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 requires that referrals must be reviewed and if they meet a specific criterion, must be screened using the Red Team Framework. Additionally, Volume 7, 103.4 (E) states that a referral cannot be considered a duplicate if there is a different incident date, victim, person alleged to be responsible for abuse and/or neglect, or if there is a new threat to the safety of the children.

Volume 7, 7.605 requires county departments keep client information confidential unless permission is explicitly granted either by client or rule.

**Identified Compliance Concerns**

In reviewing the relevant information in Trails, the CPO identified that two referrals were not screened appropriately, and that one referral may have had a breach of confidentiality by CCDHS. Specifically, the CPO observed:

- The June 18, 2018 referral (Trails Referral ID: ) was screened out by CCDHS as a “duplicate” of the June 14, 2018 referral (Trails Referral ID: ). However, the referral alleges different victims, a different person alleged to be responsible for the abuse/neglect and a new threat of safety to the children. This would indicate that this was not a duplicate of the prior referral, and should have been reviewed using the Red Team Framework. If accurate, this is a violation of 7.103.61 (A)(2) and 7.103.4 (E). On July 8, 2019, the CPO contacted CCDHS to discuss potential compliance concerns. CCDHS acknowledged that the June 18, 2018, referral may not have been screened appropriately.

- On May 16, 2019, a report was made to CCDHS regarding physical abuse, drug use and distribution, and neglect. The Red Team Framework documentation included a statement that

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2 See Volume 7, 7.103.61  
3 See Volume 7, 7.103.4 (E)  
4 See Volume 7, 7.605 AND Volume 7, 7.605.1  
5 See Trails Referral ID: , Referral  
6 See Trails Referral ID: , Referral Acceptance
there was no indication of drug distribution based on United Parcel Service (UPS) activity to and from the home.\(^7\) Initially, it was unclear how the county department obtained UPS information as there was no mention of UPS within the referral and no indication that a release of information was signed by the parents to allow the possible release of confidential family information to the third party. On July 8, 2019, the CPO contacted CCDHS to discuss potential compliance concerns. CCDHS acknowledged that they had engaged in a discussion with UPS about the family without a release of information, and that the information discussed during the conversation included – at a minimum – the family’s address and that they had been reported for child abuse and/or neglect concerns. CCDHS was informed by UPS that the family did not receive or send packages from UPS on a frequent basis and that they only recalled the family receiving Amazon packages. Additionally, CCDHS stated that at one point, UPS informed CCDHS that the family had submitted a change of address form and that the county would likely no longer be receiving referrals regarding the family.\(^8\) If accurate, this is a violation of Volume 7, 7.605 and Volume 7, 7.605.1.

- The referral from July 10, 2019, was not reviewed using the Red Team Framework.\(^9\) This framework must be used when the family has had two or more screened out non-duplicative referrals with no assessment in the prior 12 months. If accurate, this is a violation of Volume 7, 7.103.61.

At this time, the CPO’s compliance concerns have not been resolved.

**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 CCDHS response, the CPO will submit its original letter and CCDHS’ full response to the CDHS, which serves as the CCDHS 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 CCDHS response to the possible violations listed in this letter no later than August 29, 2019.

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

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\(^7\) See Trails Referral ID, Framework
\(^8\) Per telephone conversation with CPO and CCDHS on July 8, 2019
\(^9\) See Trails Referral ID
Sincerely,

Amanda Pennington

Amanda Pennington
Child Protection Systems Analyst

Approved by:

Stephanie Villafuerte

Stephanie Villafuerte
Child Protection Ombudsman
Crowley County Department of Human Services

Response Letter

Case 2019-3733

(Delivered August 15, 2019)
August 15, 2019

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

RE: CPO Case 2019-3733

Dear Ms. Pennington:

This letter is the Crowley County Department of Human Services Formal Response to CPO Case 2019-3733.

In regards to the Case Summary, there is some factual information that is inaccurate in your original letter.

- Between June 14, 2018 and July 19, 2019, there were 6 reports of child safety concerns received by CCDHS. The Case Summary states there were 7.

- The report on July 4 states “The family uses marijuana”. The Case Summary states “concerns that the parents continue to use marijuana in the presence of the children.”

- The report on July 10 states “(The Child) is violent to the other children in the previous home”. The Case Summary states “….the child has a history of being violent with younger children”.

CCDHS response to the Identified Compliance Concerns:

- The Department does not believe that the June 14, 2018 and June 18, 2018 reports were substantially different from one another. Both were regarding a substance exposed newborn. Neither reporter indicated abuse/neglect concerns for the other children in the home. Both reports indicated that there was possible marijuana use in the home by the parents. The referral on June 14, 2018 was Red teamed and screened out. The referral on June 18, 2018 was not red teamed as it did not give any new information that was not received on June 14, 2018. The Department would agree that the FOC should have been listed as an alleged perpetrator in the first referral. The Department does not believe that had a Red Team occurred on the June 18, 2018 referral that it would have been screened differently.

- The Department does not believe that a breach of confidentiality occurred in this case. The referral on March 25, 2019 specifically states “Rp said there is heavy traffic of people stopping by the home and UPS picks up boxes everyday.” The Department, during the course of the Red Team
determined that a collateral contact needed to be made with the UPS driver, to find out if packages were in fact being picked up every day. The reporting party in this report was anonymous, so there was no way to make a collateral contact through that person. The conversation that took place with the UPS driver did not indicate that a referral was made, or any identifying information regarding the family. The UPS driver was not informed of any child abuse/neglect allegations regarding the family. The conversation was documented in Trails, and is noted below.

