



Office of Colorado's Child Protection Ombudsman
LETTER OF COMPLIANCE CONCERN

Case Number 2018-3052

Stephanie Villafuerte,
Child Protection Ombudsman
February 4, 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 2018-3052

(Delivered November 16, 2018)



To: Stacie Kwitek-Russel, Director
Fremont County Department of Human Services
172 Justice Center Road
Canon City, CO 81212

From: Caroline Parker, Child Protection Systems Analyst
Office of Colorado's Child Protection Ombudsman
1300 Broadway, Suite 430
Denver, CO 80203

Date: November 16, 2018

Subject: Possible Compliance Issues

Dear Director Kwitek-Russel,

On April 25, 2018, the Office of Colorado's Child Protection Ombudsman (CPO) received an inquiry from a father who articulated concerns regarding the Fremont County Department of Human Services' (FCDHS) handling of several recent referrals involving his daughter. The CPO has reviewed all referrals involving the family and has identified several areas in which the actions of FCDHS may not be in compliance with the screening and assessment guidelines in Volume VII.

Case Summary

This case concerns a 5-year-old girl who was living in the home of her mother in Fremont County. While the child's father did not live with the child for several years, he saw his daughter frequently. For several years, the child's mother and father have shared custody and arranged visitation informally.

Periodically since the child's birth in 2013, the child's mother has been the subject of referrals alleging drug use and inadequate supervision. In 2017, the child's father began to hear from family and friends who were concerned for the child's well-being in her mother's home. These individuals believed the child and her 3-year-old sibling were being exposed to methamphetamines and domestic violence and were not being supervised appropriately.

When the father contacted the CPO in the spring of 2018, he stated that members of his community informed him that several referrals were made to FCDHS. However, he was unsure if the department had taken any steps to assess or mitigate safety concerns for his daughter, as he had not received any contact from FCDHS in approximately 15 months.¹

¹ The child's father reported that he had not been contacted by FCDHS since he made a referral in February 2017; see Trails referral ID [REDACTED].

A review of the family’s referral history in Trails reveals that nine referrals had been made involving the child during this 15-month period.² Of these nine referrals, FCDHS completed two assessments, one of which was founded for abuse and neglect.³ During the period from February 24, 2017 to May 29, 2018, the department did not document any attempts to notify or interview the child’s father regarding any of the allegations that had been made involving his daughter.

Shortly after the child’s father first called the CPO, another referral was made that subsequently led FCDHS to open a case and place the child outside of her mother’s home with her maternal relatives.⁴ The child’s father was notified of the open case by these relatives and has since become engaged with FCDHS. He recently received custody of the child.⁵

Parental Contact Requirements

Volume VII requires county departments to engage all parents — including non-custodial parents — in assessments and open cases involving their children.⁶ Volume VII also requires parents to be notified of the outcome of an assessment unless there is a determination that such notification is not in the child’s best interest.⁷ Such a determination must be documented in Trails.

Identified Compliance Concerns

In reviewing the log of referrals involving the child, the CPO identified two assessments in which FCDHS may not have complied with Volume VII requirements to contact her father. Specifically, the CPO observed that:

- In September 2018, FCDHS opened an assessment in response to a report from [REDACTED] child’s mother that she was actively using drugs in front of her daughter. According to documentation in Trails, FCDHS did not contact or attempt to contact the child’s father at any point.⁸ If accurate, this is a violation of contact requirements in Volume VII, 7.104.1(C)(2) and 7.104.15.

² See the following Trails referral IDs: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED].

³ See Trails referral ID [REDACTED] (assessment open 08/02/2017 to 09/01/2017) and referral ID [REDACTED] (assessment open 02/07/2018 to 03/08/2018).

⁴ Trails referral ID [REDACTED] (received 05/29/2018) and associated case ID [REDACTED].

⁵ Case [REDACTED] (Fremont County)

⁶ 7.104.1(C)(2) states that assessments must 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.”

⁷ 7.104.15(B) states that, “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: 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.

⁸ See Report of Contact Notes, Trails referral ID [REDACTED].

- In February 2018, FCDHS opened an assessment in response to a report from law enforcement of serious domestic violence, methamphetamine use and inadequate supervision in the mother's home. According to documentation in Trails, FCDHS did not contact or attempt to contact the child's father at any point.⁹ If accurate, this is a violation of contact requirements in Volume VII, 7.104.1(C)(2) and 7.104.15.

Conclusion

Pursuant to policies 4.200 and 5.200 in the CPO'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 FCDHS' response, the CPO will submit its original letter and FCDHS' full response to the Colorado Department of Human Services (CDHS), which serves as the FCDHS' 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 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 of the child and family's identifying information will be redacted prior to the public release.

Please provide the FCDHS' response to the possible violations listed in this letter no later than December 10, 2018.

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

Sincerely,

Caroline Parker

Caroline Parker
Child Protection Systems Analyst

Approved by:

Stephanie Villafuerte

Stephanie Villafuerte
Child Protection Ombudsman

⁹ See Report of Contact Notes, Trails referral ID [REDACTED].

