

The background of the page features a large, semi-transparent seal of the State of Colorado. The seal is circular and contains the text "STATE OF COLORADO" around the perimeter. In the center, there is a shield with a mountain, a river, and a plow, flanked by two figures. The shield is surrounded by a wreath and a banner at the bottom.

**COLORADO CHILD PROTECTION
OMBUDSMAN PROGRAM WORK GROUP**

**DETAILED PLAN FOR THE ESTABLISHMENT AND OPERATION
OF THE
CHILD PROTECTION OMBUDSMAN PROGRAM**

SUBMITTED TO

Karen L. Beye

Executive Director

Colorado Department of Human Services

SEPTEMBER 17, 2010



Colorado Department of Human Services
people who help people

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EXECUTIVE SUMMARY

The child protection system must protect and serve Colorado's children in a manner that keeps them safe and healthy and promotes their well-being. The Colorado General Assembly established the Child Protection Ombudsman Program to engender a high level of confidence in the child protection system through the establishment of a well publicized, easily accessible, and transparent grievance process for voicing concerns regarding the child protection system. The expectation is that those concerns, once voiced, will be heard and addressed in a timely and appropriate manner. To this end the 2010 Colorado General Assembly established the Child Protection Ombudsman Program through SB10-171. Governor Bill Ritter Jr. signed the bill into law on May 14, 2010.

The Child Protection Ombudsman Program Work Group was established through SB10-171 to assist and advise the Executive Director of the Colorado Department of Human Services (CDHS) on the establishment and operation of the Child Protection Ombudsman Program. The Work Group is composed of seventeen members from across the State of Colorado representing county commissioners, directors and child welfare staff, child advocates, service providers, attorneys, law enforcement, foster parents, former foster children and a member of the Senate as appointed by the Senate President and a member of the House of Representatives as appointed by the Minority Leader. Over a twelve-week period, the work group developed a detailed plan for the Program. This guidance is intended to insure a process for independent, impartial reviews of family and community complaints or concerns regarding the safety and well-being of children referred to the child protection system.

The Work Group plan is focused on the scope, powers and duties of the Child Protection Ombudsman Program; access; conflict of interest; confidentiality requirements; qualifications and professional designations; performance measures and accountability and procedural standards, including a process for accepting and reviewing referrals that are designed to focus the work of the Ombudsman program on improving accountability and transparency in the child protection system.

The Child Protection Ombudsman Program has the power and duty to facilitate a process for independent, impartial review of family and community concern; request independent, accurate information and to conduct case reviews to help resolve child protection issues. The Ombudsman may investigate or explore resolution of concerns regarding any action, inaction, or decision of a public agency or provider that receives public moneys, that may adversely affect the safety, permanency or well-being of a child. The Child Protection Ombudsman Program has limits on its authority and, to the extent possible, shall investigate any complaints or concerns without interfering in on-going court or child protection cases, including those complaints specifically referred regarding the actions of the Judicial Department. The work of the Ombudsman is not intended to create a parallel system to the current child protection system to investigate reports or child abuse or neglect, but to insure that children are safe and adequately protected by the child protection system.

The Child Welfare Ombudsman Program is designed to allow statewide, transparent access for citizens to voice their concerns about the response by the child protection system, without fear of reprisal. The Ombudsman shall establish access policies and procedures to receive complaints and concerns. This includes an outreach plan through advertising, on the web or other devices to ensure stakeholders know where they can go to voice a complaint or concern.

The Child Protection Ombudsman Program should be free from outside control or influence and function as an impartial entity in order to review each complaint or concern in an objective and fair manner. Any recommendation made by the Ombudsman, or positions taken, do not necessarily reflect those of the State or County Departments of Human/Social Services.

The Child Protection Ombudsman must be above reproach in all relationships and must not allow any appearance of a conflict of interest. To maintain this trust, the Ombudsman is prohibited from being involved in child protective services, or serving on a similar agency's board, or involved in the legal representation of children after the award of the contract. The recipient of the Ombudsman contract must maintain an obligation to the public that cannot be interfered with by self-interest or obligation to another group or established organization.

It is critical to the success of the Child Protection Ombudsman Program that all complaints or concerns received shall be treated as confidential. The Ombudsman, and any persons acting on behalf of the Ombudsman Program shall comply with all state and federal confidentiality laws that govern the State Department or a County Department of Human/Social Services.

The initial contract for the Child Protection Ombudsman Program is recommended to be for a period of four (4) years. This is to ensure the effective start-up, policy development and community education about access to the Program, program implementation and operation of the Program.

The head of the Program shall be called the Child Protection Ombudsman. The Ombudsman shall be a full-time position and meet the qualifications as designated in statute. It is anticipated that the Ombudsman will have graduated from an accredited four-year college or university and show five years of progressively responsible experience and/or working knowledge in safety, permanency and well-being of children. The Ombudsman should pass a background check, demonstrate familiarity with the many aspects of the Colorado child protection system; demonstrate a working knowledge of systems and change management principles; and demonstrate an understanding of how to develop and direct an organization. The Work Group has recommended that the selection process for the Child Protection Ombudsman Program not be guided by a specific understanding that the Ombudsman have a particular professional title, such as lawyer or social worker, but that the Ombudsman demonstrate that decisions are based on values, principles and requirements that are consistent with the mission as defined in statute and in the best interests of the safety of children.

The Child Protection Ombudsman Program is required to track and analyze information that is necessary to respond to concerns about children and families, as well as to address child protection system issues. In addition, the Program has specific accountability and performance measures, accountability requirements, and reporting mandates for the Program. The Ombudsman will make and report annually on all statutory, regulatory, budgetary, or administrative recommendations relating to child protective services. The annual report should include customer satisfaction information as collected during the review and investigation process. A base line for performance will be set after the first year of operation of the Program.

The Ombudsman shall develop policies and procedures concerning the acceptance or non-acceptance of complaints, or concerns, for investigation or review. Procedural standards, a process for the review of complaints and concerns, and the ability to report back to stakeholders are a critical function of the Child Protection Ombudsman Program.

The accountability and oversight of the child Protection Ombudsman Program has been placed within the office of The Executive Director of the CDHS. The Executive Director is encouraged to develop and publish such policy and procedures as are necessary to address any grievance filed concerning the conduct, practices or procedures of the Program. The Executive Director is encouraged to report annually to the Colorado General Assembly on any complaints or concerns regarding the Ombudsman Program.

CHILD PROTECTION OMBUDSMAN PROGRAM WORK GROUP MEMBERS

Pursuant to legislation passed in 2010 (SB10-171), the Executive Director of the Colorado Department of Human Services is to convene a voluntary work group to assist and advise the Executive Director with respect to the development of a detailed plan for the establishment and operation of the Child Protection Ombudsman Program. Governor Bill Ritter Jr. appointed members of the work group through Executive Order, and President of the Senate Brandon Shaffer and Minority Leader of the House of Representatives Mike May appointed members of the Colorado General Assembly.

Appointed per Executive Order A2010-149

Honorable Jack A. Hilbert of Douglas County, Colorado

Patricia Anne Wilson Pheanious of Denver County, Colorado

Gloria L. Romansik of Weld County, Colorado

Marilee M. McWilliams of Elbert County, Colorado

Nancy B. Smith of Routt County, Colorado

Dea M. Schantz of Weld County, Colorado

Nathan (Lee) Wheeler-Berliner of Jefferson County, Colorado

Sister Michael Delores Alegri of Denver County, Colorado

Steven Ramirez of Arapahoe County, Colorado

Lynn S. Price of Douglas County, Colorado

Carla L. Bennett of Denver County, Colorado

Sergeant Brad Lenderink of Douglas County, Colorado

Shari F. Shink of Jefferson County, Colorado

Patricia Ann Schene of Douglas County, Colorado

Karen Jenkins of Denver County, Colorado

Appointment by the President of the Senate

Senator Linda Newell, District 26

Appointment by the Minority Leader of the House

Representative B. J. Nikkel, District 49

Designation of the Executive Director

Pursuant to section 19-3.3-105 (3) in Senate Bill 10-171, George J. Kennedy, Deputy Executive Director of the Colorado Department of Human Services, Office of Children, Youth and Families was appointed as Executive Director Karen L. Beye's designee to convene and facilitate the Ombudsman Work Group.

State Staff Designated to Support the Work Group

K.C. Robbie, Supervisor, Office of Field Administration

Lloyd Malone, Director, Colorado Division of Child Welfare

Paula S. Sullivan, Program Assistant

Facilitation/Consultation

Danelle E. Young, DEY Consulting Services

INTRODUCTION

In April of 2008, Governor Bill Ritter Jr. issued an Executive Order creating the Child Welfare Action Committee (CWAC). The charge of the Executive Order was to provide recommendations on how to improve Colorado's child welfare system in order to "assure that Colorado's youngest citizens have the opportunity to be safe and nurtured and to achieve their full potential." (Executive Order B 006 08). Included in the Mission and Scope of the CWAC was a charge to explore the role that independent oversight committees can play in ensuring that human service agencies are held accountable for actions that might negatively impact families, children and the community at large, and to evaluate the effectiveness of agencies like the Child Ombudsman Office in which an independent body is authorized to intervene when an agency's action or inaction may be placing a child at risk.

The Child Welfare Action Committee, following many meetings of a sub-committee appointed to study the Ombudsman issue, recommended the establishment of the Office of Child Advocate. The purpose of this Office was "to provide families, mandatory reporters, state and county employees, other professionals who work with children and families and concerned citizens an alternative place to voice their concerns about the response to children in the child welfare system without fear of reprisal." The recommendation also included the development of a standard grievance policy to be utilized statewide and the review of existing accountability mechanisms with the goal of streamlining and potentially eliminating some of the mechanisms. Governor Bill Ritter Jr. accepted the recommendations of the CWAC and made the Office of Child Protection Ombudsman one of his legislative agenda items for the 2010 legislative year.

Senate Bill 10-171 was introduced in the Colorado General Assembly under the title CONCERNING THE CREATION OF A CHILD PROTECTION OMBUDSMAN PROGRAM. The bill passed the General Assembly and was signed into law on May 14, 2010. An appropriation of \$175,000 for FY 1-0-11 (and an anticipated \$370,000 in FY 11-12) was made to the Program to encourage the establishment and administration of the Program. The legislation required the Executive Director to convene the advisory work group within 45 days of the effective date. The Work Group was convened on June 23, 2010 within the established timeline. The Executive Director is required to complete the detailed plan for the Program within 90 days of the convening of the work group or no later than September 20, 2010 and provide a copy of the detailed plan to the Health and Human Services Committees of the Senate and House of Representatives, and to post the detailed plan on the web site of the State Department.

PURPOSE

The purpose of the Child Protection Ombudsman Program Work Group is to fulfill the legislative intent of C.R.S. 19-3.3-105 to assist and advise the Executive Director of the Colorado Department of Human Services (CDHS) with respect to the development of a detailed plan for the establishment and operation of the Colorado Child Protection Ombudsman Program. Within 90 days after the work group is initially convened, the Executive Director is required to complete a written detailed plan which shall include, but not be limited to the powers and duties of the program, the qualifications and professional designations appropriate to the Ombudsman, and specific performance benchmarks for the program. The work group is also to advise the Executive Director with respect to the length of the contract and other criteria to be considered in a request for proposal that will guide the Department of Human Services in the development of a request for proposal and anticipated contract for the operation of the Ombudsman Program.

PROCESS

The Child Protection Ombudsman Work Group agreed to work in a deliberative, open forum in an effort to reach consensus on the many issues and requirements of their task. It was agreed that each member's input was valued and encouraged. Only in those instances where consensus was not apparent would a simple majority vote be taken. As issues were discussed, the Work Group worked to balance the differing views so that the final product was a reflection of the collaborative effort. In addition the membership agreed that the detailed plan would not be excessively prescriptive nor policy or procedure-specific. The intent was to lay out a plan that would represent a broad architecture of the Office and allow the person selected the ability to be creative and more specific in the request for proposal process and eventual implementation of the Office.

George Kennedy, Deputy Executive Director of the Colorado Department of Human Services, as a non-voting member, would chair the Work Group. Danelle Young was contracted to facilitate the meetings of the Work Group and keep it on track. Sub-work group committees were established to address the requirements of SB10-171. The work of the sub-work groups was then presented to the entire body for deliberation and refinement.

The final detailed plan represents the deliberations of the Work Group for presentation to the Executive Director. The plan outlines the recommended qualifications, functions and responsibilities, parameters, and quality assurances that the Work Group felt would shape a viable and effective Ombudsman Office. This report begins with an Executive Summary and is followed by a more detailed description of how the workgroup recommends the Office functions. Additional documents and information have been included in the report Appendix that will be helpful to the reader in understanding the workgroup's process, deliberations and findings.

QUALIFICATIONS AND PROFESSIONAL DESIGNATIONS

The head of the Child Protection Ombudsman Program shall be known as the Child Protection Ombudsman. Statute requires that a full-time ombudsman has the qualifications and professional designations to operate the program and qualifications determined appropriate by the CDHS Executive Director after consultation with the work group. The following qualifications are recommended in determining the selection of the Child Protection Ombudsman:

- 1) Graduate from an accredited four-year college or university. Masters or advanced degree would be advantageous. Five (5) years progressively responsible experience and/or a working knowledge in safety, permanency and well-being of children.
- 2) Pass background clearance process (CBI, FBI, Drug Testing).
- 3) Demonstrate familiarity with the many aspects of the Colorado child protection system and the obligations of protecting children while maintaining and supporting families.
- 4) Possess the skills and necessary knowledge required to establish standards of professional conduct and guiding principles for how the Ombudsman will operate in Colorado including the ability to utilize extensive assessment and situation analysis skills at the highest levels.
- 5) Exhibit excellent communication skills including an ability to communicate with a wide range of people and in a culturally competent manner. Excellent listening skills. Have experience dealing with various aspects of mediation, conflict resolution or alternative dispute resolution.
- 6) Demonstrate a working knowledge of systems and change management principles.
- 7) Demonstrate an understanding of how to develop and direct an organization. Good collaborative working style in a team environment.
- 8) Experience with aspects of human resource management including hiring, career planning, corrective actions and organizational development.
- 9) Experience developing and managing budgets for an organization. Proficiency in the use of computers and data systems.
- 10) Effective in written and verbal communication aimed at addressing specific issues or concerns as well as system improvement proposals. Experience and demonstrated effective relations with media highly desirable.

- 11) Maintain relevant education and periodic updating of qualifications needed for the Ombudsman's Program.
- 12) Demonstrate that decisions are based on values, principles and requirements that are consistent with State laws and regulations, family strength-based approaches, exemplary permanency planning practice, and the guidance of the Colorado Practice Model (when fully developed and implemented).

The Work Group recommends that in making the selection of the Child Protection Ombudsman, the process may be even more important than the specific qualifications the individual possesses, as many will have the requisite qualifications. The Work Group recommends a committee stakeholder approach to the selection of the Ombudsman.

LENGTH OF CONTRACT

The initial contract for the Child Protection Ombudsman shall be for a period of four (4) years. This is to ensure the effective start-up, policy development, and community education about access of the Office, program implementation and operation of the program. In addition, this will ensure that there is a consistent program in place when the performance and fiscal audit by the Office of State Auditor is conducted as required in the third year of the program

The Ombudsman shall be a contractor to the Department of Human Services and it is anticipated a termination clause will be incorporated in any agreement due to malfeasance or other reason for early termination of the contract.

INDEPENDENCE

The Ombudsman Program shall facilitate a process for independent, impartial review of family and community concerns, request independent and accurate information; and, if appropriate, conduct case reviews or investigations to help resolve child protection issues within the scope of their authority.

The Child Protection Ombudsman Program shall maintain an office independent of any CDHS or county department of human/social services building.

The Ombudsman shall act independently of the Divisions within the State Department that are responsible for child welfare, youth corrections, or child care and of the county departments in the performance of his or her duties.

Any recommendations made by the Ombudsman, or positions taken by the Ombudsman do not necessarily reflect those of the State or County Departments of Human/Social Services.

CONFLICT OF INTEREST

After the award of the contract, the Child Protection Ombudsman Program is prohibited from being involved in providing child protection services or serving on a similar agency's board, or involved in the legal representation of children. The Ombudsman may not be anyone who has any other conflict of interest or who is unable to independently and impartially perform the duties of the program. The recipient of the contract must maintain an obligation to the public that cannot be interfered with self-interest or obligation to another group or established organization.

The Child Protection Ombudsman must be above reproach in all relationships and must not maintain any appearance of a conflict of interest, which includes but is not limited to the following actions.

Upon award of the contract, the Child Protection Ombudsman shall:

- Terminate any employee, contractor, or other financial relationship with CDHS, county departments of Human or Social services, police departments, residential treatment facilities, foster care providers, adoption agencies, medical or therapeutic providers focused on the treatment of victims or offenders of child abuse or neglect, educational facilities focused on victims of child abuse or neglect, or any other entity working in child protection
- Terminate any legal representation in juvenile courts including GAL contracts, county attorney positions, respondent parent counsel contracts, CASA appointments, or other judicial appointments related to child welfare
- Resign from any Board of Directors positions held on agencies focused on child welfare, including but not limited to CASAs, foster parent organizations, adoption agencies, group homes, treatment centers and providers, etc.

- Not operate a licensed foster home or be personally involved in any outstanding Dependency and Neglect petitions or have a child/abuse neglect substantiated finding.
- Provide an annual ethics disclosure of participation in work, boards or commissions outside of the office of Child Protection Ombudsman Program.

The Office of the Child Protection Ombudsman shall at all times uphold its obligation to the public and shall ensure that conflicts of interest are not created through hiring, contracting, doing business with CDHS or other state, county or other child agencies, fund raising activities, financial obligations, gifts, gratuities, or family interests. The Ombudsman shall adhere to the secondary employment policy of CDHS and shall also not use the office of the Ombudsman for personal financial gain.

If a situation should occur that calls the Ombudsman, or employee of the Child Protection Ombudsman Program, to question his/her ability to act objectively in recommendations or decision making, then another member of the office will be required to take the lead role in that situation and the reason for the Ombudsman's conflict must be noted and referenced in any recommendations and in the annual report related to the specific circumstance.

SCOPE, POWERS AND DUTIES

The Child Protection Ombudsman Program receives its authority from Colorado Revised Statutes, Section 19-3.3-101-109 as envisioned by Senate Bill 10-171. The Child Protection Ombudsman has the power to facilitate a process for independent, impartial review of family and community concerns; request independent, accurate information; and to conduct case reviews to help resolve child protection issues. The Program is administered by contract by the Executive Director of the Colorado Department of Human Services.

The Ombudsman may investigate or explore resolution of concerns regarding any action, inaction or decision of a public agency or provider that receives public moneys that may adversely affect the safety, permanency or well-being of a child. The child protection system includes all public agencies or providers receiving public moneys to serve children who are abused or neglected; or have been alleged to be abused or neglected; or at risk for abuse or neglect, as defined in Statute. (C.R.S. 19-3-102-103)

It is the duty of the Child Protection Ombudsman Program to:

1. Improve accountability and transparency in the child protection system. Allow for the voicing of concerns (without fear of reprisal) about the child protection system's response to children experiencing or at risk of experiencing child maltreatment.
2. Receive complaints regarding child protection services, made by or on behalf of a child that may adversely affect the safety, permanency, and well-being of the child. Investigate and seek resolution of such complaints, refer a complaint to the State Department or appropriate agency or entity, and make recommendations for action relating to such complaint.
3. Review issues raised by members of the community relating to child protection policies or processes and make recommendations to the appropriate agency or entity concerning those issues.
4. Promote better outcomes for children and families involved in the child protection system. Promote best practices and effective programs relating to publicly funded child protection systems through the establishment and maintenance of effective, positive working relationships with the Colorado Department of Human Services, county departments of human/social services, publicly funded providers and other system participants regarding the improvement of state and county process, policy or practice.
5. Provide policymakers with the information necessary to formulate systemic changes, where appropriate. Be a key advisor concerning issues relating to child safety and protection in Colorado. Make advisory recommendations to the Governor, the General Assembly, State Department of Human Services

Mayors and County Commissioners. Recommend to the CDHS Executive Director and any appropriate agency or entity, such budgetary, regulatory and administrative changes, including systemic changes that are intended to improve the safety of and promote better outcomes for children and families receiving child protection in Colorado.