"Due to it being a rural area, there is only 1 UPS driver that services this area. asked to speak with when came into the office on 3-27-19. spoke with who has been the UPS driver servicing the Ordway/Sugar City area. indicates that he has only picked up 1 package from this home in the last year, and it was addressed to Amazon. He states that they do get numerous packages, however they do not send any through states that they may send packages through another carrier, but it is not UPS. Also sent the referral to the Undersheriff and the Sheriff via email. also indicated that MOC told that the family has moved to a new home in Ordway. He did not have the address."

The collateral information that the UPS driver gave, other than regarding the packages, was information freely offered regarding his own knowledge of the family that lived at that home. At no time did the UPS driver indicate anything regarding future referrals on the family. At no time did the UPS driver state that a change of address had been submitted.

- The referral from 7-10-19 was initially entered as a PA5- emotional abuse/neglect. A follow up contact was made with the reporting party and it was determined that at that time that the reporter was not intending to make a formal child abuse/neglect report. The reporter indicated that he wanted to find out how to get his niece back to Alaska. The reporter does not speak English as a first language, and it appeared there was a simple misunderstanding when he called the hotline. This report should have been changed to an Information and Referral and screened out by giving the reporter information on how to proceed. The Department does not believe a Red Team was needed for this referral.

Sincerely,

Tonia L. Burnett
Director, CCDHS
Colorado Department of Human Services

Response Letter

Case 2019-3733

(Delivered October 10, 2019)
October 10, 2019

Dear Ms. Villafuerte,

I hope you are well. We are providing this letter with the Colorado Department of Human Services Response to Complaint # 2019-3733 regarding Crowley County Department of Human Services. Our office has reviewed this complaint along with Sections of 7.103.61 (A)(2), 7.103.4 (E), 7.103.3 (C), 7.605, and 7.605.1.

Section 7.103.61 (A)(2) addresses the use of Red Team Framework and 7.103.4 (E) addresses the parameters for referrals requiring no further action. The referral received on June 18, 2018 cannot be considered a “duplicate” to the referral received on June 14, 2018 as there are additional victims named and an additional different alleged person responsible for abuse and/or neglect in the June 18, 2018 referral. This was a violation of administrative rule. The county department disagreed that the referral from June 18, 2018 screen out reason was not supported by Volume 7 social services rules.

Section 7.103.3 (C) addresses the use of collateral sources when available and appropriate to obtain additional information for initial review. The referral received on March 25, 2019 mentions a possible collateral contact with daily interactions at the family home. The county department documented the collateral contact in the referral received on March 25, 2019 with a referral note dated April 23, 2019. The county department documented the information from the collateral contact in the referral received on May 16, 2019 in the Red Team Framework dated May 17, 2019. The report issued by the Child Protection Ombudsman (CPO) indicated that on July 8, 2019 the CPO contacted the county department who acknowledged confirming to the collateral agency the family had been reported for child abuse and/or neglect concerns. In the county department’s response delivered August 15, 2019 they denied indicating to the collateral agency that a referral was made. If the county department did not inform the collateral agency that a report for alleged child abuse and/or neglect was made during the collateral contact on April 23, 2019 there was no administrative rule violation.

Section 7.103.61 (A)(3) addresses the use of Red Team Framework when the family has had two or more screened out non-duplicative referrals with no assessment in the prior 12 months. The referral received on July 10, 2019 met these criteria for use of Red Team Framework. In the county department’s response delivered August 15, 2019 they disagreed and indicated they followed-up with the original reporting.

Stephanie Villafuerte
Child Protection Ombudsman Colorado
1300 Broadway Suite 340
Denver, CO 80209

Minna Castillo Cohen, Director
party. However, there is no referral note in the referral received July 10, 2019 documenting said conversation with the original reporting party. The referral narrative does contain an allegation of child abuse and/or neglect and was appropriately documented as a child protection referral and therefore section 7.103.61 (A)(3) does apply. This was a violation of administrative rule.

Division of Child Welfare staff will follow up with Crowley County DHS to provide technical assistance regarding the use of “duplicate” for referrals requiring no further action and the use of Red Team Framework for review of child protection referrals. The Division of Child Welfare is in agreement with this plan and will oversee and continue to check in and provide supervision and guidance as needed. 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: Yolanda Arredondo</th>
<th>County: Crowley</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Assigned (by manager): 9-27-19</td>
<td>Due Date: 10-21-19</td>
</tr>
<tr>
<td>Complaint Number: 2019-3733</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><em>X</em> 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:

___ 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

___ 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:

7.103.61 (A)(2) and 7.103.4 (E)

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.):

County department intermediary will provide additional technical assistance regarding the use of “duplicate” for referrals requiring no further action and the use of Red Team Framework for review of child protection referrals.

Other(specify):

Yolanda Arredondo

Printed Name AND Signature of DCW County Intermediary

10/7/19

Laura L Solomon

Printed Name AND Signature of DCW County Intermediary Supervisor

10/8/19

Korey Elger

Printed Name AND Signature of DCW Unit Manager

10/7/19

Date review form sent to county and client services

(CPO Only) Date response sent