Fremont County Department of Human Services

Response Letter

Case 2018-3052

(Delivered December 7, 2018)

DIRECTOR
Stacie Kwitek-Russell
Phone: (719) 275-2318
Fax: (719) 275-5206

FREMONT COUNTY
Department of Human Services
172 Justice Center Road
Canon City, CO 81212

COUNTY BOARD
Tim Payne Dist. 1
Debbie Bell Dist. 2
Dwayne McFall Dist. 3

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

December 7, 2018

Ms. Parker,

On August 30, 2018 Ms. Parker had begun discussions with our Family and Adult Services Administrator Mick Stumph regarding an inquiry to the Office of Colorado's Child Protection Ombudsman about a father who voiced concerns regarding the Fremont County Department of Human Service's failure to make contact with him. During initial conversations there were 6 referrals that were reviewed with two referrals that were assigned for assessment that were of primary concern regarding contact with the father. These being assessments number [REDACTED] referred on 8/1/17 and number [REDACTED] referred on February 2, 2018.

Mr. Stumph was able to interview the caseworker that completed assessment [REDACTED] and was able to review the documentation in TRAILS and found that the caseworker had not completed contact with the father. Mr. Stumph was not able to interview the caseworker in assessment [REDACTED] as the worker is no longer employed with the Fremont County Department of Human Services and noted that the TRAILS documentation did not indicate that contact was made with the father. Both Mr. Stumph and Ms. Parker agreed with this finding during a follow up conversation on September 5, 2018.

The Fremont County Department of Human Services prides itself on initiating contacts with fathers when a Dependency and Neglect Case is filed and was very disappointed in the findings of the two assessments and the breakdown of best practices with the two aforementioned assessments and that this occurred with two separate caseworkers.

During the review and discussion of the two assessments the Fremont County Department of Human Services was working on compiling a performance improvement plan (PIP) as a result of the Child and Family Services Review completed July/August 2018. Findings in the audit for the State of Colorado mirrored the concerns regarding the two assessments.

The following components of the Performance Improvement Plan have been initiated in Fremont County:

Goal: Family Search and Engagement/Identify and engage non-custodial parents

- Family supports and non-custodial parents will be identified and engaged in all assessments. This will serve as a prevention measure as well as a support measure. Training will be provided

to all caseworkers on the importance of engaging supports and non-custodial parents. The relative/diligent search worker will complete a search on all new PA-4 and PA-5 cases.

Goal: Engaging Fathers

- All caseworkers will attend CWTS or other available training in regards to engaging fathers.
- Will identify and engage fathers in all assessments. This will be documented in Trails.
- Supervisors will always be asking the question “who is dad and who is mom and where are they?” This will become standard practice.
- Will refer appropriate fathers/father-figures to Nurturing Parents and/or Caring Dads.

Fremont County Department of Human Services began training on this PIP in September of 2018 meeting with each child welfare team. During training the Family and Adult Services Administrator referenced the two assessments and subsequent compliance issues brought to light from the Child Protection Ombudsman in their assessment to demonstrate the importance of best practice and the invaluable impact fathers have in the life of a child.

Thank you,



Stacie Kwitek-Russell
Director

CC: Mick Stumph
Amanda Koehn

Colorado Department of Human Services

Response Letter

Case 2018-3052

(Delivered January 10, 2019)



COLORADO

Office of Children,
Youth & Families

Division of Child Welfare

Grievance/Inquiry Review Form

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

Unit: CPS	County: Fremont
Date Assigned: 12-24-18	Due Date: 1-7-19
Complaint #:	Complainant Role (Select from the following): <input type="checkbox"/> Parent, Guardian, Legal Custodian <input checked="" type="checkbox"/> Office of Colorado's Child Protection Ombudsman <input type="checkbox"/> Attorney <input type="checkbox"/> Other, Specify Role: _____

The basis of grievance/inquiry (mark all that apply):

- Federal/State Statutory violation:
- Administrative rule violation: 7.104.1(C)(2) and 7.104.15.
- 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

Findings and Action/s taken by DCW:

- Unfounded, DCW found no violation of federal/state statute and/or of the administrative rules; therefore, no further action will be taken by DCW.
- Founded, DCW found violations of the following federal/state statute and/or of the administrative rules: 7.104.1(C)(2) and 7.104.15.

Based upon this finding, the following action/s will be taken by DCW:

- Technical assistance (TA) and/or guidance will be provided
- Other; specify:

By implementing the following practice changes as identified in the response letter to the Ombudsman's office, DCW believes the steps listed below will address the concerns identified. Fremont County has taken the appropriate actions to address the concerns related to found violations 7.104.1(C)(2) and 7.104.15.

The following components of the Performance Improvement Plan which Fremont County created in response to the CPO investigation have been initiated within the county:

- Family supports and non-custodial parents will be identified and engaged in all assessments.



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Office of Children,
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Division of Child Welfare

- All caseworkers will attend CWTS or other available training in regards to engaging fathers within the next calendar year.
- County caseworkers will identify and engage fathers in all assessments. This will be documented in Trails.
- Supervisors will always ask the question, "Who is dad and who is mom and where are they located?" This will become standard practice in all assessments.
- County caseworkers will refer all fathers/father-figures in need of parenting assistance to Nurturing Parents and/or Caring Dads parenting programs.

Printed Name AND Signature of DCW County Intermediary

Date

Mark Williams, LCSW Mark Williams, LCSW 1/10/19
Printed Name AND Signature of DCW County Intermediary Supervisor Date

Lucinda Connelly Lucinda DW Connelly 1/10/2019
Printed Name AND Signature of DCW Unit Manager Date