6. Educate the public concerning child maltreatment and the role of the community in strengthening families and keeping children safe. Public education shall include information about the processes, rules and requirements prescribed for protective service agencies in Colorado; teaching effective self-advocacy with public agencies and providers; and explaining the roles of participants in the child protection process (including the role of civil and criminal courts).
7. Review and evaluate the effectiveness and efficiency of any existing grievance resolution mechanisms. Evaluate and make recommendations to the CDHS Executive Director and any appropriate agency or entity regarding the creation of a statewide grievance policy that is transparent, accountable, and accessible by children and families within the child protection system.
8. Establish a uniform, statewide reporting system to collect and analyze data on complaints received, and conditions reported by children or youth in kinship, foster or group homes, residential treatment facilities or juvenile corrections institutions. Provide for the maintenance of statistics on the types, categories and demographics of individuals who utilize the services of the Ombudsman Office.
9. Report at least annually to the CDHS Executive Director, the public and the General Assembly concerning the actions or inactions taken by the Ombudsman with respect to the goals and duties of the program; demographics of complainants and case types served; resolutions achieved; and mediations completed. The report shall analyze the success and needs of the Ombudsman Program, including the success or gaps in providing services to children and families, and shall identify barriers that prevent the optimal operation of the Ombudsman Program.

Limitations of Authority

Statute specifically limits the Child Protection Ombudsman Program authority in certain areas. C.R.S. 19-3.3-103 (a) (III) placed limits on the authority of the Ombudsman in relation to the Judicial Department and Judicial Proceedings. To the extent possible, the Ombudsman shall investigate any complaints without interfering in on-going court or child protection cases, including those complaints specifically referred to within the Judicial Department. To “interfere” means to attempt to influence a party or a pending action before the court of jurisdiction, to file motions or to unduly influence the court, or to take a position on a matter before the court.

The Ombudsman shall not be a party to quasi-judicial matters or personnel matters, such as being present or testifying at a Citizen Review Panel regarding the conduct of an agency employee. The Child Protection Ombudsman Program shall not represent the interests of any individual or party in a child protection case matter, such as attending a staffing on behalf of a parent. The Ombudsman shall provide copies of all reports on an ongoing case to all parties to the case.

The Ombudsman shall refer any complaints relating to the Judicial Department, judicial proceedings, or attorney (e.g. complaints concerning judicial determinations, legal conduct or court processes or procedures) to the appropriate entity or agency within the Judicial Department. When the Ombudsman receives a concern regarding the Judicial Department or judicial proceedings, the Ombudsman shall prepare an informational handout with full contact information for distribution to concerned parties regarding the appropriate venue to make complaints regarding judicial proceedings, case outcomes, judicial officers or other attorneys of record. The Ombudsman shall contact law enforcement and seek direction when a complaint could have criminal implications.

The Work Group recommends that neither the Child Protection Ombudsman, nor anyone directly employed by the office of the Child Protection Ombudsman should be called as a witness in a judicial proceeding involving an investigation undertaken by that office. The Ombudsman Program should not be utilized for collateral attack on orders entered during a judicial proceeding.

The Ombudsman does not have the authority to issue subpoenas for the purpose of investigating complaints. The Ombudsman may not initiate court action regarding any case, except at the direction of its legal counsel and to clarify its statutory authority or to obtain records pursuant to the Open Records Act.

The Ombudsman shall have access to dependency and neglect records as a part of the investigative process pursuant to C.R.S. §19-1-307. The Ombudsman's ability to review certain non-dependency and neglect records shall be governed by C.R.S. §24-72-204. Should records be deemed necessary the Ombudsman shall submit a request for records in writing to the agency or entity that maintains such records. A written request may include electronic or fax communications methods. The Ombudsman shall clearly set forth the necessity for those records, including but not limited to how the disclosure is required to serve a compelling State interest; and if a compelling State interest necessitates disclosure of otherwise protected information, how disclosure may occur in a manner which is least intrusive with respect to the right of confidentiality.

The Ombudsman shall not access records in the possession of any public agency that are unrelated to a complaint being investigated, or which concern an individual who is not directly involved in the case under review.

PERFORMANCE MEASURES AND ACCOUNTABILITY

The Child Protection Ombudsman Program is statutorily required to track and analyze information that is necessary to respond to concerns about children and families, as well as to address child protection system issues (19-3.3-102(5); 3.3-103(e); 3.3-108; and 3.3-109). Further, the Office has specific accountability and performance requirements that must be evaluated and reported on an annual basis. Following are the performance measures, accountability requirements, and reporting mandates for the Office.

Performance Measures:

The Ombudsman Program will establish a continuous quality improvement process, to include setting performance benchmarks in the first year of the Program and goals for improvement each year thereafter. At a minimum, the Program will be evaluated on the following measures of program performance:

- The amount of time taken to make first contact with the referring party.
Standard: The Office will make first contact within five (5) working days for routine referrals; three (3) working days for urgent referrals; one (1) working day for emergency referrals.
- The amount of time taken to complete reviews and investigations.
Standard: The Office will finalize reviews/investigations within 30 working days for routine referrals; seven (7) working days for urgent and emergency referrals.
- Conduct of the investigations.
Standard: Referring parties will experience a timely review and feel that their concerns were heard, and that they were treated professionally. A baseline will be established after one year.
- Public Awareness.
Standard: The Ombudsman will develop strategies to increase public awareness of the purpose, functions, and access information related to the Office.

Accountability Requirements for the Child Protection Ombudsman:

The Ombudsman must maintain information necessary to inform stakeholders and to assist with the evaluation of the performance of the Office. At a minimum, the Ombudsman will compile and analyze statistics regarding the number and nature of referrals initiated and cases accepted for review or investigation by the Ombudsman Program; compile demographic information regarding all referrals filed with the office; and the numbers of referrals investigated and resolved. Information collected shall include at a minimum, the reporter category, county or other public agency, race, ethnicity, familial circumstances (e.g. foster, adoptive or birth parent); the nature of referral; basic demographic information of the children and families who are the subject of review, as well as other pertinent information regarding those who utilize the services of the Ombudsman Office including:

- Number of complaints/concerns received.
- Number of complaints/concerns reviewed or investigated.

- Number, disposition and type of complaints/concerns not accepted for review.
- Disposition of complaints/concerns or investigations.
- Type and nature of recommendations made to agencies/entities.
- Categories of complaints/concerns by type, family demographics, agency/county involved and by dispositions.
- Number of contacts made by phone, in person or through web-based complaint form.
- Number and type of presentations/reports made.
- Number of and reason for consultations with other agencies/entities.

The Program will:

- Evaluate external agency performance/compliance based on existing statutory and regulatory requirements.
- Participate in any internal or external efforts to evaluate the effectiveness of the Office.
- Prioritize duties and activities, to enable responses to emergency complaints to be the first mandate of the program.
- Develop a quality improvement plan to improve the performance of the Office.
- Address and respond to recommendations of the State Auditor.
- Track and annually report on all systemic issues that are identified during the course of reviews and investigations.
- Establish a uniform, statewide reporting mechanism to collect and analyze data on complaints received, and conditions reported, regarding children in a kinship, foster or group home, residential treatment facility or juvenile correction institution.
- Review and evaluate the effectiveness and efficiency of any existing grievance resolution mechanisms.
- Evaluate and make recommendations (to the CDHS Executive Director and any appropriate agency or entity) regarding the creation of a statewide grievance policy that is transparent, accountable, and accessible.
- Promote best practices and effective programs relating to publicly funded child protection systems.

Recommendations Made by the Office:

The Ombudsman will report annually on all statutory, regulatory, budgetary, or administrative recommendations relating to child protection services. The annual report will include customer satisfaction information as collected during the review and investigation process.

Annual Report:

The Ombudsman is required to make an annual report to the Executive Director of the Department of Human Services for review and comment. The Executive Director will distribute the Annual Report to the Governor, and to the Health and Human Services Committees of the House and of the Senate, or any successor committees. The Child

Protection Ombudsman shall present the report to the designated committees of the General Assembly or any successor committees upon request of those committees.

The Annual Report is a public document and shall be posted on the web site of the Colorado Department of Human Services. The Annual Report shall include, but not necessarily be limited to:

- Executive Summary of the activities, data, and recommendations of the program.
- Description of the duties and yearly priorities of the Program.
- Description of accessibility to the office.
- Report on the performance measures related to the Program.
- As permitted by Office confidentiality standards, a description and disposition of key reviews and investigations.
- Description and assessment of statewide grievance practices; recommendations to create a standard grievance process statewide.
- Summary of recommendations made for statutory, regulatory, budgetary, or administrative changes, including systemic issues.
- Summary of advisory recommendations to the State Department, county departments, responsible city or county officials, the Governor, and to the General Assembly and publicly funded stakeholders.
- Analysis of the successes and needs of the Office including the success or gaps in providing services to children and families, and identification of barriers that prevent the optimal operation of the Child Protection Ombudsman Program.

ACCESS TO THE CHILD PROTECTION OMBUDSMAN PROGRAM

The Child Protection Ombudsman Program is created to improve accountability and transparency in the child protection system and to promote better outcomes for children and families involved in the system. The Ombudsman Program allows statewide, transparent access for citizens to voice their concerns about the response by the child protection system without fear of reprisal. The Ombudsman shall establish access policy and procedures to receive complaints or concerns. Such access may be through advertising, on the web or through other devices deemed appropriate by the Ombudsman.

The Ombudsman shall insure that the following stakeholders in the child protection system have access to the office:

- Children, birth to age 18, including up to age 21 if currently in the custody of the county (including those in foster care, residential or correctional facilities)
- Family members,
- Concerned citizens and members of the general public,
- Mandated reporters,
- Persons involved in the child protection system and other professionals who work with children and families,
- Employees of the Colorado Department of Human Services,
- Employees of a County Human/Social Service Department,
- Employees of other publicly funded entities that serve children.

CONFIDENTIALITY

It is critical to the success of the Child Protection Ombudsman Program that all complaints received shall be treated as confidential (except as deemed necessary to perform duties or support recommendations). Confidentiality extends to the identity of anyone who files a complaint, and to anyone from whom information is acquired during the course of an investigation.

The Ombudsman, any employees of the program, and any persons acting on behalf of the program shall comply with all state and federal confidentiality laws that govern the State Department or a county department. Records relating to complaints received by the Ombudsman and the investigation of complaints are exempt from public disclosure (Pursuant to Article 72 of Title 24 CRS).

COMPLAINT OR CONCERN REVIEW PROCESS

1. All referrals to the Ombudsman must be in writing (can be translated by Ombudsman in writing). Individual complainants shall be assisted by the Ombudsman's office, if necessary, to clearly articulate their specific concern(s) and/or to commit such concern(s) to writing.
2. Although there is no requirement to identify a complainant, the Ombudsman shall maintain a confidential record of the name and address of any individual(s) who files an issue, or seeks explanation or resolution of a concern.
3. Within ten (10) business days of receipt of a complaint, the Ombudsman shall make written contact with the individual in CDHS, a county social service office or the person in a publicly funded agency that is designated to receive and coordinate response to complaints from the Ombudsman. The director of the appropriate entity shall be copied on this communication. The county shall respond to the complaint within ten (10) business days, indicating reasons for its action or inaction, and the current status of the case. The county or provider may attempt to resolve the concerns articulated in the complaint through self initiated action within that ten-day period. If the complainant is satisfied with the change undertaken by CDHS, the county agency or provider, no further action will be taken and the complaint will be dismissed ("resolved satisfactorily by agency or provider action").
4. At the conclusion of the Ombudsman's investigation, the Office shall prepare a written report of findings and the factual basis therefore. If there are recommendations, they shall be made in writing and shall plainly state the rule, law, policy or best practice that has been violated, and what corrective actions are recommended. If no law, rule or practice exists to cover the situation encountered by the Ombudsman, and such change would contribute to the protection and safety of children, the Ombudsman shall include reference to this discrepancy in its annual report and make recommendations to the State and/or legislature for a change or addition to law, rule or policy.
5. The Ombudsman shall make a formal written or electronic request to review specific records, or to interview specified individuals or employees. The Ombudsman shall have access to dependency and neglect records as a part of the investigative process pursuant to C.R.S. §19-1-307. The Ombudsman's ability to review certain non-dependency and neglect records shall be governed by C.R.S. §24-72-204. Should records be deemed necessary the Ombudsman shall submit a request for records in writing to the agency or entity that maintains such records. The Ombudsman shall clearly set forth the necessity for those records, including but not limited to how the disclosure is required to serve a compelling state interest; and if a compelling State interest necessitates disclosure of otherwise protected information, how disclosure may occur in a manner which is least intrusive with respect to the right of confidentiality.

6. A county or state employee, or the employee of a publicly funded provider, may have present a supervisor, manager or other agency representative at the scheduled interview. The employee may waive such agency presence, and if so, confirm in writing his/her desire not to have such representatives present. In such instance, the Ombudsman may interview the employee without the presence of other agency or provider staff. Interviews shall be recorded and made available to the individual interviewed, and to the county or provider's legal representative.
7. Notification of Case Review Outcome: The Ombudsman shall advise CDHS, the county or provider and any individual employee(s), and or providers and their licensing authority of the outcome of any case which has been accepted for investigation or other resolution. The Executive Director, county commissioner or mayor shall also be notified of the resolution of the complaint, and receive a copy of the investigative report when it is finalized. When a specific employee's individual actions have been questioned or found to be in violation that individual can be informed of the investigation's outcome by their employer
8. In any instance when a negative finding is made against a kinship, foster or group home, or service provider, and the Ombudsman determines that unresolved conditions present a concern for other children, the Ombudsman shall immediately forward a summary of the complaint and finding to CDHS for the purpose of advising any county with a child under that provider's care. In this way counties that use that service provider can review the situation and take any action deemed appropriate to secure the well-being of the children placed in that environment.

GRIEVANCES AGAINST THE OMBUDSMAN: REVIEW OF ACTIONS

The Executive Director of the Colorado Department of Human Services shall develop and publish such policy and procedures as are necessary to address any grievance filed concerning the conduct, practices or procedures of the Child Protection Ombudsman Program. Such policy shall be transparent and hold the Program accountable to the public. An annual report concerning any grievances should be available to the general public and in the annual report to the General Assembly. The report shall include the nature of the grievance and resolution.

PROCEDURAL STANDARDS

1. The Ombudsman may decline without review or investigation, or dismiss a complaint or decide to close a case or refer a case for appropriate resolution at any point during an investigation if the following conditions are identified:
 - The complaint is under review by a judicial or administrative officer, or court, which has authority to resolve the issue.
 - The complaint is not timely. A complaint will not be considered timely if a period in excess of ninety (90) days has elapsed since the last occurrence of the action or inaction complaint.
 - The complaint alleges an action or inaction that is not in violation of any state or federal law, CDHS Rule, written policy or best practice directive that has been issued by the State (e.g. Colorado Practice Initiative when it is finalized).
 - The Ombudsman deems the complaint to be repetitious, trivial, not made in good faith, or the complaint is found to be false, illogical or improbable.
 - The complaint is filed by a third party who is not directly involved or knowledgeable about the alleged conduct.
 - The Department (CDHS), county, provider or licensing authority has no authority to address the alleged conduct or complaint, or to impose corrective action.
 - The Ombudsman has previously investigated the complaint.
2. Any complaint filed must be responded to in writing, with a rationale for further investigation, dismissal of the complaint or the determination that no further action is appropriate.
3. The Ombudsman may facilitate a resolution between a complainant and the subject person/organization at anytime during or upon the conclusion of an investigation. The Ombudsman may refer parties for formal mediation.
4. The Ombudsman has the authority to request and review any information the Ombudsman deems necessary to conduct a thorough investigation so long as either the State or county department would be entitled to access or receive such information, records or documents. The Program shall comply with the Open Records Act to access protected information.
5. When a referral is accepted for investigation and it is in the best interest of the child, the Ombudsman shall notify the individual or entity having legal custody or legal responsibility for the child subject of the complaint, and before documenting the legal custodian's reaction and response to the complaint and/or proposed investigation. The Ombudsman shall request interviews and make contact with employees through the chief executive of that employee's organization.
6. The Ombudsman shall not issue recommendations that are not grounded in documented, factual evidence or in established principles of best practice (e.g.

Child Welfare League of America. Child and Family Services Review, Colorado Practice Model).

7. The Ombudsman shall not release a report of findings that does not include an addendum from the Colorado Department of Human Services, county or provider response, challenge or acceptance of findings and any corrective action plan.

DEFINITIONS

For the purposes of the detailed work plan for the Child Protection Ombudsman Program, the following definitions apply:

Child Protection System includes all public agencies or providers receiving public moneys to serve children who are abused or neglected; or have been alleged to be abused or neglected; or at risk of abuse or neglect as defined in C.R.S. 19-3-102 – 103.

Complaint: A complaint shall be defined as an alleged concern, problem or issue which the Child Protection Ombudsman Program records and documents in writing. Complaints may be specific to an individual person or may involve general issues affecting multiple participants in the child protection system. Complaints may be filed on written form, verbally or through electronic media in a manner to be developed by the child protection ombudsman.

Review: A Child Protection Ombudsman “Review” is defined as assessing existing files or records, reviewing actions or inactions in a current case and making a determination if the actions or inactions are supported by the documented facts of the case. A “Review” does not require an independent investigation of the case, including interviewing witnesses. It allows the Ombudsman to determine if further investigation is needed, or whether the actions or inactions are sufficiently supported.

Levels of review:

“Emergency” complaints are defined as complaints that allege immediate risk of harm due to abuse; medical emergency or other type of emergency shall be handled in an emergent fashion. The ombudsman shall respond within twenty-four working hours of receipt of the complaint.

“Urgent” complaints involve:

Situations that do not pose an imminent risk of harm but allege areas of immediate concern. The ombudsman shall respond within three (3) working days of receipt of the complaint.

“Routine” complaints involve: complaints that pose no immediate risk to any child of a child protection concern. Those complaints may involve but are not limited to quality of care; issues concerning the working relationship with various entities involved in the child protection matter; issues revolving placement of children in out of home care; the ombudsman shall respond within five (5) working days.

“Referral” complaints are complaints that after the assessment are better served by referral to a different agency or department for initial handling. Complaints that fit within this category include but are not limited to complaints regarding a judicial proceedings, complaints where referring the aggrieved party back to the department of human services is the appropriate remedy, complaints involving lawyers involved in the case.

Investigation: A Child Protection Ombudsman “Investigation” is defined as an independent inquiry into relevant facts, records, and statements of witnesses, considering the best interests of the child. It would include a review of records and actions or inactions, but could include assessing additional facts, additional testimony, to include the re-interview of previous witnesses or reporting parties. An “Investigation” is an independent assessment by the Ombudsman.

Executive Director means the Executive Director of the Department of Human Services.

State Department means the department of human services created I section 24-1-120, C.R.S.

County department means the county, district or city and county department of social/human services.

Acronym	Description
APHSA	American Public Human Services Association
CDHS	Colorado Department of Human Service
CFSR	Child and Family Services Review
DYC	Dept of Youth Correction

NOTE: THIS BILL HAS BEEN PREPARED FOR THE SIGNATURE OF THE APPROPRIATE LEGISLATIVE OFFICERS AND THE GOVERNOR. TO DETERMINE WHETHER THE GOVERNOR HAS SIGNED THE BILL OR TAKEN OTHER ACTION ON IT, PLEASE CONSULT THE LEGISLATIVE STATUS SHEET, THE LEGISLATIVE HISTORY, OR THE SESSION LAWS.



SENATE BILL 10-171

BY SENATOR(S) Newell, Bacon, Boyd, Heath, Hodge, Hudak, Keller, Kester, Lundberg, Morse, Penry, Romer, Shaffer B., Spence, Steadman, Williams, Carroll M., Foster, Sandoval, Schwartz, Tochtrop, Whitehead; also REPRESENTATIVE(S) Gagliardi, Acree, Casso, DelGrosso, Ferrandino, Frangas, Hullinghorst, Kefalas, Kerr J., Labuda, Levy, McNulty, Middleton, Nikkel, Primavera, Rice, Ryden, Scanlan, Todd, Tyler, Apuan, Court, Curry, Fischer, Gardner C., Kagan, Kerr A., McFadyen, Pace, Schafer S., Weissmann, Carroll T.

CONCERNING THE CREATION OF A CHILD PROTECTION OMBUDSMAN PROGRAM, AND MAKING AN APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 19, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 3.3
Child Protection Ombudsman Program

19-3.3-101. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(a) CHILD ABUSE AND NEGLECT IS A SERIOUS AND REPREHENSIBLE PROBLEM IN SOCIETY;

(b) THE PROTECTION OF CHILDREN FROM ABUSE AND NEGLECT BY APPLYING PREVENTION MEASURES AND OBSERVING BEST PRACTICES IN TREATING CHILDREN WHO ARE ABUSED AND NEGLECTED MUST BE ONE OF COLORADO'S HIGHEST PUBLIC POLICY PRIORITIES;

(c) THE CHILD PROTECTION SYSTEM MUST PROTECT AND SERVE COLORADO'S CHILDREN IN A MANNER THAT KEEPS THEM SAFE AND HEALTHY AND PROMOTES THEIR WELL-BEING;

(d) THE CHILDREN AND FAMILIES SERVED BY THE CHILD PROTECTION SYSTEM, AS WELL AS THE PUBLIC, MUST HAVE A HIGH LEVEL OF CONFIDENCE THAT THE SYSTEM WILL ACT IN A CHILD'S BEST INTERESTS AND WILL RESPOND TO THE CHILD'S NEEDS IN A TIMELY AND PROFESSIONAL MANNER;

(e) TO ENGENDER THIS HIGH LEVEL OF CONFIDENCE IN THE CHILD PROTECTION SYSTEM, IT IS IMPORTANT THAT CHILDREN AND FAMILIES WHO BECOME INVOLVED IN THE SYSTEM, MANDATORY REPORTERS, AND THE GENERAL PUBLIC HAVE A WELL-PUBLICIZED, EASILY ACCESSIBLE, AND TRANSPARENT GRIEVANCE PROCESS FOR VOICING CONCERNS REGARDING THE CHILD PROTECTION SYSTEM ALONG WITH THE EXPECTATION THAT THOSE CONCERNS, ONCE VOICED, WILL BE HEARD AND ADDRESSED IN A TIMELY AND APPROPRIATE MANNER; AND

(f) TO IMPROVE CHILD PROTECTION OUTCOMES AND TO FOSTER BEST PRACTICES, THERE MUST BE EFFECTIVE ACCOUNTABILITY MECHANISMS, INCLUDING THE REVIEW AND EVALUATION OF CONCERNS VOICED BY CHILDREN AND FAMILIES, MANDATORY REPORTERS, PERSONS INVOLVED IN THE CHILD PROTECTION SYSTEM, AND MEMBERS OF THE GENERAL PUBLIC, THAT PROVIDE POLICYMAKERS WITH THE INFORMATION NECESSARY TO FORMULATE SYSTEMIC CHANGES, WHERE APPROPRIATE.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT THE ESTABLISHMENT OF THE CHILD PROTECTION OMBUDSMAN PROGRAM WILL:

(a) IMPROVE ACCOUNTABILITY AND TRANSPARENCY IN THE CHILD PROTECTION SYSTEM AND PROMOTE BETTER OUTCOMES FOR CHILDREN AND

FAMILIES INVOLVED IN THE CHILD PROTECTION SYSTEM; AND

(b) ALLOW FAMILIES, CONCERNED CITIZENS, MANDATORY REPORTERS, EMPLOYEES OF THE STATE DEPARTMENT AND COUNTY DEPARTMENTS, AND OTHER PROFESSIONALS WHO WORK WITH CHILDREN AND FAMILIES TO VOICE THEIR CONCERNS, WITHOUT FEAR OF REPRISAL, ABOUT THE RESPONSE BY THE CHILD PROTECTION SYSTEM TO CHILDREN EXPERIENCING, OR AT RISK OF EXPERIENCING, CHILD MALTREATMENT.

19-3.3-102. Child protection ombudsman program - independence of office - administrative rules. (1) THE CHILD PROTECTION OMBUDSMAN PROGRAM, REFERRED TO IN THIS ARTICLE AS THE "PROGRAM", IS HEREBY ESTABLISHED IN THE STATE DEPARTMENT. THE EXECUTIVE DIRECTOR SHALL ESTABLISH AND ADMINISTER THE PROGRAM UNDER THE STATE DEPARTMENT BY CONTRACT WITH A PUBLIC AGENCY OR OTHER APPROPRIATE PRIVATE NONPROFIT ORGANIZATION.

(2)(a) THE HEAD OF THE CHILD PROTECTION OMBUDSMAN PROGRAM SHALL BE KNOWN AS THE CHILD PROTECTION OMBUDSMAN, REFERRED TO IN THIS ARTICLE AS THE "OMBUDSMAN". THE PROGRAM SHALL BE OPERATED BY A FULL-TIME, QUALIFIED OMBUDSMAN WITH THE PROFESSIONAL DESIGNATIONS AND QUALIFICATIONS DETERMINED APPROPRIATE BY THE EXECUTIVE DIRECTOR AFTER CONSULTATION WITH THE WORK GROUP CREATED PURSUANT TO SECTION 19-3.3-105.

(b) PURSUANT TO THE PROVISIONS OF SECTION 19-3.3-103, THE OMBUDSMAN SHALL FACILITATE A PROCESS FOR INDEPENDENT, IMPARTIAL REVIEW OF FAMILY AND COMMUNITY CONCERNS; REQUEST INDEPENDENT, ACCURATE INFORMATION; AND, IF APPROPRIATE, CONDUCT CASE REVIEWS TO HELP RESOLVE CHILD PROTECTION ISSUES.

(c) THE OMBUDSMAN SHALL ALSO BE A KEY ADVISOR CONCERNING ISSUES RELATING TO CHILD SAFETY AND PROTECTION IN COLORADO BY VIRTUE OF HIS OR HER RESPONSIBILITY AND AUTHORITY TO MAKE ADVISORY RECOMMENDATIONS TO THE STATE DEPARTMENT, COUNTY DEPARTMENTS, COUNTY COMMISSIONERS, THE GOVERNOR, AND THE GENERAL ASSEMBLY BASED UPON THE OMBUDSMAN'S EXPERIENCE AND EXPERTISE.

(3) THE EXECUTIVE DIRECTOR SHALL ADMINISTER THE CONTRACT FOR THE PROGRAM INDEPENDENTLY OF THE DIVISIONS WITHIN THE STATE

DEPARTMENT THAT ARE RESPONSIBLE FOR CHILD WELFARE, YOUTH CORRECTIONS, OR CHILD CARE.

(4) THE STATE DEPARTMENT SHALL DEVELOP POLICIES AND PROCEDURES AND SHALL PROMULGATE IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., ANY RULES NECESSARY FOR THE IMPLEMENTATION, OPERATION, AND ADMINISTRATION OF THE PROGRAM.

(5) THE EXECUTIVE DIRECTOR SHALL BE RESPONSIBLE FOR OVERSEEING THE CONTRACT FOR THE PROGRAM AND SHALL PROVIDE TRAINING AND OTHER ASSISTANCE TO THE OMBUDSMAN AND EMPLOYEES OF THE PROGRAM TO ENSURE THAT THE PROGRAM OPERATES IN COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE AND WITH THE TERMS, PERFORMANCE MEASURES, AND ACCOUNTABILITY REQUIREMENTS IN THE CONTRACT, AS WELL AS STATE AND FEDERAL LAWS RELATING TO THE CHILD WELFARE SYSTEM.

(6) SUBJECT TO THE PROVISIONS OF ANY CONTRACT AWARDED PURSUANT TO SECTION 19-3.3-106, AND SUBJECT TO AVAILABLE APPROPRIATIONS FOR THE PROGRAM, THE STATE DEPARTMENT SHALL PROVIDE FOR THE AVAILABILITY OF LEGAL COUNSEL TO THE OMBUDSMAN FOR THE PURPOSE OF LEGAL ADVICE CONCERNING PERFORMING THE DUTIES OF THE OMBUDSMAN, AND MAY PROVIDE FOR LEGAL REPRESENTATION OF THE OMBUDSMAN IN ANY ACTION BROUGHT AGAINST THE OMBUDSMAN IN CONNECTION WITH THE DUTIES OF THE OMBUDSMAN PURSUANT TO THIS ARTICLE.

19-3.3-103. Child protection ombudsman program - powers and duties - access to information - confidentiality - testimony. (1) IN ADDITION TO ANY OTHER DUTIES SPECIFIED IN THE DETAILED PLAN FOR THE PROGRAM DEVELOPED PURSUANT TO SECTION 19-3.3-105, THE OMBUDSMAN SHALL HAVE THE FOLLOWING DUTIES:

(a)(I)(A) TO RECEIVE 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, AND WELL-BEING OF THE CHILD. THE OMBUDSMAN MAY 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.

(B) THE OMBUDSMAN SHALL TREAT ALL COMPLAINTS RECEIVED PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I) AS CONFIDENTIAL, INCLUDING THE IDENTITIES OF COMPLAINANTS AND INDIVIDUALS FROM WHOM INFORMATION IS ACQUIRED; EXCEPT THAT DISCLOSURES MAY BE PERMITTED IF THE OMBUDSMAN DEEMS IT NECESSARY TO ENABLE THE OMBUDSMAN TO PERFORM HIS OR HER DUTIES AND TO SUPPORT ANY RECOMMENDATIONS RESULTING FROM AN INVESTIGATION. RECORDS RELATING TO COMPLAINTS RECEIVED BY THE PROGRAM AND THE INVESTIGATION OF COMPLAINTS ARE EXEMPT FROM PUBLIC DISCLOSURE PURSUANT TO ARTICLE 72 OF TITLE 24, C.R.S.

(II) (A) 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.

(B) NOTHING IN THE PROVISIONS OF SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II) SHALL BE CONSTRUED TO GRANT SUBPOENA POWER TO THE OMBUDSMAN FOR PURPOSES OF INVESTIGATING A COMPLAINT PURSUANT TO SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

(III) THE OMBUDSMAN SHALL REFER ANY COMPLAINTS RELATING TO THE JUDICIAL DEPARTMENT AND JUDICIAL PROCEEDINGS, INCLUDING BUT NOT LIMITED TO COMPLAINTS CONCERNING THE CONDUCT OF JUDICIAL OFFICERS OR ATTORNEYS OF RECORD, JUDICIAL DETERMINATIONS, AND COURT PROCESSES AND PROCEDURES TO THE APPROPRIATE ENTITY OR AGENCY WITHIN THE JUDICIAL DEPARTMENT.

(b) TO EVALUATE AND MAKE A RECOMMENDATION TO THE EXECUTIVE DIRECTOR AND ANY APPROPRIATE AGENCY OR ENTITY FOR THE CREATION OF A STATEWIDE GRIEVANCE POLICY THAT IS ACCESSIBLE BY CHILDREN AND FAMILIES WITHIN THE CHILD PROTECTION SYSTEM AND THAT

IS TRANSPARENT AND ACCOUNTABLE; AND

(c) TO REPORT AT LEAST ANNUALLY, PURSUANT TO SECTION 19-3.3-108, CONCERNING THE ACTIONS TAKEN BY THE OMBUDSMAN WITH RESPECT TO THE GOALS AND DUTIES OF THE PROGRAM.

(2) IN ADDITION TO ANY OTHER DUTIES SPECIFIED IN THE DETAILED PLAN FOR THE PROGRAM DEVELOPED PURSUANT TO SECTION 19-3.3-105, THE OMBUDSMAN SHALL HAVE THE FOLLOWING POWERS:

(a) TO REVIEW ISSUES RAISED BY MEMBERS OF THE COMMUNITY RELATING TO CHILD PROTECTION POLICIES OR PROCEDURES AND MAKE RECOMMENDATIONS TO THE APPROPRIATE AGENCY OR ENTITY CONCERNING THOSE ISSUES;

(b) TO REVIEW AND EVALUATE THE EFFECTIVENESS AND EFFICIENCY OF ANY EXISTING GRIEVANCE RESOLUTION MECHANISMS AND TO MAKE RECOMMENDATIONS TO THE EXECUTIVE DIRECTOR AND ANY APPROPRIATE AGENCY OR ENTITY FOR THE IMPROVEMENT OF THE GRIEVANCE RESOLUTION MECHANISMS;

(c) TO HELP EDUCATE THE PUBLIC CONCERNING CHILD MALTREATMENT AND THE ROLE OF THE COMMUNITY IN STRENGTHENING FAMILIES AND KEEPING CHILDREN SAFE;

(d) TO PROMOTE BEST PRACTICES AND EFFECTIVE PROGRAMS RELATING TO A PUBLICLY FUNDED CHILD PROTECTION SYSTEM AND TO WORK COLLABORATIVELY WITH COUNTY DEPARTMENTS, WHEN APPROPRIATE, REGARDING IMPROVEMENT OF PROCESSES; AND

(e) TO RECOMMEND TO THE EXECUTIVE DIRECTOR AND ANY APPROPRIATE AGENCY OR ENTITY STATUTORY, BUDGETARY, REGULATORY, AND ADMINISTRATIVE CHANGES, INCLUDING SYSTEMIC CHANGES, TO IMPROVE THE SAFETY OF AND PROMOTE BETTER OUTCOMES FOR CHILDREN AND FAMILIES RECEIVING CHILD PROTECTION SERVICES IN COLORADO.

(3) AN AGENCY OR ORGANIZATION THAT IS AWARDED THE CONTRACT FOR THE OPERATION OF THE PROGRAM, THE OMBUDSMAN, EMPLOYEES OF THE PROGRAM, AND ANY PERSONS ACTING ON BEHALF OF THE PROGRAM SHALL COMPLY WITH ALL STATE AND FEDERAL CONFIDENTIALITY LAWS THAT

GOVERN THE STATE DEPARTMENT OR A COUNTY DEPARTMENT WITH RESPECT TO THE TREATMENT OF CONFIDENTIAL INFORMATION OR RECORDS AND THE DISCLOSURE OF SUCH INFORMATION AND RECORDS.

(4) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO DIRECT OR AUTHORIZE THE OMBUDSMAN TO INTERVENE IN ANY CRIMINAL OR CIVIL JUDICIAL PROCEEDING OR TO INTERFERE IN A CRIMINAL INVESTIGATION.

(5) THE OMBUDSMAN SHALL ACT INDEPENDENTLY OF THE DIVISIONS WITHIN THE STATE DEPARTMENT THAT ARE RESPONSIBLE FOR CHILD WELFARE, YOUTH CORRECTIONS, OR CHILD CARE AND OF THE COUNTY DEPARTMENTS IN THE PERFORMANCE OF HIS OR HER DUTIES. ANY RECOMMENDATIONS MADE BY THE OMBUDSMAN OR POSITIONS TAKEN BY THE OMBUDSMAN DO NOT NECESSARILY REFLECT THOSE OF THE STATE DEPARTMENT OR OF THE COUNTY DEPARTMENTS.

19-3.3-104. Qualified immunity. THE OMBUDSMAN AND EMPLOYEES OR PERSONS ACTING ON BEHALF OF THE PROGRAM SHALL BE IMMUNE FROM SUIT AND LIABILITY, EITHER PERSONALLY OR IN THEIR OFFICIAL CAPACITIES, FOR ANY CLAIM FOR DAMAGE TO OR LOSS OF PROPERTY, OR FOR PERSONAL INJURY OR OTHER CIVIL LIABILITY CAUSED BY OR ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF EMPLOYMENT, DUTIES, OR RESPONSIBILITIES PERTAINING TO THE PROGRAM, INCLUDING BUT NOT LIMITED TO ISSUING REPORTS OR RECOMMENDATIONS; EXCEPT THAT NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROTECT SUCH PERSONS FROM SUIT OR LIABILITY FOR DAMAGE, LOSS, INJURY, OR LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT OF ANY SUCH PERSON.

19-3.3-105. Selection of advisory work group - development of detailed plan. (1) WITHIN FORTY-FIVE DAYS AFTER THE EFFECTIVE DATE OF THIS ARTICLE, THE EXECUTIVE DIRECTOR SHALL CONVENE A VOLUNTARY WORK GROUP, REFERRED TO IN THIS ARTICLE AS THE "WORK GROUP". THE WORK GROUP SHALL BE SELECTED PURSUANT TO SUBSECTION (2) OF THIS SECTION AND SHALL CONSIST OF PERSONS WITH EXPERTISE IN ISSUES RELATING TO THE PUBLICLY FUNDED CHILD PROTECTION SYSTEM AND INTEREST IN ASSISTING AND ADVISING THE EXECUTIVE DIRECTOR WITH RESPECT TO THE DEVELOPMENT OF A DETAILED PLAN, REFERRED TO IN THIS ARTICLE AS THE "DETAILED PLAN", FOR THE ESTABLISHMENT AND

OPERATION OF THE PROGRAM.

(2) (a) THE PRESIDENT OF THE SENATE AND THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES SHALL EACH SELECT ONE MEMBER FROM THEIR RESPECTIVE CHAMBERS TO SERVE ON THE WORK GROUP. THE REMAINING MEMBERS SHALL BE SELECTED BY THE GOVERNOR. THE WORK GROUP MAY INCLUDE REPRESENTATION FROM COUNTY DEPARTMENTS, COUNTY ATTORNEYS, COUNTY COMMISSIONERS, THE JUDICIAL DEPARTMENT, MANDATORY REPORTERS, SERVICE PROVIDERS, PERSONS OR FAMILY MEMBERS OF PERSONS WHO HAVE HAD PRIOR INVOLVEMENT AS CHILDREN WITH THE CHILD WELFARE SYSTEM, CHILD PROTECTION ADVOCATES, AND LAW ENFORCEMENT AGENCIES.

(b) THE GOVERNOR SHALL ESTABLISH A PROCESS BY WHICH PERSONS INTERESTED IN PARTICIPATING IN THE WORK GROUP MAY SUBMIT LETTERS OF INTEREST TO THE GOVERNOR. POTENTIAL MEMBERS OF THE WORK GROUP SHALL ADVISE THE GOVERNOR OF ANY CONFLICTS OF INTEREST THAT THEY MAY HAVE WITH RESPECT TO PARTICIPATING IN THE WORK GROUP. THE MEMBERSHIP OF THE WORK GROUP SHALL, TO THE EXTENT PRACTICABLE, INCLUDE PERSONS FROM THROUGHOUT THE STATE AND REFLECT THE ETHNIC DIVERSITY OF THE STATE, AND MEMBERS OF THE WORK GROUP SHALL PARTICIPATE IN THE WORK GROUP WITHOUT COMPENSATION.

(3) THE EXECUTIVE DIRECTOR, OR HIS OR HER DESIGNEE, MAY CONVENE THE WORK GROUP WITHOUT ALL MEMBERS PRESENT AND MAY ORGANIZE SUBCOMMITTEES CONSISTING OF WORK GROUP MEMBERS AND ANY OTHER PERSONS INVITED TO PARTICIPATE BY THE EXECUTIVE DIRECTOR.

(4) WITHIN NINETY DAYS AFTER THE WORK GROUP IS INITIALLY CONVENED, THE EXECUTIVE DIRECTOR, WITH THE ASSISTANCE OF THE WORK GROUP, SHALL COMPLETE A WRITTEN, DETAILED PLAN FOR THE ESTABLISHMENT AND OPERATION OF THE PROGRAM THAT SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, THE POWERS AND DUTIES OF THE PROGRAM AS PROVIDED IN SECTION 19-3.3-103, THE QUALIFICATIONS AND PROFESSIONAL DESIGNATIONS APPROPRIATE FOR THE OMBUDSMAN, AND SPECIFIC PERFORMANCE BENCHMARKS FOR THE PROGRAM. UPON COMPLETION OF THE DETAILED PLAN, THE EXECUTIVE DIRECTOR SHALL PROVIDE A COPY OF THE DETAILED PLAN TO THE HEALTH AND HUMAN SERVICES COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, AND SHALL POST THE DETAILED PLAN ON THE WEB SITE OF THE

STATE DEPARTMENT. THE MEMBERS OF THE WORK GROUP SHALL ALSO ADVISE THE EXECUTIVE DIRECTOR WITH RESPECT TO THE LENGTH OF THE CONTRACT AND THE CRITERIA FOR THE REQUEST FOR PROPOSALS RELATING TO THE CONTRACT FOR THE OPERATION OF THE PROGRAM. THE WORK GROUP IS ENCOURAGED TO CONSIDER A MULTIPLE-YEAR CONTRACT FOR THE OPERATION OF THE PROGRAM.

19-3.3-106. Award of contract. (1) (a) SUBJECT TO THE PROVISIONS OF SUBSECTION (2) OF THIS SECTION, WITHIN THIRTY DAYS AFTER COMPLETION OF THE DETAILED PLAN PURSUANT TO SECTION 19-3.3-105, THE EXECUTIVE DIRECTOR, IN ACCORDANCE WITH THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, C.R.S., SHALL ISSUE THE REQUEST FOR PROPOSALS FOR THE ADMINISTRATION OF THE PROGRAM. THE PROPOSAL SUBMISSION PERIOD, THE REVIEW OF SUBMISSIONS, AND THE AWARD OF THE CONTRACT SHALL BE COMPLETED WITHIN SIXTY DAYS AFTER THE ISSUANCE OF THE REQUEST FOR PROPOSALS.

(b) THE REQUEST FOR PROPOSALS SHALL INCLUDE LANGUAGE PROHIBITING THE AWARD OF THE CONTRACT TO A CONTRACTOR WHO WILL CONTINUE TO BE INVOLVED IN PROVIDING CHILD PROTECTION SERVICES OR INVOLVED IN THE LEGAL REPRESENTATION OF CHILDREN AFTER THE AWARD OF THE CONTRACT OR WHO HAS ANY OTHER CONFLICT OF INTEREST OR WHO IS UNABLE TO INDEPENDENTLY AND IMPARTIALLY PERFORM THE DUTIES OF THE PROGRAM.

(2) NOTWITHSTANDING ANY PROVISIONS OF THIS ARTICLE TO THE CONTRARY, THE EXECUTIVE DIRECTOR SHALL NOT AWARD A CONTRACT FOR THE OPERATION OF THE PROGRAM UNTIL SUCH TIME AS THE EXECUTIVE DIRECTOR DETERMINES THAT SUFFICIENT MONEYS ARE AVAILABLE OR HAVE BEEN COMMITTED FOR THE OPERATION OF THE PROGRAM.

19-3.3-107. Child protection ombudsman program fund - created. (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE CHILD PROTECTION OMBUDSMAN PROGRAM FUND, REFERRED TO IN THIS ARTICLE AS THE "FUND". THE FUND SHALL CONSIST OF ANY MONEYS THAT MAY BE APPROPRIATED TO THE FUND BY THE GENERAL ASSEMBLY AND ANY GIFTS, GRANTS, OR DONATIONS THAT MAY BE CREDITED TO THE FUND PURSUANT TO SUBSECTION (2) OF THIS SECTION.

(2) THE STATE DEPARTMENT IS AUTHORIZED TO SEEK, ACCEPT, AND

EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS ARTICLE; EXCEPT THAT THE STATE DEPARTMENT MAY NOT ACCEPT A GIFT, GRANT, OR DONATION THAT CREATES THE APPEARANCE OF IMPROPRIETY, THAT THE EXECUTIVE DIRECTOR DETERMINES IS CONTRARY TO THE BEST INTERESTS OF THE PROGRAM, OR THAT IS SUBJECT TO CONDITIONS THAT ARE INCONSISTENT WITH THIS ARTICLE OR ANY OTHER STATE OR FEDERAL LAW. THE STATE DEPARTMENT SHALL TRANSMIT ALL PRIVATE AND PUBLIC MONEYS RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND.

(3) THE MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE STATE DEPARTMENT FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH IMPLEMENTING THIS ARTICLE.

(4) ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSES OF THIS ARTICLE MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT REVERT OR BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR TO ANOTHER FUND.

19-3.3-108. Child protection ombudsman program - annual report. (1) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, COMMENCING WITH THE SEPTEMBER 1 FOLLOWING THE FIRST FISCAL YEAR IN WHICH THE PROGRAM IS IMPLEMENTED, THE OMBUDSMAN SHALL PREPARE A WRITTEN REPORT THAT SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, INFORMATION FROM THE PRECEDING FISCAL YEAR AND ANY RECOMMENDATIONS CONCERNING THE FOLLOWING:

(a) ACTIONS TAKEN BY THE OMBUDSMAN RELATING TO THE DUTIES OF THE PROGRAM SET FORTH IN SECTION 19-3.3-103;

(b) STATUTORY, REGULATORY, BUDGETARY, OR ADMINISTRATIVE CHANGES RELATING TO CHILD PROTECTION, INCLUDING SYSTEMIC CHANGES, TO IMPROVE THE SAFETY OF AND PROMOTE BETTER OUTCOMES FOR CHILDREN AND FAMILIES RECEIVING CHILD WELFARE SERVICES IN COLORADO.

(2) THE OMBUDSMAN SHALL TRANSMIT THE ANNUAL REPORT TO THE EXECUTIVE DIRECTOR FOR REVIEW AND COMMENT. THE EXECUTIVE DIRECTOR SHALL DISTRIBUTE THE REPORT TO THE GOVERNOR AND TO THE HEALTH AND HUMAN SERVICES COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND OF THE SENATE, OR ANY SUCCESSOR COMMITTEES. THE OMBUDSMAN SHALL PRESENT THE REPORT TO THE HEALTH AND HUMAN SERVICES COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, UPON REQUEST OF THOSE COMMITTEES.

(3) THE STATE DEPARTMENT SHALL POST THE ANNUAL REPORT ISSUED BY THE OMBUDSMAN TO THE WEB SITE OF THE STATE DEPARTMENT.

19-3.3-109. Review by the state auditor's office. THE STATE AUDITOR SHALL CONDUCT OR CAUSE TO BE CONDUCTED A PERFORMANCE AND FISCAL AUDIT OF THE PROGRAM AT THE BEGINNING OF THE THIRD YEAR OF OPERATION OF THE PROGRAM, OR PURSUANT TO THE TIME FRAME RECOMMENDED IN THE DETAILED PLAN DEVELOPED PURSUANT TO SECTION 19-3.3-105, WHICHEVER DATE IS SOONER. THEREAFTER, AT THE DISCRETION OF THE LEGISLATIVE AUDIT COMMITTEE, THE STATE AUDITOR SHALL CONDUCT OR CAUSE TO BE CONDUCTED A PERFORMANCE AND FISCAL AUDIT OF THE PROGRAM.

SECTION 2. 19-1-103 (32) and (103), Colorado Revised Statutes, are amended, and the said 19-1-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

19-1-103. Definitions. As used in this title or in the specified portion of this title, unless the context otherwise requires:

(32) (a) "County department", as used in this article and part 2, part 3, and part 7 of article 3 of this title and part 2 of article 5 of this title, means the county or district department of social services.

(b) "County department", as used in section 19-3-211 AND IN ARTICLE 3.3 OF THIS TITLE, means a county or a city and county department of social services.

(47.5) "EXECUTIVE DIRECTOR", AS USED IN ARTICLE 3.3 OF THIS TITLE, MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN

SERVICES.

(103) "State department", as used in section 19-3-211, ~~and~~ part 3 of article 3 of this title, AND ARTICLE 3.3 OF THIS TITLE, means the department of human services created by section 24-1-120, C.R.S.

SECTION 3. 19-1-307 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

19-1-307. Dependency and neglect records and information - access - fee - rules - records and reports fund - misuse of information - penalty. (2) **Records and reports - access to certain persons - agencies.** Except as otherwise provided in section 19-1-303, only the following persons or agencies shall be given access to child abuse or neglect records and reports:

(u) THE CHILD PROTECTION OMBUDSMAN PROGRAM CREATED IN SECTION 19-3.3-102, WHEN CONDUCTING AN INVESTIGATION PURSUANT TO ARTICLE 3.3 OF THIS TITLE.

SECTION 4. 19-3-304 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

19-3-304. Persons required to report child abuse or neglect. (2) Persons required to report such abuse or neglect or circumstances or conditions shall include any:

(gg) THE CHILD PROTECTION OMBUDSMAN AS CREATED IN ARTICLE 3.3 OF THIS TITLE.

SECTION 5. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of human services, for allocation to the executive director's office, for the child protection ombudsman program, for the fiscal year beginning July 1, 2010, the sum of one hundred seventy-five thousand dollars (\$175,000), or so much thereof as may be necessary, for the implementation of this act.

SECTION 6. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO

STATE OF COLORADO

OFFICE OF THE GOVERNOR

136 State Capitol Building
Denver, Colorado 80203
(303) 866 - 2471
(303) 866 - 2003 fax

Attachment C



Bill Ritter, Jr.
Governor

A 2010-149

EXECUTIVE ORDER

MEMBERS

CHILD PROTECTION OMBUDSMAN PROGRAM WORKING ADVSIORY GROUP

ORDERED:

That the following named persons be and they are hereby appointed to the:

CHILD PROTECTION OMBUDSMAN PROGRAM WORKING ADVSIORY GROUP

for terms expiring at the pleasure of the Governor:

Honorable Jack A. Hilbert of Parker, Colorado, appointed;

Patricia Anne Wilson Pheanious of Denver, Colorado, appointed;

Gloria L. Romansik of Eaton, Colorado, appointed;

Marilee M. McWilliams of Kiowa, Colorado, appointed;

Nancy B. Smith of Steamboat Springs, Colorado, appointed;

Dea M. Schantz of Windsor, Colorado, appointed;

Nathan Wheeler-Berliner of Edgewater, Colorado, appointed;

Sister Michael Delores Allegri of Denver, Colorado, appointed;

Steven Ramirez of Littleton, Colorado, appointed;

Lynn S. Price of Highlands Ranch, Colorado, appointed;

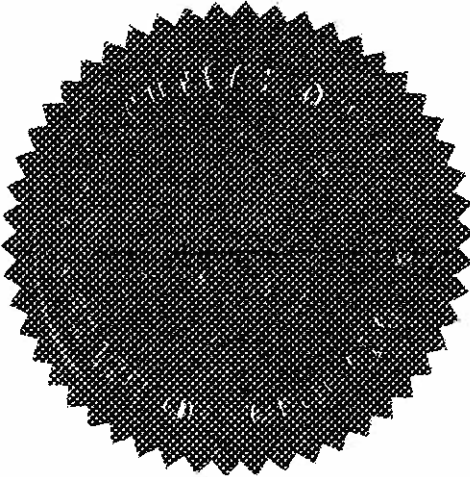
Carla L. Bennett of Denver, Colorado, appointed;

Sergeant Brad Lenderink of Castle Rock, Colorado, appointed;

Shari F. Shink of Wheat Ridge, Colorado, appointed;

Patricia Ann Schene of Littleton, Colorado, appointed;

Karen Jenkins of Denver, Colorado, appointed.



GIVEN under my hand and the
Executive Seal of the State of
Colorado, this fourteenth day
Of June, 2010.

Handwritten signature of Bill Ritter, Jr. in cursive script.

Bill Ritter, Jr.
Governor



Colorado Department of Human Services
people who help people

Attachment C



Office of the Executive Director

Bill Ritter, Jr.
Governor

Karen L. Beye
Executive Director

M E M O R A N D U M

TO: Bill Ritter, Jr., Governor of Colorado
FROM: Karen L. Beye, Executive Director *Karen L. Beye*
DATE: June 10, 2010
SUBJECT: Designee for the Ombudsman Work Group

Pursuant to section 19-3.3-105(3) in Senate Bill 10-171, I am appointing Deputy Executive Director of Children, Youth and Families, George Kennedy, as my designee to convene and facilitate the Ombudsman Work Group.

Mr. Kennedy can be reached at (303) 866-4479 or by e-mail at george.kennedy@state.co.us.

cc: Amanda Belles, Deputy Director, Governor's Office of Boards and Commissions
George Kennedy, Deputy Executive Director, Children, Youth and Families
Personnel File

15. Accountability Mechanisms (Office of Child Advocate)

Background Information: The State of Colorado does not have an Office of Child Advocate (Office) tasked with the responsibility to review community concerns, gather factual information and, if appropriate, conduct an impartial case review in an attempt to resolve the issues and provide advisory recommendations to the Department. If proffered, State and/or county departments would be expected to respond to the recommendations and present in writing what actions will be or won't be taken as a result of the review from the Office. The Office of Child Advocate would also be tasked to educate the public about who should report potential child maltreatment and the roles they play in their communities to keep children safe and to strengthen families.

Purpose: To provide families, mandatory reporters, state and county employees, other professionals who work with children and families and concerned citizens an alternative place to voice their concerns about the response to children in the child welfare system without fear of reprisals.

Recommendation: To better coordinate complaints and concerns regarding the provision of child protective services: 1) An Office of Child Advocate shall be established and the Governor shall make a decision as to where to place this Office. The Committee recommends placing this Office in the Colorado Department of Human Services but outside the Division of Child Welfare. 2) The development of a standard grievance policy utilized consistently statewide. The current statutory grievance policy will be amended and any duplicative statutes will be repealed. The grievance policy must be transparent, accessible, monitored and utilized. 3) The existing accountability mechanisms should be reviewed with the purpose of evaluating their effectiveness. The expectation is that the analysis of existing mechanisms will result in streamlining and potential elimination or statutory repeal of some of these mechanisms.

Expected Outcomes:

- Enhance the accountability and transparency of the child welfare system in Colorado.
- Enhance the safety and well-being of children.
- Enhance public confidence in the child welfare system.
- Provide a voice for system change and resources.
- Provide sufficient staff in the Office of Child Advocate to review complaints, conduct inquiries, work closely with the State and county departments and issue reports on individual case recommendations.
- The Office of Child Advocate would have full access to all records including but not limited to those of the Department.

- An Advisory Committee of the Office of Child Advocate will be established consisting of representatives from the State, county departments and other relevant organizations who could contribute to the advancement of the work of the Office.
- The Office of Child Advocate shall promote best practices, evidence-based programs and advocate for the resources needed to provide quality services.
- The Office of Child Advocate shall issue an annual report identifying systemic strengths and challenges, recommending appropriate policy, statutory and funding strategies needed.

Information Used to Reach This Recommendation: The Committee heard presentations by staff from the American Bar Association, the Minnesota Department of Human Services, the Missouri Office of the Child Advocate and the Center on Children and the Law. The Committee also reviewed reports from the Rocky Mountain Children's Law Center, the Adams County Department of Social Services and the Department of Human Services Administrative Review Division.

Legislation/Rule/Budget Decision Item: Legislation is required to establish the Office of the Child Advocate and to appropriate funding for the Office as well as to repeal any duplicative statutes.

Draft - DEFINITION OF CHILD PROTECTION SERVICES
Amended August 13, 2010

Membership: Patricia Schene and Carla Bennett

Statutory Reference:

Colorado legislation- SB 10-171:

19-3.3-101 b:

The protection of children from abuse and neglect by applying prevention measures and observing best practices in treating children who are abused and neglected must be one of Colorado's highest public policy priorities;

c: The Child Protection System must protect and serve Colorado's children in a manner that keeps them safe and healthy and promotes their well being;

19-3.3-103 (s) (I) (A) (Powers and Duties of Child Protection Ombudsman)

To receive 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, and well being of the child ...**

Considerations:

Background issue related to defining Child Protection Services --

Historically, Dr. Vincent de Francis did seminal work in the middle of the 20th century to define ***child protective services*** before federal reporting legislation was passed. Federal legislation was built on his work in conjunction with experts and agencies involved in protecting children from abuse and neglect. The *Report of National Agencies Workshop on Child Protective Services*, published by the Children's Division of The American Humane Association in 1957:

Protective services represent the community's concern for its children , and the authority of the protective agency...stems from the will of the people to safeguard the welfare and rights of children.

The Child Protection System is the entity responsible for intervening on behalf of children who are neglected, abused, exploited or cruelly treated or who are without proper custody or proper guardianship.

The protective service agency (must) study and evaluate the facts:

- Evaluate the extent to which children are being harmed;
- Evaluate the parents' capacity to use help to improve the situation;

- Provide the service needed to better the situation for children;
- When parents are unwilling or unable to use this help, to invoke the legal power and authority of the court...to secure adequate protection, care and treatment for children whenever necessary to meet their needs and rights

Recommendations

1. The Child Protection System includes all public agencies or providers receiving public moneys to serve children who are abused or neglected; or have been alleged to be abused or neglected; or at risk for abuse or neglect, as defined in Statute.
2. The protective role includes responding to all children who are abused or neglected.

Ombudsman Scope, Powers and Duties

Draft 8/11/10

Amended 8/13/10

Sub Committee: Pat Wilson Pheanious, Nancy Smith, Sister Michael Delores,
Brad Linderink

Relevant statutory language is highlighted in **bold print**

CHILD PROTECTION OMBUDSMAN

PERSONS WHO MAY FILE A COMPLAINT OR CONCERN:

- **Children**, birth to Age 18, including up to age 21 if currently in the custody of the county (including those in foster care, residential or correctional facilities)
- **Families**
- **Concerned citizens and members of the general public**
- **Mandated reporters**
- **Persons involved in the child protection system and other professionals who work with children and families**
- **Employees of CDHS**
- **Employees of County Social Service Department**

PURPOSE OF OMBUDSMAN OFFICE

1. **Improve accountability and transparency in the child protection system**
2. **Promote best practices in the child protection system through the development and maintenance of positive working relationships with county departments of social service, providers of child welfare services and the Colorado Department of Human Services (CDHS).**
3. **Promote better outcomes for children and families involved in the child protection system**
4. **Allow for the voicing of concerns (without fear of reprisal) about the child protection system's response to children experiencing or at risk of experiencing child maltreatment**
5. **Provide policymakers with the information necessary to formulate systemic changes, where appropriate.**
6. Provide for the maintenance of statistics on the types, categories and demographics of individuals who utilize the services of the Ombudsman Office.

NATURE OF COMPLAINTS SUBJECT TO INVESTIGATION BY THE OMBUDSMAN

The Ombudsman may investigate or explore resolution of concerns regarding any action, inaction or decision of a public agency or of a provider that receives public moneys that may adversely affect the safety, permanence and well being of a child.

DUTIES OF THE OMBUDSMAN

The Ombudsman shall:

- 1. Receive complaints concerning child protection services made by or on behalf of a child that may adversely affect the safety, permanency, and well being of the child**
- 2. Review issues raised by members of the community relating to child protection policies or processes and make recommendations to the appropriate agency or entity concerning those issues.**
- 3. The Ombudsman may investigate and seek resolution of such complaints, refer a complaint to the State Department or appropriate agency, or entity and make recommendations for action relating to such complaint.**
- 4. The Ombudsman may decline without review or investigation, or dismiss a complaint or decide to close a case or refer a case for appropriate resolution at any point during an investigation if the following conditions are identified::**
 - The complaint is under review by a judicial or administrative officer, or court which has authority to resolve the issue complained of.
 - The complaint is not timely. A complaint will not be considered timely if a period in excess of (90 days) has elapsed since the last occurrence of the action or inaction complained of.
 - The complaint alleges an action or inaction that is not in violation of any state or federal law, CDHS Rule, Written policy or best practice directive that has been issued by the State (e.g. Colorado Practice Initiative when it is finalized).
 - The Ombudsman deems the complaint to be repetitious, trivial, not made in good faith, or the complaint is found to be false, illogical or improbable.
 - The complaint is minor and filed by a third party who is not directly involved or knowledgeable about the alleged conduct.
 - The Department (CDHS), county, provider or licensing authority has no authority to address the alleged conduct or complaint, or to impose corrective action.
 - The complaint has been previously investigated by the Ombudsman.

5. Any complaint filed must be responded to in writing, with a rationale for further investigation, dismissal of the complaint or the determination that no further action is appropriate.
6. The Ombudsman may facilitate a resolution between a complainant and the subject organization at anytime during or upon the conclusion of an investigation. The Ombudsman may refer parties for formal mediation.[†]

The Ombudsman shall:

- 7. Facilitate a process for independent, impartial review of family and community concerns.**
- 8. Conduct case reviews to help resolve child protection issues (in appropriate circumstances).**
9. Exercise values and decision making principles that are consistent with State law, Vol. 7, family strength-based approaches, exemplary permanency planning practice, and the guidance of the CDHS Practice Model (when fully developed and implemented).
- 10. Have the authority to request and review any information the Ombudsman deems necessary to conduct a thorough investigation (so long as either the State or county department would be entitled to access or receive such information, records or documents).**
- 11. Treat all complaints received as confidential (except as deemed necessary to perform duties or support recommendations). Confidentiality extends to the identity of anyone who files a complaint, and to anyone from whom information is acquired during the course of an investigation.**
 - a. The Ombudsman, any employees of the program, and any persons acting on behalf of the program shall comply with all state and federal confidentiality laws that govern the State Department or a county department.**

(NOTE: Records relating to complaints received by the Ombudsman and the investigation of complaints are exempt from public disclosure (Pursuant to Article 72 of Title 24 CRS).

The Ombudsman shall:

- 12. Establish a uniform, statewide reporting system to collect and analyze data on complaints received, and conditions reported by children in a foster or group home, residential treatment facility or juvenile correction institution.**
- 13. Review and evaluate the effectiveness and efficiency of any existing grievance resolution mechanisms.**
- 14. Evaluate and make recommendations (to the CDHS Executive Director and any appropriate agency or entity) regarding the creation of a statewide grievance policy that is transparent, accountable, and accessible by children and families within the child protection system.**
- 15. Promote best practices and effective programs relating to publically funded child protection systems.**
- 16. Strive to establish and make every effort to maintain effective working relationships with CDHS, county social service agencies, publically funded providers and other system participants and **work collaboratively** with them regarding the improvement of state and county process, policy or practice.**
- 17. Educate the public concerning child maltreatment and the role of the community in strengthening families and keeping children safe**
 - . Public education shall include information to inform the public about the processes, rules and requirements prescribed for protective service agencies in Colorado; teach effective self advocacy with public agencies and providers; and explain the roles of participants in the child protection process (including the role of civil and criminal courts).

The Ombudsman shall:

- 18 Recommend to the CDHS Executive Director and any appropriate agency or entity, budgetary, regulatory and administrative changes, including systemic changes that improve the safety of and promote better outcomes for children and families receiving child protection services in Colorado.**
- 19. Be a key advisor concerning issues relating to child safety and protection in Colorado.**
- 20. Make advisory recommendations to the State department, county departments, county commissioners, the Governor, and the General Assembly.**

21. **Report at least annually** to Executive Director of CDHS, the public and the legislature **concerning the actions taken by the Ombudsman with respect to the goals and duties of the program**; demographics of complainants and case types served; resolutions achieved, and mediations completed. **The report shall analyze the success and needs of the Ombudsman Program including the success or gaps in providing services to children and families and shall identify barriers that prevent the optimal operation of the Ombudsman's Office.**
22. The Ombudsman, employees or subcontractors of the Ombudsman are expected to adhere to high ethical standards and avoid even the appearance of, impropriety, conflict of interest, or demonstrate an unfair bias or lack of even handedness toward any person or entity participating in the investigation and/or resolution of a complaint.
23. The Ombudsman shall participate in any internal or external efforts to evaluate the Office.
24. **in the performance of all duties, the Ombudsman shall act independently of the divisions within the State that are responsible for child welfare, youth corrections or child care, and of the county departments.**

SPECIFIC PROHIBITIONS

- If, in the best interest of a child, a communication regarding an on-going court case is deemed imperative to protect the safety, permanence or well being of a child, factual information and relevant findings supported by documented evidence must be communicated only in writing, and simultaneously, to parties including all attorneys of record .
 - **The Ombudsman shall refer any complaints relating to the Judicial Department, judicial proceedings, attorney's (e.g. complaints concerning judicial determinations, legal conduct or court processes or procedures) to the appropriate entity or agency within the Judicial Department**
 - The Ombudsman may not initiate court action regarding any case, except at the direction of its legal counsel and to clarify its statutory authority.
 - To the extent possible, the Ombudsman shall investigate any complaints without interfering in ongoing court or child protection cases, including those complaints that may not specifically be referred to agencies within the judicial department. Suggested definition: "Interfere" means to attempt to influence a party or a pending action before a court of jurisdiction, or quasi-judicial or Citizen Review Board (non-court); to file motions or to unduly influence the court; to take a position on a matter before the court. In child protection cases, to interfere means to take a position of advocacy for the client and against the county department or another agency; or to act on behalf of a client in an administrative or quasi-judicial forum. The Ombudsman's Office shall not be utilized for collateral attack on orders entered during a dependency and neglect.
1. When a referral is accepted for investigation and it is in the best interest of the child the Ombudsman shall notify the individual or entity having legal custody or legal responsibility for the child subject of the complaint, and before documenting the legal custodian's reaction and response to the complaint and/or proposed investigation. The Ombudsman shall request interviews and make contact with employees through the chief executive of that employee's organization.
 2. The Ombudsman shall not issue recommendations that are not grounded in documented, factual evidence or in established principals of best practice (e.g. CWLA, CFSR, Colorado Practice Model).
 3. **The Ombudsman does not have the authority to issue subpoenas for the purpose of investigating a complaint.**

4. The Ombudsman's qualified immunity does not protect such person(s) from suit or liability for damage, loss, injury or liability caused by intentional willful and wanton misconduct.

5. The ombudsman shall not access records in the possession of any public agency that are unrelated to a complaint being investigated, or which concern an individual who is not directly involved in the case being examined.

6. The Ombudsman shall not release a report of findings that does not include as an addendum the CDHS, county's or provider response, challenge to findings, or acceptance and plan for corrective action.

OFFICE OF THE OMBUDSMAN
RECOMMENDED COMPLAINT REVIEW PROCESS

1. All complaints must be in writing (can be translated by Ombudsman in writing). Individual complainants' shall be assisted by the Ombudsman's office, if necessary, to clearly articulate their specific concern(s) and/or to commit such concern(s) to writing.
2. Although there is no requirement to identify a complainant, the Ombudsman shall maintain a record of the name and address of any individual(s) who files a issue, or seeks explanation or resolution of a concern.
3. Within (10) business days of receipt of a complaint, the Ombudsman shall make contact with the individual in CDHS, a county social service office or the person in a publically funded agency who is designated to receive and coordinate response to complaints from the Ombudsman. The director of the appropriate entity shall be copied on this communication. The county shall respond to the complaint within (10) business days, indicating reasons for its action or inaction, and the current status of the case. The county or provider may attempt to resolve the concerns articulated in the complaint through self initiated action within that 10 day period. If the complainant is satisfied with the change undertaken by CDHS, the county agency or provider, no further action will be taken and the complaint will be dismissed ("resolved satisfactorily by agency or provider action"). If the complaint concerns a provider who receives public funding, notification of the request for interview shall be made to the provider, with a copy to the provider's licensing authority. If the complaint concerns a provider who receives public funding, notification of the request for interview shall be made to the provider, with a copy to the provider's licensing authority.
4. At the conclusion of the Ombudsman's investigation, the office shall prepare a written report of findings and the factual basis therefore. If there are recommendations, they shall be made in writing and shall plainly state the rule, law, policy or best practice that has been violated, and what corrective actions are recommended. If no law, rule or practice exists to cover the situation encountered by the Ombudsman, and such change would contribute to the protection and safety of children, the Ombudsman shall include reference to this discrepancy in its annual report and make recommendations to the State and/or legislature for a change or addition to law, rule or policy.
5. The Ombudsman shall make a formal written or electronic request to review specific records, or to interview specified individuals or employees.

A county or state employee or the employee of a publically funded provider may have present a supervisor, manager or other agency representative at the scheduled interview. The employee may waive such agency presence, and if so, confirm in writing their desire

not to have such representatives present. In such instance, the Ombudsman may interview the employee without the presence of other agency or provider staff. Interviews shall be recorded and made available to the individual interviewed, and to the county or provider's legal representative.

Ombudsman will write policies and procedures to ensure an effective office and promote collaboration and cooperation with the counties.

6. Notification of Case Review Outcome: The Ombudsman shall advise CDHS, the county or provider and any individual employee(s), and or providers and their licensing authority) of the outcome of any case which has been accepted for investigation or other resolution. The Executive Director, county commissioner or mayor shall also be notified of the resolution of the complaint, and receive a copy of the investigative report when it is finalized. When a specific employee's individual actions have been questioned or found to be in violation that individual can be informed of the investigation's outcome by their employer
7. In any instance when a serious negative finding is made against a foster, group home or service provider, and the Ombudsman determines that unresolved conditions present a concern for other children, the Ombudsman shall cause a summary of the complaint and finding to be made available to CDHS for the purpose of advising any county with a child under that provider's care. In this way counties that use that service provider can review the situation and take any action deemed appropriate to secure the well being of the children placed in that environment.

GRIEVANCES AGAINST THE OMBUDSMAN: REVIEW OF ACTIONS

The Executive Director shall develop a policy that addresses grievances procedures and processes.

STATUTORY SECTIONS REVIEWED:

Senate Bill 10-171, Article 3.3. Sections 19-3.3-101 through 19-3-304, with emphasis on

19-3.3-102(2) (b) (c)

19-3.3-103(B)

19-3. 3-103(II) (A)

19-3.3-.3-103 (III) ©

(2)(b) Regarding scope, process and duties

Public Education

19-3.3 103(II) (a)

SOURCES USED TO DEVELOP THIS DRAFT:

Denver Independent Police Monitor Complaint Monitoring Guidelines

Illinois DCFS Office of the Inspector General, Illinois Register at 89 Ill. Admin Codes 1-130 (Intake and Investigation of Complaints)

Washington State ombudsman Act; WAC 365-18-060 (Ombudsman)

West's Colorado Revised Statutes Annotated, title 19 Children's Code, Article 3, Part 2, Section 19-3-211; Conflict Resolution Process

Child Protection Ombudsman Program Work Group
Amended August 13, 2010

SUB-GROUP WORK TOPIC: Access to the Office of the Ombudsman

MEMBERSHIP: Dea Schantz, Nancy Smith, Sister Michael, Marilee McWilliams

STATUTORY REFERENCE (S):

19-3.3-103 (a) (III) THE OMSBUDSMAN SHALL REFER ANY COMPLAINTS RELATING TO THE JUDICIAL DEPARTMENT AND JUDICIAL PROCEEDINGS, INCLUDING BUT NOT LIMITED TO COMPLAINTS CONCERNING THE CONDUCT OF JUDICIAL OFFICERS OR ATTORNEYS OF RECORD, JUDICIAL DETERMINATIONS, AND COURT PROCESSES AND PROCEDURES TO THE APPROPRIATE ENTITY OR AGENCY WITHIN THE JUDICIAL DEPARTMENT

CONSIDERATIONS: (Areas reviewed or studied by the sub-work group)

Long Term Care Ombudsman State of Colorado
American Bar Association Standards on Ombudsman

RECOMMENDATIONS: (sub-working group recommendations to the Work Group):

These are performance measures that are recommended at a minimum, there can be others.

The Ombudsman shall prepare a handout sheet with full contact information for distribution to parties to make complaints regarding judicial proceedings, outcome, judicial officers or other attorneys of record.

Ombudsman will need access to ICON

19-3.3-103 (b) TO EVALUATE AND MAKE A RECOMMENDATION TO THE EXECUTIVE DIRECTOR AND ANY APPROPRIATE AGENCY OR ENTITY FOR THE CREATION OF A STATEWIDE GRIEVANCE POLICY THAT IS ACCESSIBLE BY CHILDREN AND FAMILIES WITHIN THE CHILD PROTECTION SYSTEM AND THAT IS TRANSPARENT AND ACCOUNTABLE; AND

CONSIDERATIONS:

RECOMMENDATIONS:

The Ombudsman may receive complaints from anyone who is concerned about the safety, permanence, or well-being of children (this includes systemic issues).

The Ombudsman has the discretion to determine what happens with a complaint, whether to refer it to another agency for proceedings that have not occurred, to act on the complaint or not act on the complaint, or any other course of action deemed appropriate and within the Ombudsman power. Ombudsman may assist the complainant in navigating the system, and will provide information to complainants regarding other rights and responsibilities and other complaint processes that may be available to them.

The Ombudsman shall gather information on all ongoing grievance policies in the State of Colorado and gather information from people involved in those processes. Such information shall be utilized to develop a statewide grievance policy.

19-3.3-103 (c) (2) (b) To REVIEW AND EVALUATE THE EFFECTIVENESS AND EFFICIENCY OF ANY EXISTING GRIEVANCE RESOLUTION MECHANISMS AND TO MAKE RECOMMENDATIONS TO THE EXECUTIVE DIRECTOR AND ANY APPROPRIATE AGENCY OR ENTITY FOR THE IMPROVEMENT OF THE GRIEVANCE RESOLUTION MECHANISMS;

CONSIDERATION:

The statute assumes that there improvement will be necessary for a resolution already in place. I believe that if an investigation concerns one of these processes, it should be logged and the outcome also recorded. A grievance resolution may or may not need to be improved and either outcome should be reported whether there is a need for improvement or whether the process is working.

RECOMMENDATIONS:

The Ombudsman will keep track of complaints involving current resolution mechanisms already in place by statute or otherwise utilized by the appropriate agency or entity.

The Ombudsman will keep track of the outcomes of investigation concerning these mechanisms and report as to their successfulness or need for improvement.

The Ombudsman shall gather information on all ongoing grievance policies in the State of Colorado and gather information from people involved in those processes. Such information shall be utilized to develop a statewide grievance policy.

19-3.3-103 (c) (4) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO DIRECT OR AUTHORIZE THE OMBUDSMAN TO INTERVENE IN ANY CRIMINAL OR CIVIL JUDICIAL PROCEEDING OR TO INTERFERE IN A CRIMINAL INVESTIGATION.

CONSIDERATIONS:

Concern that the involvement of an Ombudsman could hold up permanency for a child. What does "intervene" mean? Legal definition or any intervention that could cause permanency progress to be halted? I like any intervention personally, wider reach.

RECOMMENDATIONS:

To the extent possible, the Ombudsman shall investigate any complaints without interfering in ongoing court cases, including those complaints that may not specifically be referred to agencies within the judicial department.

To the extent possible, the Ombudsman shall not interfere with or be the cause for delay of any judicial proceedings. The Ombudsman shall contact law enforcement and seek direction when a complaint could have criminal implications

19-1-307. Dependency and neglect records and information access -fee -rules -records and reports fund -misuse of information -penalty. (2) Records and reports -access to certain persons agencies. Except as otherwise provided in section 19-1-303, only the following persons or agencies shall be given access to child abuse or neglect records and reports:

(u) THE CHILD PROTECTION OMBUDSMAN PROGRAM CREATED IN SECTION 19-3.3-1 02, WHEN CONDUCTING AN INVESTIGATION PURSUANT TO ARTICLE 3.3 OF THIS TITLE.

CONSIDERATIONS:

Confidentiality

RECOMMENDATIONS:

The Ombudsman shall maintain confidentiality within the statutory requirements. Parties, including foster parents, shall be identified by their initials in any written reports. No current school information shall be included in any written report. No names or locations of foster parents shall be included in any written report.

SCOPE OF INVESTIGATION

CONSIDERATIONS

RECOMMENDATIONS:

The Ombudsman shall develop policies and procedures regarding the scope of investigation and shall provide those rules to the Executive Director who shall have final approval.

ACCESS TO OMBUDSMAN:

CONSIDERATIONS

RECOMMENDATIONS

A Child Protection Ombudsman "Complaint Referral" shall be defined as an alleged problem or issue, verbal or written, in which the Child protection Ombudsman records and documents in writing. A "Referral" becomes a formal "Review" or "Investigation" when the Office takes direct action or suggests action at the request of individuals, families, or other interested persons. Such review or investigation action is taken in order to identify issues and resolve problems. Complaints may be specific to individual person or may involve general issues affecting many participants in the child protection arena.

The Ombudsman has the authority to determine that a "Complaint Referral" does not require further review or investigation and that it is not accepted for further action.

A Child Protection Ombudsman "Review" is defined as assessing existing files or records, reviewing actions or inactions in a current case to determine if the actions or inactions are supported by the documented facts of the case. A "Review" does not require an independent investigation of the case, including interviewing witnesses. It allows the Ombudsman to determine if further investigation is needed, or whether the actions or inactions are sufficiently supported.

A Child Protection Ombudsman "Investigation" is defined as an independent inquiry into relevant facts, records, and statements of witnesses, considering the best interests of the child. The Ombudsman shall not interfere with an ongoing case, as previously defined. It would include a review of records and actions or inactions, but could include assessing additional facts, additional testimony, to include the re-interview of previous witnesses or reporting parties. An "Investigation" is an independent assessment by the Ombudsman.

Learning, growing, implementing quality plan to improve function of this office.

The ombudsman shall review the complaint and assess the appropriate type and level of review.

The Ombudsman shall have access to dependency and neglect records as a part of the investigative process pursuant to C.R.S. §19-1-307. The Ombudsman's ability to review certain non dependency and neglect records shall be governed by C.R.S. §24-72-204. Should records be deemed necessary the Ombudsman shall submit a request for records in writing to the agency or entity that maintains such records. The ombudsman shall clearly set forth the necessity for those records, including but not limited to how the disclosure is required to serve a compelling state interest; and if a compelling state interest necessitates disclosure of otherwise protected information, how disclosure may occur in a manner which is least intrusive with respect to the right of confidentiality.

Ombudsman will need access to Trails

Complaint referrals may be filed on written form, verbally or through electronic media in a manner to be developed by the child protection ombudsman.

Levels of review:

“Emergency” complaints are defined as complaints that allege immediate risk of harm due to abuse, medical emergency or other type of emergency shall be handled in an emergent fashion. The ombudsman shall respond within twenty four working hours of receipt of the complaint.

"Urgent" complaints involve:

Situations that do not pose an imminent risk of harm but allege areas of immediate concern. The ombudsman shall respond within three (3) working days of receipt of the complaint.

"Routine" complaints involve: complaints that pose no immediate risk to any child of a child protection concern. Those complaints may involve but are not limited to Quality of care; Issues concerning the working relationship with various entities involved in the child protection matter; Issues revolving placement of children in out of home care; the ombudsman shall respond within five (5) working days.

“Referral” complaints are complaints that after the assessment are better served by referral to a different agency or department for initial handling. Complaints that fit within this category include but are not limited to complaints regarding a judicial proceedings, complaints where referring the aggrieved party back to the department of human services is the appropriate remedy, complaints involving lawyers involved in the case.

INVOLVEMENT IN COURT PROCEEDINGS:

CONSIDERATIONS:

Mediation Models

RECOMMENDATIONS:

Neither the Child Protection Ombudsman, nor anyone directly employed by the office of the Child Protection Ombudsman shall be called as a witness in a judicial proceeding involving an investigation undertaken by that office. The Ombudsman shall not attempt to influence a Party in a judicial proceeding or influence a pending action before a court of jurisdiction; shall not file motions or attempt to unduly influence the Court; shall not take a position on a matter before the Court. The Ombudsman shall provide copies of all reports on an ongoing case to all parties to the case.

PERIOD OF INVOLVEMENT

CONSIDERATIONS

RECOMMENDATIONS

The Child Protection Ombudsman shall determine the appropriate length of investigation (address this issue under powers and duties).

ACCESS AND FEE ISSUES IN RECORDS

CONSIDERATION

RECOMMENDATIONS

The Child Protections Ombudsman shall attempt to only acquire records necessary for assessment of a formal complaint. Whenever possible file reviews will be undertaken at the office of the Department of Human Services in the county in which the complaint arises. The Child Protection Ombudsman shall only photo copy necessary records and shall reimburse the county at the rate of .25 cents per page.

After finalization of the complaint process all unnecessary documents shall be disposed of by confidential disposal.

Colorado Child Protection Ombudsman
Draft - Independence of the Ombudsman

July 28, 2010

Amended August 13, 2010

Statutory references:

19-3.3-103(5) The Ombudsman shall act independently of the divisions within the State Department that are responsible for child welfare, youth corrections, or child care and of the county departments in the performance of his or her duties.

Any recommendations made by the Ombudsman, or positions taken by the Ombudsman do not necessarily reflect those of the State Department or County entities.

The following process has been outlined for review:

- A. Recommendation Parameters
- B. Recommendation Protocol
- C. Recommendation Distribution
- D. Response Protocol
- E. Resolution Protocol

A. Recommendation Parameters

Ombudsman must make recommendations to the Executive Director of the Department of Human Services within the scope of their authority.

- All recommendations must be made within the requirements or guidelines of the following (these are not restrictive or exclusive):
 - Colorado Children's Code
 - Colorado Human Services Code (Volume 7)
 - Colorado Criminal Code
 - Criminal Proceedings Code
 - Federal Requirements
 - Colorado Practice Model in Child Welfare (when completed)
 - CWLA Standards are advisory

Recommendations may be made to any State, County or private agencies.

Need web site for the Ombudsman

- Areas targeted for recommendations include, but are not limited to:
 - Child Protection Services/including individualized recommendation
 - Utilization of best practice in child welfare support systems
 - Identification of opportunities to strengthen outcomes within the child welfare system and how they may be facilitated
 - Development of performance measures related to child welfare support systems
 - Budgetary items
 - Cost controls on service provision

B. Recommendation Protocol

Recommendations are initiated by the Ombudsman or its office representative. Recommendations will be documented in written form or electronically sent to the Executive Director of the Colorado Department of Human Services for review and comments.

Recommendations are provided annually at a minimum.

C. Recommendation Distribution

The Executive Director or designee shall distribute recommendations to the appropriate County or private agency. Recommendations may also be sent to any other agency/entity to which the recommendations apply.

Distribution of the applicable information must be sent to applicable agencies/entities within five business days.

D. Response Protocol

Any State (Colorado Department of Human Services), County or private agency that receive recommendations from the office of the Ombudsman may respond in writing or electronically to the Executive Director of the Colorado Department of Human Services.

The applicable agency/entity receiving recommendations must respond to the Executive Director of the Colorado Department of Human Services within 30 days of receipt and may respond to the Ombudsman.

E. Resolution Protocol

Once the Ombudsman's recommendation is processed and the applicable agency/entity has responded within 30 days, the following will occur (within Volume 1 rules):

The Executive Director will generate a full Resolution Report to include the original recommendation from the Ombudsman, response from the agency/entity receiving the recommendations, and the final outcomes as a result of the recommendation process.

Copies of the Resolution Report will be submitted to the following:

- Colorado Child Protection Ombudsman.
- Counties or other organizations that are the subject of the Report

In addition, the report will be posted on the website for the Colorado Department of Human Services and included in the State Auditor's Report.

It is our recommendation that the Ombudsman shall maintain an office independently of any state, county or other public building.

Child Protection Ombudsman Program Work Group
Amended August 13, 2010

SUB-GROUP WORK TOPIC: Conflict of Interest

MEMBERSHIP: Lee Wheeler-Berliner, Steve Ramirez

STATUTORY REFERENCE (S):

19-3.3-106 (b) The request for proposals shall include language prohibiting the award of the contract to a contractor who will continue to be involved in providing child protection services or serving on a similar agency's board, or involved in the legal representation of children after the award of the contract or who has any other conflict of interest or who is unable to independently and impartially perform the duties of the program.

CONSIDERATIONS: The sub-work group sought to define what constitutes a conflict of interest. We then defined all of the groups working in child protection that the Ombudsman would have to stop working with.

RECOMMENDATIONS: The following language is recommended to become a part of the detailed work plan.

The recipient of the contract must maintain an obligation to the public that cannot be interfered with by self-interest or obligation to another group or established organization.

Therefore, the Child Protection Ombudsman must be above reproach in all relationships and must not maintain any conflict of interest, which will be shown by the following actions.

Upon awarding the contract, the Ombudsman shall:

- Terminate any employee, contractor, or other financial relationship with CDHS, county departments of human or social services, police departments, residential treatment facilities, foster care-providers, adoption agencies, medical or therapeutic providers focused on the treatment of victims or offenders of child abuse or neglect, educational facilities focused on victims of child abuse or neglect, or any other entity working in child protection
- Terminate any legal representation in juvenile courts including GAL contracts, county attorney positions, respondent parent counsel contracts, CASA appointments, or other judicial appointments related to child welfare
- Resign from any Board of Directors positions held on agencies focused on child welfare, including but not limited to CASAs, foster parent organizations, adoption agencies, group homes, treatment centers and providers, etc.

Further, upon awarding the contract, the Ombudsman shall not operate a licensed foster home or be personally involved in any outstanding Dependency and Neglect petitions or have a child/abuse neglect substantiated finding.

The Office of the Child Protection Ombudsman shall at all times uphold its obligation to the public and shall ensure that conflicts of interest are not created through hiring, contracting, doing business with CDHS or other state or child agencies, financial obligations, or family obligations. The Ombudsman shall adhere to the secondary employment policy of CDHS and shall also not use the office of the Ombudsman for personal financial gain.

If a situation should occur that calls the Ombudsman to question his/her ability to act objectively in recommendations or decision making, then another member of the office will be required to take the lead role in that situation and the reason for the Ombudsman's conflict must be noted and referenced in any recommendations and in the annual report related to the specific circumstance.

Require yearly ethics disclosure statement (use the form on Secretary of State web site

Child Protection Ombudsman Program Work Group
Amended August 13, 2010

SUB-GROUP WORK TOPIC: Qualifications and Professional Designations; Best Practices promotion, working collaboratively with county departments

MEMBERSHIP: Jack Hilbert, Dea Schantz, Gloria Romansik, Shari Shink

I. STATUTORY REFERENCE:

C.R.S. §19-3.3-102(2)(a): The head of the Child Protection Ombudsman Program shall be known as the Child Protection Ombudsman, referred in this article as “Ombudsman.” The program shall be operated by a full-time, qualified ombudsman with the professional designations and qualifications determined appropriate by the executive director after consultation with the work group.

CONSIDERATIONS FOR STATUTE

- The selection process may be even more important than the specific qualifications the individual possesses as many will have the requisite qualifications.
- If involved in selection, would like to see a committee approach like a judgeship nomination
- Discussed potential of certain experiences that could bias a potential candidate but decided not to have any exclusions based upon a certain type of experience
- What will this person have to do day to day to resolve a complaint— gather all relevant information; determine desired resolution; mediate, facilitate, investigate the complaint, learn practices already in place, set up meetings between multiple individuals and groups of people, sort through complex issues; create options for resolution of conflicts.

RECOMMENDATIONS: (sub-working group recommendations to the Work Group)

Qualifications (combination of suggestions from the group)

- 1) Demonstrate familiarity with the many aspects of the Colorado child protection system and the obligations of protecting children while maintaining and supporting families.
- 2) Possess the skills and necessary knowledge required to establish standards of professional conduct and guiding principles for how the Ombudsman will operate in Colorado.
- 3) Graduate from an accredited four-year college or university. Masters or advanced degree would be advantageous.

- 4) 5 years progressively responsible experience and/or a working knowledge in safety, permanency and well being of children.
- 5) Advantageous to have certifications or licensure in relevant areas that indicate relevant experience.
- 6) Will be required to maintain relevant education and periodic updating of qualifications needed for the Ombudsman's office.
- 7) Have experience dealing with differing aspects of mediation, conflict resolution and facilitation of public disputes.
- 8) Demonstrate an understanding of how to develop and direct an organization using a goal-oriented management style.
- 9) Experience developing and managing budgets for an organization.
- 10) Experience with aspects of personnel management including hiring, career planning, corrective actions and organizational development.
- 11) Experience and demonstrated effective relations with media highly desirable.
- 12) Pass background clearance process (CBI, FBI, Drug Testing)
- 13) Other Desired skills and traits:
 - a. Ability to utilize extensive assessment and situation analysis skills at the highest levels
 - b. Good collaborative working style in a team environment.
 - c. Excellent communication skills including an ability to communicate with a wide range of people and in a culturally competent manner.
 - d. Excellent listening skills utilizing techniques such as appreciative inquiry.
 - e. Effective in written and verbal communication aimed at addressing specific issues or concerns, as well as, system improvement proposals.
 - f. Proficiency in the use of computers and data terminals.
- 14) A working knowledge of systemic change principles.

Colorado Child Protection Ombudsman

Performance Measures, Outcomes, and Reporting

July 28, 2010

Amended July 29, 2010

Amended August 13, 2010

Amended August 26, 2010 FINAL DRAFT

Statutory references:

19-3.3-102(5) The Executive Director shall be responsible for overseeing the contract for the program and shall provide training and other assistance to the Ombudsman and employees of the program to ensure that the program operates in compliance with the provisions of this article and with the terms, performance measures, and accountability requirements in this contract, as well as state and federal laws relating to the child welfare system.

19-3.3-103(e) To recommend to the Executive Director and any appropriate agency or entity statutory, budgetary, regulatory, and administrative changes, including systemic changes, to improve the safety of and promote better outcomes for children and families receiving child protection services in Colorado.

19-3.3-108 Child Protection Ombudsman program – annual report.

(1) On or before September 1 of each year, commencing with the September 1 following the fiscal year in which the program is implemented, the Ombudsman shall prepare a written report that shall include, but need not be limited to, information from the preceding fiscal year and any recommendations concerning the following:

- (a) Actions taken by the Ombudsman relating to the duties of the program set forth in Section 19-3.3-103;
- (b) Statutory, regulatory, budgetary, or administrative changes relating to child protection, including systemic changes, to improve the safety of and promote better outcomes for children and families receiving child welfare services in Colorado.

(2) The Ombudsman shall transmit the annual report to the Executive Director for review and comment. The Executive Director shall distribute the report to the Governor and to the Health and Human Services committees of the House of Representatives and of the Senate, or any successor committees. The Ombudsman shall present the report to the Health and Human Services Committees of the House of Representatives and of the Senate, or any successor committees, upon the request of those committees.

(3) The State Department of Human Services shall post the annual report issued by the Ombudsman to the website of the State Department.

19-3.3-109 Review by the State Auditor's Office. The state auditor shall conduct or cause to be conducted a performance and fiscal audit of the program at the beginning of the third year of operation of the program, or pursuant to the time frame recommended in the detailed plan developed pursuant to section 19-3.3-105, whichever date is sooner. Thereafter, at the discretion of the Legislative Audit Committee, the state auditor shall conduct or cause to be conducted a performance and fiscal audit of the program.

Sections:

- 1) Performance Measures (102(5))
- 2) Accountability Requirements (102(5))
- 3) Recommendations (103)
- 4) Annual Report (108)
 - a. Actions Taken
 - b. Recommendations for changes

Section 1) Performance Measures:

- Time taken to make first contact with the referring party. **Standard:** 5 working days for routine referrals; 3 working days for urgent referrals; 1 working day for emergency referrals.
- Time taken to complete reviews and investigations. **Standard:** 30 working days for routine referrals; 7 working days for urgent and emergency referrals.
- Conduct of the investigations. **Standard:** 90% of referring parties will be satisfied that the review was timely, that their concerns were heard, and that they were treated professionally.
- Public Awareness. **Standard:** The Ombudsman will develop a strategy to increase public awareness of the purpose, functions, and access information related to the Office.

Section 2) Accountability Requirements:

The Ombudsman will maintain information necessary to inform stakeholders and to assist with the evaluation of the performance of the Office. At a minimum the Ombudsman will compile and analyze statistics regarding the number and nature of referrals initiated and cases accepted for review or investigation by the Ombudsman's Office; compile demographic information regarding all referrals filed with that office, and the numbers of referrals investigated and resolved. Information collected shall include at a minimum, the reporter category, county, race, ethnicity, familial circumstances (e.g. foster, adoptive or birth parent); the nature of referral, and basic demographic information of the children) and families who are the subject of review, as well as other pertinent information regarding those who utilize the services of the Ombudsman Office:

- Number of referrals received
 - Number of referrals reviewed or investigated
 - Number, disposition, and type of referrals unaccepted for review
 - Disposition of reviews or investigations
 - Type and nature of recommendations made to agencies/entities
 - Categories of referrals by type, family demographics, agency/county involved, dispositions
 - Number of contacts made by phone, in person, and through web-based complaint form
 - Number and type of presentations/reports made
 - Number and reason of consultations with other agencies/entities
- The Ombudsman will evaluate agency performance/compliance based on existing statutory and regulatory requirements.
 - The Ombudsman will participate in any internal or external efforts to evaluate the effectiveness of the Office.
 - The Office will prioritize duties and activities, to enable responses to emergency complaints to be the first mandate of the program.
 - The Ombudsman will develop a quality improvement plan to improve the performance of the Office.
 - The Office will address and respond to recommendations of the State Auditor.
 - The Office will track and annually report on all systemic issues that are identified during the course of reviews and investigations
 - The Ombudsman will establish a uniform, statewide reporting system to collect and analyze data on complaints received, and conditions reported by children in a foster or group home, residential treatment facility or juvenile correction institution.
 - The Office will review and evaluate the effectiveness and efficiency of any existing grievance resolution mechanisms.
 - The Office will evaluate and make recommendations (to the CDHS Executive Director and any appropriate agency or entity) regarding the creation of a statewide grievance policy that is transparent, accountable, and accessible by children and families within the child protection system.
 - The Ombudsman will promote best practices and effective programs relating to publicly funded child protection systems.
 - The Executive Director shall develop a process for handling complaints about the performance of the Ombudsman.

Section 3) Recommendations:

The Ombudsman will make and report annually on all statutory, regulatory, budgetary, or administrative recommendations relating to child protection services. The annual report will include customer satisfaction information as collected during the review and investigation process.

Section 4) Annual Report:

The annual report shall include, but not necessarily be limited to:

- Executive Summary of the activities, data, and recommendations of the program
- Description of the duties and yearly priorities of the program
- Description of accessibility to the office
- Report on the performance measures related to the program
- Report on the accountability requirements of the office, to include yearly trends, patterns, analysis, and recommendations based on the data
- As permitted by Office confidentiality standards, a description and disposition of key reviews and investigations
- Description and assessment of statewide grievance practices; recommendations to create a standard grievance process statewide
- Summary of recommendations made for statutory, regulatory, budgetary, or administrative changes, including systemic issues
- Summary of advisory recommendations to the State Department, county departments, county commissioners, the Governor, and to the General Assembly
- Analysis of the successes and needs of the Office including the success or gaps in providing services to children and families, and identification of barriers that prevent the optimal operation of the Ombudsman's Office.

-Draft by Lloyd Malone, Steven Ramirez, and Shari Shink

Child Protection Ombudsman Program Work Group Meeting Agenda / Minutes

GROUP: Child Protection Ombudsman Program **DATE:** 6/23/10 **TIME:** 9:00am **LOCATION:** University Center at Chaparral, 15653 Brookstone Drive
Work Group

Facilitator(s): na

Attendees: Karen Beye, George Kennedy, Sister Michael Delores Allegri, Carla Bennett, Jack Hilbert, Karen Jenkins, Brad Lenderink, Senator Linda Newell, Steven Ramirez, Dea Schantz, Shari Shink, Nancy Smith, Lee Wheeler-Berliner, Patricia Wilson Pheanious, Lloyd Malone, K.C. Robbie

Excused: Marilee McWilliams, Rep. B.J. Nikkel, Lynn Price, Gloria Romansik, Patricia Schene

Unexcused:

Preliminary Meeting Items

Item #	Title/Subject	Description	Requested By	Assigned To	Date Due	Comp Date
1	Title/Subject: Review of agenda for current meeting, Executive Director, Karen Beye and Deputy Executive Director, George Kennedy Action/Comments: There were no additions to the agenda.					
2	Title/Subject: Review and approval of previous meeting minutes Action/Comments: NA				NA	

New Business

Item #	Title/Subject	Description	Requested By	Assigned To	Date Due	Comp Date
1	Title/Subject: Welcome and charge to the Work Group-Executive Director, Karen Beye Action/Comments: Executive Director Karen Beye began the discussion with a brief history of the Governor's Child Welfare Action Committee, which recommended the creation of a child protection ombudsman in Colorado. Governor Ritter wanted creative, thoughtful and bold ideas from the CWAC committee. The Committee looked at: system reform, not individual counties; data and what it showed; other states and what Colorado could learn from them. The bottom line is that a child in Colorado should have quality services wherever they live in Colorado. There were 34 recommendations from the Committee. Currently a committee is working on the central call center and administrative structure providing child welfare services locally and statewide. In 2009, legislation was passed and money appropriated for a Child Welfare Training Academy, which opened in January of 2010. In fact, the Training Academy classes are in this building. Recommendation Number 15 is for the Child Protection Ombudsman Program, which is what this work group will be working on. Director Beye thanked the members of the Child Ombudsman Work Group for volunteering for this assignment. The hard work ahead will need to be completed within a very short time frame. Senator Linda Newell also greeted the work group and expressed her thanks and gratitude to members for serving on the work group. Senator Newell was happy to be the legislator sponsoring this important bill. SB 10-					

Child Protection Ombudsman Program Work Group Meeting Agenda / Minutes

New Business		Requested By	Assigned To	Date Due	Comp Date
Item #	Description				
	<p>171 provides a good accountability mechanism. The timeline for this legislation was pushed by Senator Newell to show our commitment to the children of Colorado. The tight timeframes and importance of the Ombudsman Program make this a critical process.</p> <p>Title/Subject: Introductions Action/Comments:</p> <ul style="list-style-type: none"> • Karen Beye, Executive Director, Department of Human Services (DHS) • George Kennedy, Deputy Executive Director, Children, Youth & Families, DHS • Sister Michael Delores Allegri, Director, The Aspen House at Mount St. Vincent; Colorado President of Foster Parent Association • Carla Bennett, Foster and Adoptive Parent; Community Volunteer • Jack Hilbert, Douglas County Commissioner • Karen Jenkins, Director, Public & Private Child Welfare Programs American Humane Association • Brad Lenderink, Sergeant, Denver Police Department, Missing & Exploited Persons Unit • Senator Linda Newell, State Senator, District 26 • Steven Ramirez, President/CEO, Shiloh Home Inc. • Dea Schantz, Assistant County Attorney, Boulder County • Shari Shink, Attorney at Law, Founder Rocky Mountain Children's Law Center • Nancy Smith, Assistant County Attorney, Routt County • Lee Wheeler-Berliner, Executive Director, Colorado CASA • Patricia Wilson Pheanious, Manager, Denver Human Services • KC Robbie, Director of Field Administration, DHS • Lloyd Malone, Director, Division of Child Welfare Services, DHS 				
	<p>Title/Subject: Director Beye and George Kennedy outlined the job of the Work Group Action/Comments:</p> <ul style="list-style-type: none"> • How the program should be put together • Put together the plan • Contract Position • Person or Organization • What group thinks we need to look for in the Ombudsman • Currently an Ombudsman position is contracted by the Department in Adult Services • When the RFP is closed, some work group members will be asked to assist in reviewing responses • Several work group members will be asked to assist in interviews of RFP applicants • Legislation required that the work group convene the first meeting within 45days (which expires Monday/June 28) • Make sure we enact the provisions of SB10-171 • The work group task needs to be completed by September 1st to, 8th at the latest. The written, detailed plan 				

Child Protection Ombudsman Program Work Group Meeting Agenda / Minutes

New Business	Requested By	Assigned To	Date Due	Comp Date
Item #	Description			
	<p>must be completed within 90 days of the work group convening. When the detailed plan is completed, Director Beye is required to provide a copy to the joint Health & Human Services Committees and to have it posted on the Department's website. Then the RFP goes out within 30 days.</p>			
	<p>The group was asked to think about public comment at the end of agenda. If a person does sign up for public comment and later applies, it could cause a conflict. A statement will be needed on the sign-up sheet for public comment that addresses conflict of interests.</p>			
	<p>The group discussed how to finalize decisions through a consensus process and was asked to decide today on how consensus will be reached as a group.</p>			
	<p>The work group agreed not to create sub-committees, but will work on the detailed plan as a whole.</p>			
	<p>Senator Newell mentioned that the Child Welfare Action Committee had lots of public testimony, so that work has been done (i.e. youth of the system, foster parents, birth parents, etc.). Our work group will focus on outlining what the Ombudsman will look like.</p>			
	<p>The bill did include the role and funding for a facilitator. The Department will arrange for a facilitator by the next meeting. There are limited General fund dollars available after July 1, 2010 for the work group.</p>			
	<p>Item Subject: The Road to the Child Protection Ombudsman SB 10-171-Side by Side, Lloyd Malone</p>			
	<p>Action/Comments: Lloyd Malone gave a brief side-by-side comparison of the "Road to the Child Protection Ombudsman SB 10-171". Lloyd mentioned several key concerns discussed by the Child Welfare Action Committee subcommittee regarding the need for an Ombudsman program. Concerns included that people felt they had no voice; there is a need for transparency, accountability and consistency; and to enhance public confidence in the child welfare system. Mr. Malone thanked Senator Newell for her leadership in forging ahead with this legislation and feels that SB-171 is expertly crafted. Mr. Malone envisions Colorado having the best Ombudsman program in the country. Senator Newell is already getting calls from other interested groups. Lloyd offered his assistance to group members and can be reached at 303-866-4365 or e-mail at Lloyd.malone@state.co.us.</p>			
	<p>Dea Schantz talked about different types/levels of Ombudsman. The group will look at which level to consider. Information from the ABA Standards on Ombudsman Program will be made available to the work group.</p>			
	<p>The group discussed the concept of the Ombudsman role being an advocate or an impartial position. Senator Newell noted that the Ombudsman would need to look at all aspects of an issue/situation. The legislative intent is for independence. Senator Newell shared that she receives communications expressing concerns about public trust issues, feelings of being heard but ignored, fear of retaliation, that the child welfare system is so</p>			
	Group	Dea to Paula		7/12/10

Child Protection Ombudsman Program Work Group Meeting Agenda / Minutes

New Business	Requested By	Assigned To	Date Due	Comp Date
<p>Item # Description</p> <p>complicated and needs to be held accountable. The Ombudsman should be in a good position to address many of these issues.</p> <p>Director Beye asked the group to share how the work group members perceive what the Ombudsman will do? Is there disparity in what we think? Again, what consensus type will the group use?</p> <p>Patricia Wilson Pheanious asked what principles would be used to solve the problems? Data driven? Emotion driven? Director Beye clarified that the work group should not try to rewrite the law created in SB10-171, rather their task is to help implement SB 10- 171. Data was used to create and write SB 10-171. The group may want to decide what data to collect in the next 3-5 years. Is the Ombudsman program doing what we expected? While the Ombudsman will not supervise the 64 counties, the Ombudsman will receive lots of information and can make recommendations based on problems that surface and can look for trends, issues and problems.</p> <p>TOPIC/SUBJECT: RFP Process, Steve Rosenthal</p> <p>Action/Comments: Steve Rosenthal, from Procurement, gave the group an overview of the Request for Proposal (RFP) process. He cautioned that work group members may have relationships with applicants and will need to separate from them in regards to the RFP process. Group members will have to limit discussions of the RFP in order to protect the integrity of the process.</p> <p>Some items mentioned by Steve:</p> <ul style="list-style-type: none"> • The statement of work will result in a contract. • Do not make requirements that create favorites. • What requirements will elicit the best responses? We can only evaluate what we ask for. • The RFP will be posted for 30 days on the Colorado State Bids system. • Applicants can submit questions to Procurement. The work group will provide responses to Procurement, who will post the questions and responses so that all applicants receive the same information. • Proposals are submitted to Procurement • There will be an evaluation committee. Build in time for 3 or more work group members to evaluate the responses. • Consider a conference with applicants. This would be to answer/ask what can't be put in writing. The conference is recorded. Questions and responses are published. • Any hard-core requirements? For example: how will background clearances be addressed? How to discuss the financial considerations? Will the applicant be required to raise money, match, etc? Will the program be piloted in geographic areas or a judicial district? <p>The work group will review these issues in future meetings. Senator Newell mentioned that the program has an initial general fund contribution of \$175,000 and discussed the need to prioritize the work of the program with the goal of concentrating first on the complaint process and second on a statewide grievance policy. It is her hope that the work group will insure the Ombudsman is focused on the program not raising money.</p>				
	Group	Steve Rosenthal		7/12/10

Child Protection Ombudsman Program Work Group Meeting Agenda / Minutes

New Business	Requested By	Assigned To	Date Due	Comp Date
Item #	Description			
	<p>The group asked Mr. Rosenthal for a copy of the Adult Long Term Care Ombudsman RFP. He will forward to the work group and mentioned that the template for contracts is on the State web site if members want to review.</p> <p>The work group will be tasked to prepare a detailed plan to be delivered to Director Beye. The Department will then develop and release the RFP. Director Beye reiterated there couldn't be any pre-release of RFP related information. She indicated that it is not her intent to rework on the detailed plan after it is submitted, it should be in final form. Confidentiality is key.</p> <p>There was discussion that the work group might need to discuss some issues in closed session as the development of the RFP progresses. The group will have to make rules for this project. The Department will ask for an AG opinion to see if executive session is allowed.</p>			
	<p>Procurement staff offered to attend future meetings if requested.</p> <p>Item/Subject: The Work Group was asked, "What do each of you perceive that the Ombudsman will do?"</p> <p>Action/Comments: Work Group members had the following perceptions:</p> <ul style="list-style-type: none"> • Safe haven that people can come to in order to express concerns and have some results • Some folks fearful; who to go to, retaliation, want to receive a response • Provider is caught in the middle, provider can see needs or lack of • Providers need a safe haven; county may say you are off the list • Process to address issue of concern • Accomplish what we need to correct issues, or a plan to address • Being able to see this to the public, this is safe, without State or County coming after you, get that message out • Sees as checks and balances to improve what we do with youth and families • Are we really doing what is in the best interests for youth • Safe haven, no fear of retaliation • Needs power to improve wrongs, power to make changes • Safe place to take your concerns • Be independent and objective • If Ombudsman makes a recommendation, if independent and objective, will probably be heard • If Ombudsman sees complaints over and over, can make recommendations, has a good overview • Provide independence, someone who can take information, look at circumstance, go back to parties, this is what I see, here is how we can look at moving forward, collaboratively • Don't want kids or families to fall through the cracks • Fear: this will be used as a complaint mechanism, Ombudsman will have to be independent and impartial • Don't use to destroy other advocacy groups (try to add this wording in the RFP) 			

Child Protection Ombudsman Program Work Group Meeting Agenda / Minutes

New Business	Requested By	Assigned To	Date Due	Comp Date
Item #	Description			
	<ul style="list-style-type: none"> • How people look at 64 counties, hundreds of different case workers • How move to objectivity piece • Not over whelmed • Not intimidated • Do right by families • Have to parallel or model what we are looking for • Make sure they understand Colorado • Help educate the public • Training is imperative • Knowing which ones to listen to (frivolous complaints) • Get people to call about dangerous situations • Over time identify trends • Level of simplicity, don't spend time saying why we can't help, rather take 10 minutes to listen • Issue of fatalities, simple basic things that did not happen • Opportunity to get something done • Need detailed description of person's impartialness • Ombudsman investigate, can they stop a case? This is a concern of county, can hold up permanence of a child • What investigations looks like, data clearing house is very important • Is this person going to mediate? Talk with the agency? Don't abandon processes that are already in place (Citizen Review Panels) • Ombudsman is the glue • Come up with a procedure or process or from showing current processes available • Personality i.e. independent voice, macro level view, where are cracks repeated; advocate for changes systemically • Be impartial, be knowledgeable about the whole system • Should not come with agenda • Experience in the systems • Relationships are key/critical • Lots of effort to develop a proactive model, that person has to be on board • Don't see just as protecting children and parents; also support Child Welfare totally (case workers, etc.) • Too many cuts to the current system • Best friend to all levels • Advise, recommend, refer • Statewide grievance process • Will be recommending to the Legislature • Share best practices • Report to Legislature yearly 			

Child Protection Ombudsman Program Work Group Meeting Agenda / Minutes

New Business					
Item #	Description	Requested By	Assigned To	Date Due	Comp Date
	<ul style="list-style-type: none"> • If we do this well, when the ombudsman reports to the Legislature, the beauty of this is that the Ombudsman will go hand in hand with other stakeholders so that kids don't fall between the cracks • Anxiety issue, 29 other states used to be where we are now, it is normal, change is hard • We can channel anxiety to effect productive change • Ombudsman let legislature know needs of staffing and budget issues • The Ombudsman should be one of the most trusted positions in the State 				
	<p>Time/Subject: Public Comments</p> <p>Action/Comments: Meetings are open to the public. The Work Group agreed to allow public comment in the last 15 minutes of each meeting. Mr. Kennedy recommended the following wording for the public speaking sign in sheet: "Please be advised that public input with the intent to influence the outcome of the Work Group's deliberations in order to improve your response to a request for proposal on the Child Protection Ombudsman Program is prohibited and may disqualify your bid if presented". The group approved the wording. Mr. Kennedy will ask Steve Rosenthal to review the wording prior to the next meeting.</p>				
	<p>Time/Subject: Consensus</p> <p>Action/Comments: After discussion the group agreed to work to achieve as much consensus as possible. All input will be encouraged and considered with the goal that members live with the decision. If consensus cannot be reached, a vote will be taken and a simple majority will rule.</p>				
	<p>Time/Subject: Prepare matrix for next meeting, George Kennedy</p> <p>Action/Comments: Since the time frames are short, for the next meeting State staff will prepare a matrix of the requirements as outlined in the legislation. The work group will review and revise as needed. Mr. Kennedy will send the initial matrix to the group.</p> <p>The following will be included in the initial matrix:</p> <ul style="list-style-type: none"> • Powers and Duties • Qualifications • Performance Benchmarks • Length of Contract • Criteria for the Request for Proposal • Communication Plan • What Child Welfare Ombudsman is not • Detail Process 				
	<p>Time/Subject: Next Meeting Schedule</p> <p>Action/Comments: The Department staff will develop a web site for the Work Group to post information. The web site will be hosted on the Colorado Department of Human Services web site soon (www.cdhs.state.co.us).</p>			Group	State staff

Child Protection Ombudsman Program Work Group Meeting Agenda / Minutes

New Business					
Item #	Description	Requested By	Assigned To	Date Due	Comp Date
	The work group prefers future meeting take place at the Child Welfare Training Academy location. Next meeting is July 14 th , 9:00am to 3:00pm at University Center at Chaparral, 15653 Brookstone Drive, Parker, CO.				
	<p>Item/Subject: Public Comment</p> <p>Action/Comments: No one signed up for public comment. The meeting was adjourned at 2:55 p.m.</p>				

Child Protection Ombudsman Work Group Meeting Minutes

GROUP: Child Protection Ombudsman Program Work Group **DATE:** July 14, 2010 **TIME:** 9:00am **LOCATION:** University Center at Chaparral, 15653 Brookstone Drive

Facilitator(s): Danelle Young

Attendees: George Kennedy, Sister Michael Delores Allegri, Carla Bennett, Jack Hilbert, Brad Lenderink, Steven Ramirez, Dea Schantz, Shari Shink, Nancy Smith Lee Wheeler-Berliner, Patricia Wilson Pheanious, Patricia Schene, Marilee, McWilliams, Gloria Romanskik, Lloyd Malone, K.C. Robbie, Danelle Young

Excused: Senator Linda Newell, Representative B.J. Nikkel, Lynn Price

Unexcused:

Preliminary Meeting Items			
Item #	Title/Subject	Description	Requested By / Assigned To
1	Review of agenda for current meeting Action/Comments: There are no additions to the agenda.		Facilitator / Group
2	Review and approval of previous meeting minutes Action/Comments: George Kennedy recommended an addition to the minutes; add "The work group agreed not to create sub-committees but will work on the detail plan as a whole". Dea Schantz asked that page 3, paragraph 7 be corrected to read "Information from the ABA Standards on Ombudsman program.....". Motion from Marilee McWilliams to accept minutes with noted corrections, second by Dea Schantz. Minutes approved.		Facilitator / Group

Old Business			
Item #	Description	Requested By / Assigned To	Requested By / Assigned To
	Title/Subject: na Action/Comments:		

Child Protection Ombudsman Work Group Meeting Minutes

New Business	Description	Requested By	Assigned To
1	<p>Item #</p> <p>DESCRIPTION</p> <p>TITLE/SUBJECT: Welcome and Information Updates from George Kennedy</p> <p>Action/Comments: George Kennedy introduced Danelle Young, who will be facilitating future meetings of the work group. Ms. Young discussed several ideas for moving the work group process forward. Work Group members agreed that State staff should attempt to meet with absent work group members to catch them up prior to the next meeting. It was also recommended that cell phones be turned off or placed on vibrate to eliminate interruptions.</p> <p>In response to an inquiry from a work group member on guidance when answering requests for interviews by the media, Mr. Kennedy informed the work group that as appointees, each member is free to make the decision whether or not to speak to a reporter. If an interview is granted the members were encouraged to be clear that he/she is speaking for him/herself and not the Department, work group or the Governor.</p> <p>George Kennedy noted that the work group web site is now available on the Colorado Department of Human Services web site. The site includes agendas, approved minutes and copies of all the handouts or reference materials to be shared by work group members.</p> <p>George Kennedy did speak with the Attorney General's Office about the need for confidentiality in the RFP process, yet certain areas of SB 10-171 call for transparency. It was agreed that the work group would complete the detailed work plan mandated in legislation and present it to Executive Director Karen Beye as required. The Department of Human Services will then draft and issue the RFP using the guidance included in the detailed plan. It is Director Beye's intention to ask work group members to sit on the RFP review committee. Patricia Wilson Pheanious asked if the work group would be able to review the RFP before it was issued. Mr. Kennedy agreed to seek guidance to see if the request would be honored.</p> <p>Danelle Young indicated her commitment to support the group in developing a good product. She recommended that the work group move forward by revisiting the decision to not work with sub-work group committees. One of the outcomes set by the work group is to develop the key elements of the Ombudsman office that will make it a successful program. It was recommended that the work group develop sub-work groups to work on specific requirements of the office. The sub-work groups would have the ability to pull in subject matter experts if they want. Each sub-work group would submit their portion via e-mail. State staff and Danelle will pull the information together and enrich the material as appropriate for discussion. The information will again be shared with the entire work group at the next meeting. The work group discussed the fact that this is a change to what was previously agreed to. George Kennedy</p>		

Child Protection Ombudsman Work Group Meeting Minutes

New Business		Requested By	Assigned To
Item #	Description		
	recommended that with the tight timeframes and new direction of the group the concept of splitting into smaller groups to push forward should be reconsidered. The work group agreed to the new plan.		
2	<p>THE SUBJECT: Matrix Overview, Lloyd Malone</p> <p>Action/Comments: Lloyd Malone and Child Welfare staff worked on two draft matrix documents. Lloyd briefly reviewed and shared both documents with the work group. The matrix incorporates the mandates in legislation as well as space for additional requirements determined by the work group. The format could be a starting place for the group to begin outlining the working document.</p> <p>The work group discussed to what degree the work group wants to be prescriptive to get the best Ombudsman possible? A group member reminded all that the legislation is specific and recommended that the work group stay within the parameters of SB 10-171 and the fiscal note. It was suggested that the statutory citation be included on the working document or key elements list. It was noted that the fiscal note was not legally binding and that the work group rely on SB-10-171 for direction.</p>		
3	<p>THE SUBJECT: Key Elements, Danelle Young</p> <p>Action/Comments: Danelle Young recommended that time today be spent to determine the essential key elements required to determine what a well managed program should be and what is needed for the Ombudsman to perform the duties of the program. There was discussion about budget/money issues surrounding the program. It was agreed that it is not the role of this group to seek funding for the program. Group will outline what is needed within the law and not constrained by existing funding. Based on this concept the budgetary issues are identified in the law and the Executive Director of Human Services has the authority to initiate the program when sufficient funding is available and to seek additional funding. The work group agreed to table the budget/money issues and concentrate on the program.</p> <p>The work group identified areas to be assigned to sub-work groups. The work group reviewed SB 10-171 and identified key elements of the bill that were intended to plan for a successful Ombudsman program. In order to push forward and meet deadlines it was decided that small groups would be utilized to consider what issues are critical and germane to the key elements. Champions will be assigned to lead each small sub-work group, and will have other work group members assigned to assist in detailing the key elements. Each sub-work group will steep themselves in the statute, review our comments from the main work group and enhance the subject area. Each work group will meet as small groups, use telephone conferencing, e-mail, etc. George Kennedy agreed to send a standard format for each sub-work group to use in their report.</p>		

Child Protection Ombudsman Work Group Meeting Minutes

Item #	Description	Requested By	Assigned To
	<p>New Business</p> <p>The following sub-work groups were established:</p> <p><u>(1.) Qualifications and Professional Designations:</u> Champion-Jack Hilbert Sub-Work Group participants: Gloria Romansk, Shari Shink, Dea Schantz SB101-171 Subject area: 19-3.3-102 (2) (a) (2)(c) Role of Key Advisor, relationship to qualifications (see (2) (a)) (5) Nature of training; process performance measures (see 19-3.3-109) Work group guidance: Don't limit to attorneys or social workers Some areas are inter-related to other portions of SB10-171 Training Best practices</p> <p><u>(2.) Scope, Powers & Duties:</u> Champion-Patricia Wilson Pheanious Sub-work group participants: Nancy Smith, SisterMichael Delores Allegri, Brad Lenderink SB101-171 Subject area 19-3.3-102 (2) (b) (c) 19-3.3-103 (B) 19-3.3103 (II) (A) 19-3.3-103 (III) (c) (2)(b) regarding scope, process, duties Public Education 19-3.3103 (II) (A), What's the scope of investigation, parameter for where/how to gather information (i.e. interviews, 3rd party, etc.); need to define records, information and documents (B) and (A) are inter-related Scope of seek resolution Independence elements</p>		

Child Protection Ombudsman Work Group Meeting Minutes

New Business	Requested By	Assigned To
<p>Item # Description</p> <p>(3.) Child Protective Services: Champion-Paricia Schene Sub-Work Group, Carla Bennett SB101-171 Subject area 19-3.3-103 (a)(1)(A) Work group guidance: Clarify the term protective services Children in other "protective services" isn't defined in current statute, what is the scope Does this include children in the Division of Youth Corrections 19-3.3-103(B) What is the scope of "all" complaints Where and how does confidential apply Parameters Need procedure outline for complainants</p> <p>Table additional duties until next meeting 19-3.3-103</p> <p>(4.) Access, Grievances & Fees: Champion-Marilee McWilliams Sub-work group: Dea Schantz, Nancy Smith SB101-171 Subject area : 19-3.3-103 (III) Work group guidance: Scope of investigation When can someone come to the Ombudsman? Should the Ombudsman be involved in court proceedings? What procedure for access Need to define parameters to statewide grievance process 19-3.30103 (4) Scope of intervention, be consistent with 19-3.3-103 (III) Records Define "continue to be involved", length of contract 19- 3.3- 106 19-1-307</p>		

Child Protection Ombudsman Work Group Meeting Minutes

New Business	Requested By	Assigned To
<p>Item #</p> <p>Description</p> <p>Need to discuss fees for access to records What constitutes access?</p> <p><u>(5.) Define “promote”, best practices</u> Champion: Jack Hilbert Sub-work group: Dea Schantz SB101-171 Subject area 19-3.3-103 (d), define “promote Work group guidance: Parameters that are consistent with recognized best practices Understanding the process Knowledge of the process (i.e. Volume 7) Work with process in place What the Ombudsman is not Don’t limit to Volume 7, engage others in problem solving, don’t hold to current processes only</p> <p><u>(6.) Independence & Conflict of Interest:</u> Champion: Steve Rameriz Sub-work group: Lee Wheeler-Berliner SB101-171 Subject area : 19-3.3-103 (5) and 19-3.3-106 Work group guidance: Parameters around when the Ombudsman makes recommendations that are in opposition to CDHS Executive Director or county departments, etc. How and what happens next? Define “independence” Process for agency response Process for respondent Define conflict of interest</p>		

Child Protection Ombudsman Work Group Meeting Minutes

New Business		Requested By	Assigned To
Item #	Description		
	<p><u>(7.) Performance Measures, Accountability Mechanisms & Reporting:</u> Champion: Lloyd Malone and State staff Sub work-group: Shari Shink, Steve Rameriz SB101-171 Subject area : 19-3.3-108 (a) (b) and 19-3.3-109 Lloyd will ask for input from the State Auditor Measure success and early on problem solving interventions Look at legislative intent What should be audited for “performance” and to what level of detail?</p>		
4	<p>Title/Subject: Gathering of Sub-work group information, George and Danelle Action/Comments: It was agreed that information from the sub-work groups will be provided electronically to Paula Sullivan three days prior to the next meeting (by July 23rd). Each area should be correctly labeled (which key element). George Kennedy and Paula Sullivan will pull the information together for review and enrichment by State staff and Danelle Young prior to the next meeting. Paula will send out a list of work group contact information on Monday, July 19th.</p>		

Meeting Closure		Requested By	Assigned To
Item #	Description		
1	<p>Title/Subject: Next Meeting schedule Action/Comments: July 28, 2010</p>	Facilitator	Group
2	<p>Title/Subject: Meeting Adjourn Action/Comments: Adjourned at 3:00pm</p>	Facilitator	Group

Child Protection Ombudsman Program Work Group Meeting Agenda / Minutes

GROUP: Child Protection Ombudsman Program Work Group

DATE: July 28, 2010

TIME: 9:00am-3:00pm

LOCATION: University Center at Chaparral, 15653 Brookstone Drive

Facilitator(s): Danelle Young

Attendees: Sister Michael Delores Allegri, Jack Hilbert, Karen Jenkins, Brad Lenderink, Marilee McWilliams, Linda Newell, Patricia Wilson Pheanious, Steven Ramirez, Dea Schantz, Patricia Schene, Shari Shink, Nancy Smith, Lee Wheeler-Berliner
CDHS: George Kennedy, Lloyd Malone, Paula Sullivan, Danelle Young

Excused: Lynn Price, Gloria Romansik, B.J. Nikkel, Carla Bennett

Unexcused:

Preliminary Meeting Items

Item #	Title/Subject	Description	Requested By	Assigned To
1	Review of agenda for current meeting	<p>Action/Comments: The work group reviewed the agenda for the day. Facilitator Danelle Young suggested that the work group not take official breaks and to shorten the lunch break in order to cover the workload for the day. Ms. Young recommended three tasks to be accomplished by the end of the day:</p> <ol style="list-style-type: none"> 1 Review all of the sub-group concept papers and come to agreement 2. Draft a table of contents for the final report 3. Take all refined documents, reflect today's work, and incorporate them into the table of contents <p>Pat Wilson Pheanious asked George Kennedy if the work group would be allowed to review the final RFP before it is released. George Kennedy gave feedback to the group as requested during the last meeting. Due to the tight time frame available to write and release the RFP, it will not be possible to reconvene and review as a group. It may be possible to allow for work group members to review within certain parameters. Interested work group members would have to sign a letter of confidentiality and request permission. It is critical that the RFP confidentiality process not be compromised. Pat Wilson Pheanious also asked if it would be possible to see a summary of any changes in the RFP that were not reflected in the recommendations of the work group? Or would Executive Director Beye consider talking to the group about items that may be changed or deleted? Work group members feel that this document is the guiding force and hope that Executive Director Beye will use the recommendations. Mr. Kennedy advised the group that once the RFP process begins, information that may breach confidentiality would not be allowed. Executive Director Beye has indicated that she would like a small representative group from the work group to assist with drafting the RFP. There will also be a representative group assisting in the RFP review process.</p>		Group
2	Review and approval of previous meeting minutes	<p>Action/Comments: Nancy Smith motion to approve, second by Pat Wilson Pheanious. The minutes were approved without changes.</p>		Group

Child Protection Ombudsman Program Work Group Meeting Agenda / Minutes

Tasking Updates			
Item #	Description Title/Subject: Action/Comments:	Requested By	Assigned To Date Due Comp Date
	na Action/Comments:		

Recurring Items			
Item #	Description Title/Subject: Action/Comments:	Requested By	Assigned To
1	na Action/Comments:		

Old Business			
Item #	Description Title/Subject: Action/Comments:	Requested By	Assigned To
	na Action/Comments:		

New Business			
Item #	Description Title/Subject: Action/Comments:	Requested By	Assigned To
1	<p>Sub-committee Reports: Danelle Young suggested that the work group review Scope, Powers & Duties and Performance Outcomes and Measures last. The other key element documents will overlap and feed into this area. <i>Many major changes are reflected in the minutes, all agreed upon changes will be reflected in the revised documents and presented at the next meeting.</i></p>		
2	<p><u>Qualifications and Professional Designations:</u> Commissioner Jack Hilbert presented the sub-work group recommendations on qualifications and professional designations for the Ombudsman. (See attachment A) The work group discussed a number of issues and made recommendations for changes. Senator Newell would like to see a fresh new perspective, don't limit the Ombudsman by requiring child welfare experience only. Public trust is huge, may need child protection experience. The group felt it important that the Ombudsman attend the Child Welfare Training Academy once hired and stay current with future related trainings. Danelle Young listed three spectrums for experience; broad, related or direct/specific. The group agreed to broad requirements with several parameters. (Need to demonstrate system knowledge; open to system changes; knowledge or experience in child welfare systems concerning safety, permanency and well being of child; show growth and managerial skills progress in employment). The group also agreed to require 5</p>		

Child Protection Ombudsman Program Work Group Meeting Agenda / Minutes

New Business		Requested By	Assigned To
Item #	Description		
	<p>years of experience. The group agreed to require a degree (BA or BS) in a relevant area. Ombudsman will have to clear background checks (FBI, CBI, etc.).</p> <p>Pat Schene recommended that skills include the ability to strengthen families, don't want to restrict solely to safety and protection. There is a need to define in the authority section of the work plan. Concern was expressed that Ombudsman will need a skill set to include budget, fiscal management, staff hiring, and data management. Senator Newell suggested that this be moved to organization development and leadership area. Several members stressed the ability to work with the media. This will be added as a highly desirable skill set.</p>		
3	<p><u>Title/Subject:</u> Definition of Child Protection Services: <u>Action/Comments:</u></p> <p>Pat Schene presented the sub-work group recommendations on the definition of child protection services. (Attachment B). Discussion included the fact that the Ombudsman will walk a fine line between maintaining independence and looking into specific cases of abuse and neglect.</p> <p>Senator Newell mentioned that the Ombudsman will have to prioritize duties, as discussed earlier. There are levels of priority (i.e. emergency response, evaluation, etc)</p> <p>The question was raised regarding the Ombudsman's role in juvenile facilities. It was recommended that the wording "...all public agencies..." would cover juvenile facilities when the issue of child protection is raised. It is not intended that program review would take place. The work group agrees to remove area #4 from the recommendations on the belief that the areas of concern were to broad.</p>		
4	<p><u>Title/Subject:</u> Conflict of Interest: <u>Action/Comments:</u></p> <p>Lee Wheeler-Berliner and Steve Ramirez presented the sub-work group recommendations regarding conflict of interest. (Attachment C)</p> <p>The position should be considered the primary job of the Ombudsman. Outside employment would have to be approved. It was recommended that the Ombudsman use the current CDHS secondary employment guidelines in determining the approval process. Any outside activity should insure that there is no direct or indirect financial gain. Defer to Executive Director discretion</p> <p>The work group recommended that the Ombudsman complete a financial disclosure once a year file disclosure (gifts, donations, boards or committee, etc.). There is a current form/process in place within the State.</p>		
5	<p><u>Title/Subject:</u> Access, Grievances, Fees: <u>Action/Comments:</u></p> <p>Sister Michael Alegri, Dea Schantz, Nancy Smith and Marilee McWilliams presented their thoughts on access to the office of the Ombudsman. (Attachment D)</p> <p>Not sufficient to tell callers that the Ombudsman could not handle a particular case. It is recommended that a check off list that assists with</p>		

Child Protection Ombudsman Program Work Group Meeting Agenda / Minutes

New Business	Requested By	Assigned To
Item #	Description	
6	<p>informing caller of who to call, where to call, phone numbers, current processes in place, etc be available so there is some support for the caller. It is preferred to use the check list to redirect back to the proper steps/process. The committee would like to see a definition of what it means to interfere in a criminal investigation. It was agreed that the Ombudsman will need access to Trails and ICON</p> <p>Legislation was crafted to keep Ombudsman out of the courts. The office could lose its independent function if they are required to testify and show partiality to one side or the other. It was suggested that parties would have to sign paper that says the Ombudsman cannot be called as a witness</p> <p>Senator Newell wants to make sure that this is not a revolving door; Ombudsman has the opportunity at any point to assist the complainant with navigating the process/system; this should be a theme throughout the report; gather data first before moving forward with a decision. Ombudsman skills: Learning, growing, implementing quality implementation plan to improve function of the office.</p> <p>It was decided that no time limit would be placed on length of investigation</p> <p>Discussion was had concerning the Ombudsman's access to personnel records. It is recommended that the Ombudsman should have same access as CDHS. There could be additional items in the personnel files that are germane to the case and should be off limits.. George will ask for guidance on this from the AG's office and/or HR on this subject..</p> <p><u>Title/Subject:</u> Independence: (Attachment E)</p> <p><u>Action/Comments:</u></p>	
7	<p>Cannot restrict to recommended parameters, but familiarity with the guidelines, we can recommend that it's being followed, but Ombudsman can recommend a change.</p> <p>CDHS Executive Director will send out best practices, more of systemic recommendations.</p> <p>Senator Newell recommends a web site. Share best practices. Share solutions and be transparent. (This shows independence.) It was suggested that Ombudsman recommendations be listed next to CDHS Executive Director recommendations.</p> <p>May be able to use CSSDA to assist with disseminating information.</p> <p>If place information on web site, be cautious, this is legal information. Case specific information is confidential, however, systemic issues are open record.</p> <p><u>Title/Subject:</u> Scope, Powers & Duties:</p> <p><u>Action/Comments:</u></p>	
	<p>Pat Wilson Pheanious presented the sub-work group recommendations on scope, power and duties (Attachment F). Time limited the full review of this area and some issues are moved to the next meeting.</p> <p>Recommendations include: Add children up to age 21 if they are in the custody of the county and are involved in child welfare system (Example-CHRP cases).</p> <p>The issue of mediation was discussed and the work group was in agreement that the Ombudsman will not serve as a mediator but rather would have access to mediation as a recommendation on resolving a case. The work group does not want Ombudsman to take on the role of Mediator</p> <p>Ombudsman could prevent things from happening not covered by county purview</p> <p>The work group discussed the recommendation that the Ombudsman appoint an advisory board in order to strengthen performance during first year the Ombudsman and to get in-put from subject matter experts (this could also enhance subject knowledge). How will complaints</p>	

Child Protection Ombudsman Program Work Group Meeting Agenda / Minutes

New Business		Requested By	Assigned To
Item #	Description		
8	<p>about the Ombudsman be handled? Get public and stake holder in-put once a year. Senator Newell informed the group that an advisory board was discussed during bill writing. The responsibility for oversight of the program is placed in the Executive Director of Human Services. The advisory board discussion was tabled.</p> <p>Title/Subject: Homework:</p> <p>Action/Comments:</p> <p>Marilee and Shari work on press/media issues. Work group will finish Scope, Power & Duties next time. Work group will review Performance Measures, Accountability Mechanisms & Reporting (Attachment G) at next meeting (might have to redo reflecting today's changes).</p> <p>Lloyd Malone and Paula Sullivan will edit key element documents reflecting today's changes and get to work group electronically by Wednesday, August 4th. Review the revised document, check your notes and get comments to Paula electronically by Friday, August 6th.</p> <p>State staff will outline the report (develop table of contents) and blend in key element reports.</p> <p>The group decided to extend the workday on August 11th to begin at 8:30am and end at 4:00pm. Short breaks and a non-working lunch will be scheduled to allow members to return phone calls, check messages, etc.</p> <p>Title/Subject: No public comment</p> <p>Action/Comments:</p> <p>Title/Subject:</p> <p>Action/Comments:</p>		

Meeting Closure		Requested By	Assigned To
Item #	Description		
1	<p>Title/Subject: Next Meeting schedule</p> <p>Action/Comments: August 11, 8:30am to 4:00pm, University Center at Chaparral, 15653 Brookstone Drive, Parker, CO</p>	Facilitator	Group
2	<p>Title/Subject: Meeting Adjourn</p> <p>Action/Comments: Meeting adjourned</p>	Facilitator	Group

Child Protection Ombudsman Program Work Group Meeting Agenda / Minutes

GROUP: Child Protection Ombudsman Program Work Group

DATE: August 11,
2010

TIME: 8:30am-4:00pm

LOCATION: University Center at Chaparral, 15653
Brookstone Drive

Facilitator(s): Danelle Young

Attendees: Sister Michael Dolores Allegri, Carla Bennett, Jack Hilbert, Karen Jenkins, Brad Lenderink, Marilee McWilliams, Linda Newell, B.J. Nikkel, Patricia Wilson Pheanious, Lynn Price, Steven Ramirez, Gloria Romansik, Patricia Schene, Shari Shink, Lee Wheeler-Berliner

CDHS: George Kennedy, Lloyd Malone, Paula Sullivan, Danelle Young

Excused: Dea Schantz, Nancy Smith

Unexcused:

Preliminary Meeting Items

Item #	Title/Subject	Description	Requested By	Assigned To
1	Review of agenda for current meeting	Action/Comments: The work group reviewed the agenda for the day. Facilitator Danelle Young suggested that the work group complete the review of Scope, Powers and Duties and Performance Measures and limit rehashing topics that have been previously vetted. The work group will also review the other sub-work group documents that have been revised to reflect changes from the July 28 th meeting and electronic correspondence collected through August 6 th . Ms. Young suggested that tasks for today include review of the detailed plan format, chapter design/review, deciding where sub-work group documents should be placed in the chapters. Ms. Young suggested that lengthy discussions be held to a minimum, if consensus cannot be reached, a vote will be taken.		
		Pat Wilson Pheanious asked the group for permission for Denver's county attorney to attend the afternoon session to assist in reviewing the Ombudsman's access to personnel records. Marilee McWilliams mentioned that she has done extensive research on the topic and has proposed legal standards in the revised Access sub-work group document. The work group felt that Marilee's research would cover the subject so attendance by Denver's county attorney would not be necessary.		
2	Review and approval of previous meeting minutes	Action/Comments: George Kennedy asked that spelling of the facilitator's name be corrected. No further changes. Pat Wilson Pheanious made the motion to approve, second by Sister Michael. The minutes were approved.	Facilitator	Group
			Facilitator	Group

Tasking Updates

Item #	Description	Requested By	Assigned To	Date Due	Comp Date
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Child Protection Ombudsman Program Work Group Meeting Agenda / Minutes

Tasking Updates					
Item #	Description <small>Title/Subject:</small>	Requested By	Assigned To	Date Due	Comp Date
	na <small>Action/Comments:</small>				

Recurring Items					
Item #	Description <small>Title/Subject:</small>	Requested By	Assigned To	Date Due	Comp Date
1	na <small>Action/Comments:</small>				

Old Business					
Item #	Description <small>Title/Subject:</small>	Requested By	Assigned To	Date Due	Comp Date
	na <small>Action/Comments:</small>				

New Business					
Item #	Description <small>Title/Subject:</small>	Requested By	Assigned To	Date Due	Comp Date
1	<p>Sub-committee Reports:</p> <p>Action/Comments: The following portion of the minutes reflect the key elements of the work group discussion but are not intended to be a verbatim record. <i>All changes that the work group agreed upon will be reflected in the revised documents and presented at the next meeting.</i></p>				
2	<p>Title/Subject: Performance Measures, Outcomes and Reporting:</p> <p>Action/Comments: Presented by Lloyd Malone</p> <p>Lloyd Malone presented the sub-work group recommendations of Performance Measures, Outcomes, and Reporting. (Attachment A) The work group discussed a number of issues and made recommendations for changes. The following is a summary of the group discussions: Time frames on routine referrals will be changed from 3 to 5 days. It was also agreed to add "working" to the days (5 working days). It was also agreed that timeframes should concur with the Access sub-work group document.</p> <p>The standard of "... 75% of complainants will be satisfied with the outcome of the action." will be removed. The group felt that this goal couldn't be reached. A person who asks for assistance may not be happy with the final decision of the Ombudsman. It would be better to survey customers to determine their satisfaction with the process as opposed to the outcome. The client/stakeholder survey could be</p>				

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New Business	Requested By	Assigned To
Item #	Description	Assigned To
	<p>conducted at the conclusion of the case. Were you heard? Were you treated well? A formal customer satisfaction survey can be very costly. Senator Newell suggested that other Ombudsman programs use surveys, take a look at those surveys, you don't have to recreate the wheel. Pat Wilson Pheanious expressed her concern about who would review the results of the survey. What happens with the results? Some felt that the CDHS should not do the survey. The Ombudsman could incorporate survey results in the annual report.</p> <p>Marilee McWilliams recommended that the survey take into account clients and stakeholders. It was suggested that a report not be required until year 2 so the Ombudsman has sufficient time in the office and financing. Concern was expressed over what kind of checks are there in the first year if no report goes out until year 2. The annual report is intended to be informative. Senator Newell mentioned that the bill requires a performance audit in year 3. Senator Newell also mentioned that the group could recommend a multi-year contract. The legislature will look at the program yearly; there is lots of interest. The audit committee can also be used if needed. It was suggested that the Ombudsman could look at how other programs handle the annual reports. Report can also go to the Disparities Resource Center Commission (American Humane). It might be a good idea for the Ombudsman to attend the yearly Child Welfare Conference and report on the program, could also attend and report at the breakout sessions. It was recommended that the top paragraphs from page 14 from the Scope, Powers and Duties document be added to the Performance document in section 2. Also add to the beginning of recommendations language that these are the minimum recommended performance measures and that, there can be others. It will be important to gather information from the concerned public about areas for improvement. The Work Group does not want to get into too much detail and take away from what the Ombudsman develops in policy and procedures.</p>	
3	<p>Title/Subject: Scope, Powers and Duties; Action/Comments: Presented by Pat Wilson Pheanious</p> <p>Pat Wilson Pheanious presented the remaining portion of the sub-work group recommendations on Scope, Powers and Duties. The recommendation of an Advisory Board was discussed after being tabled from the prior meeting. An Advisory Board was recommended because it would look at issues that could assist with the development of the new Office. Relationships are key in informing the public and counties. The advisory board would be advisory to the Ombudsman, provide an opportunity for dialogue and provide a place to complain about the Ombudsman. An Advisory Board would address current issues rather than waiting two years out for the first annual report. It is anticipated that an advisory group comprised of stakeholders could be responsible to consult with the Ombudsman, deal with complaints, suggest mid-course changes, and enhance general outreach and relations. Opposition felt that an advisory board would hinder the Ombudsman. There could be potential conflicts of interest among advisory board members. It was mentioned that the Office of the Child Representative is doing well and was reviewed this year by the legislature. It was noted that legislation placed the position under the oversight of the Executive Director of Human Services. In addition there are checks and balances in place including the State Auditor and legislative committees.</p> <p>A vote was taken. Majority voted against the advisory board. The section recommending the advisory board will be removed from this section.</p>	

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New Business		Requested By	Assigned To
Item #	Description		
4	<p>Title/Subject: Access to the Office of the Ombudsman: Action/Comments: Presented by Marilee McWilliams</p> <p>Marilee McWilliams presented the sub-work group recommendations regarding access to the ombudsman. The following is a summary of the group discussions.</p> <p>Lloyd and Marilee worked on defining "interfere". After discussion, it was agreed to add non-court or quasi-judicial agencies (i.e. Citizen Review Board). Lloyd will add an amendment.</p> <p>Concern was raised that the work complaint denotes a negative concept and the Ombudsman should be viewed as a positive force. After discussion it was also decided to change the word complaint to referral.</p> <p>It was asked if George Kennedy talked with the AG's Office concerning ombudsman access to personnel records. Mr. Kennedy has had discussion with HR and reviewed appropriate legislation. George stressed that the primary duty of the Ombudsman is to insure that children are protected and that this should be the determining factor when records are requested. In most cases the need to review confidential material in an employees file would be outside this charge. If a concern is raised about an employee performance, those concerns should be forwarded to the appropriate county for action. Marilee McWilliams presented her written research on the legal standards in statute have to be followed. There are processes in place for personnel complaints.</p> <p>There was discussion concerning the Citizen Review Boards (CRB) and some information that they do not work well. How will the Ombudsman be involved with CRBs? Can they attend the meetings? The CRB are part of the personnel process, they review the conduct of caseworkers and are not an avenue for case planning. There is nothing to prevent a call to the Ombudsman if a complaint is not resolved by the CRB. However the appeal process is defined in law and includes the Board of County Commissioners.</p> <p>Marilee McWilliams researched and presented a proposal regarding the Ombudsman's access to the media. There can be systemic issues, can the Ombudsman share with the press even if there is disagreement with the Executive Director. Would the Ombudsman be allowed to discuss specific cases or re actions of counties?</p> <p>George Kennedy mentioned that the issue has already been addressed in the Qualifications sub-work group document. The new hire will need to have independent thought and a sensible media plan.</p> <p>After discussion the group decided not to use or include the media information prepared by Marilee McWilliams, but rather recommend that a requirement of the RFP include that the Ombudsman tell his/her plans and policies on how to deal with the media.</p>		
5	<p>Title/Subject: Conflict of Interest: Action/Comments: Presented by Lee Wheeler-Berliner</p> <p>It was agreed to add the requirement of a yearly ethics disclosure (use the form on the Secretary of State's web site).</p>		
6	<p>Title/Subject: Independence: Action/Comments: Presented by Steven Ramirez</p> <p>It was agreed to add the protocol recommendations should be provided annually at a minimum.</p>		

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New Business	Requested By	Assigned To
<p>Item # 7</p> <p>Description Theme/Subject: Definition of Child Protection Services: Action/Comments: Presented by Pat Schene No major changes.</p>		
<p>Item # 8</p> <p>Theme/Subject: Qualifications and Professional Designations: Action/Comments: Paper was presented by Danelle (Jack Hilbert had to leave) Discussion and clarification of item #4, experience. Add clarifying language and add systemic change (see below).... 5 years of progressively responsible experience or a working knowledge and/or experience in safety, permanency and well being of children as well as systemic change. Under #11, media, add a requirement on the RFP that the Ombudsman tell his/her plans and policies on how to deal with the media. Remove #13 (b)...already addressed in #11 above.</p>		
<p>Theme/Subject: Detailed Plan Format: Action/Comments: Presented by George Kennedy George Kennedy presented the suggested format for the detailed plan document. Once the detailed plan is presented to Executive Director Beye, there are 30 days to write and publish the RFP. State staff will have the "draft" detailed plan available for review at the September 1st work group's next (and last) meeting. Suggestions included: It was agreed that a process section be added and that it include a statement the group worked hard and collaboratively on consensus. Describe the process in the narrative and discuss the fact that the group tried to balance issues that were raised. Mention that the group did not want to be excessively detailed, but tried to outline what was needed for a successful Ombudsman. Tried not to micro-manage, yet provide broad architecture for the office. Tried not to be too prescriptive. The Work Group asked that the final detailed plan include an executive summary. Suggested that a mandatory conference with bidders be part of the RFP process. The sub-work group reports should be included in the appendix of the detailed plan. These reports will be incorporated and blended into one format. Out of this single document selections will be made for the RFP. Once final, both the sub-work group documents and the blended detailed work plan will be placed on the web site. Have a common structure for each chapter. Length of contract was discussed. The Work Group agreed that the first year would be spent developing the office. The second year will be spent implementing. The third year the office will really be functional. The performance audit happens in the 3rd year. It might not be advantageous to change contractors yearly. If the Ombudsman is doing a good job, why change yearly? Several suggestions were made for the length of contract. A 4-year contract received the most votes. (4 years will take the office past the performance audit.) State staff will attempt to have the draft detailed plan out electronically one week prior to the Sept 1st meeting. The Work Group will review and bring comments to the September 1st meeting.</p>		

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New Business			
Item #	Description	Requested By	Assigned To
	Title/Subject: Meeting on September 1st: Action/Comments: All The September 1 st meeting will begin at 9:00am and end at 3:00pm		

Meeting Closure			
Item #	Description	Requested By	Assigned To
1	Title/Subject: Next Meeting schedule Action/Comments: September 1, University Center at Chaparral, 15653 Brookstone Drive, Parker, CO	Facilitator	Group
2	Title/Subject: Meeting Adjourn Action/Comments: Meeting adjourned	Facilitator	Group