



# INVESTIGATIVE REPORT

Lori Torres, Inspector General

OFFICE: INDIANA DEPARTMENT OF CHILD SERVICES (DCS)  
TITLE: DCS POST-EMPLOYMENT  
CASE ID: 2020-01-0034  
DATE: September 14, 2020

*Inspector General Staff Attorney Kelly Elliott, after an investigation by Director of Investigations Mark Mitchell, reports as follows:*

The Indiana General Assembly charged the Office of Inspector General (OIG) with addressing fraud, waste, abuse and wrongdoing in the executive branch of state government. Ind. Code §4-2-7-2(b). The OIG investigates allegations of criminal activity and Code of Ethics (Code) violations by state workers. Ind. Code §4-2-7-3(3). The OIG may recommend policies and carry out other activities designed to deter, detect and eradicate fraud, waste, abuse, mismanagement and misconduct in state government. Ind. Code §4-2-7-3(2).

## I. Complaint

In January 2020, the OIG received a complaint alleging that a former Indiana Department of Child Services (DCS) Family Case Manager (FCM) (Employee) violated the Code's post-employment rule.<sup>1</sup> The complaint alleged that after Employee left state employment, she attended and participated in Child and Family Team Meetings (CFTMs) for two families with whom she had worked as an FCM. Employee allegedly advised and/or represented the two families at the CFTMs on matters related to each family's DCS case.

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<sup>1</sup> Ind. Code §4-2-6-11

OIG Director of Investigations Mark Mitchell investigated the matter. During the course of Director Mitchell's investigation, he interviewed Employee, other DCS employees and individuals that attended the two CFTMs that Employee attended. He also reviewed documentation received from DCS, including DCS policies and multiple documents related to the CFTMs Employee attended.

## **II. DCS Policy**

DCS maintains a Child Welfare Policy Manual (Manual). Chapter 5 Section 7 of the Manual describes CFTMs. The Manual states that DCS is required to facilitate a CFTM "with every family and child at case junctures beginning in assessment phase and continuing throughout the life of the case." CFTMs are utilized by DCS to "engage with each family and child to create plans for assessment, safety, service delivery, and permanency." Furthermore, "DCS will work with the family and/or child and placement (if applicable) to form the most effective team to assist with achieving goals. Teams should always consist of one (1) or more formal or informal supports<sup>2</sup> identified by the family." All attendees at a CFTM must sign an agreement stating that they will maintain information learned in the CFTM as confidential. Director Mitchell could not locate any DCS policy that addresses former FCMs attending CFTMs.

## **III. OIG Investigation**

Director Mitchell learned that Employee served as an FCM at a DCS local office until her state employment ended. As an FCM, Employee served as the primary case manager for families with ongoing DCS cases. Her responsibilities in this position included making referrals for services, attending court proceedings, facilitating CFTMs and submitting progress reports to the court for the families on her caseload.

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<sup>2</sup> Chapter 5, Section 7, "Child and Family Team Meetings," (Version 7, effective January 1, 2020), states, in part, "Informal supports refer to connections, such as family members, friends, or neighbors, in the home or in the community that may provide support, assistance, or care to the family and/or child and could serve in this capacity in a sustainable way once the DCS case is closed."

Director Mitchell interviewed the Employee's former DCS Local Office Director (LOD), FCM supervisor and DCS employees and other individuals that attended the two CFTMs that Employee attended. He learned that after Employee left state employment, she attended and participated in two CFTMs for two different families with whom Employee served as the assigned FCM during her state employment. Director Mitchell learned that Employee listed herself as "support" on the sign-in sheet at both CFTMs. The DCS employees facilitating the two CFTMs stated that they did not know Employee was going to attend the CFTMs but later learned that a family member in each case matter invited Employee to attend the meetings as an informal support.

Director Mitchell interviewed Employee regarding her participation in the two CFTMs. Employee confirmed that she previously served as the assigned FCM for both families and attended the CFTMs after leaving state employment. Employee stated a family member in each case matter invited her to the CFTM. She stated that after reading DCS' CFTM policy, she decided she could attend the meetings as an informal support.

Director Mitchell learned that one of the family case matters involved a child with whom DCS had removed from the home and placed with relatives (Relatives). Witnesses stated that during this family's CFTM, Employee began speaking about the child's sibling, who was not a part of the current case matter. The DCS employee facilitating the CFTM felt that Employee's discussion of this information was not appropriate and that she should not have disclosed it in the CFTM. When asked by Director Mitchell why she felt it was appropriate to discuss the sibling during the meeting, Employee explained that she also served as the FCM for the sibling and that the attendees at this CFTM were the same individuals that attended other CFTMs in the family's case matter, as well as CFTMs that took place in the sibling's DCS case matter. As such, the attendees had all previously heard discussion of the sibling.

### **III. Conclusion**

Director Mitchell found evidence that Employee divulged information of a confidential nature when she discussed a family's older sibling in the CFTM. Although Employee's discussion of the older sibling may violate 42 IAC 1-5-11, the ethics rule that prohibits an employee from divulging confidential information, Director Mitchell learned that Employee's discussion of the older sibling was related to services available to the child. Moreover, the attendees at the CFTM had participated in previous discussions of the older sibling in other CFTMs and all present were fully aware of the information. Lastly, the CFTM attendees all signed a confidential form agreeing to maintain information discussed in the meeting as confidential.

Director Mitchell's investigation confirmed that Employee participated in matters in which she was involved as an FCM after leaving DCS. This participation implicates Ind. Code §4-2-6-11(c), the post-employment restriction pertaining to particular matters.<sup>3</sup> When Employee served as the FCM for DCS, she personally and substantially participated in each family's case matters. CFTMs are an integral part of each DCS case matter. As such, Employee's participation in the CFTMs for each family after she left state employment likely violated Ind. Code §4-2-6-11(c).

Although Employee's participation in the CFTMs would likely constitute a violation of Ind. Code §4-2-6-11(c), the OIG declines to file a complaint with the State Ethics Commission (SEC) in this matter. First, Employee did not appear to attend these meetings for any personal benefit or gain. She did not receive any compensation for her participation in these meetings. Second, Employee was invited to attend these meetings by her former DCS assigned families and only attended after making an effort to review DCS policy on the matter. Third, DCS' CFTM policy does not address attendance

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<sup>3</sup> The post-employment rule prohibits a former state employee from assisting or representing a person in a particular matter involving the State if the former state employee personally and substantially participated in the matter as a state employee. This restriction applies even if the former state employee receives no compensation for the representation or assistance.

by former FCMs at a CFTM; nothing in the DCS policy prohibits a former FCM from attending such a meeting as an informal support. Fourth, Employee was cooperative with the investigation, and Director Mitchell confirmed with the Employee's former LOD that Employee has not attended any further CFTMs or had any further contact with any of her previously assigned families.

For these reasons, the OIG is closing this case. Although the OIG is declining to file a complaint with the SEC in this matter, pursuant to Ind. Code §4-2-7-3, the OIG makes the following recommendation to DCS that may help prevent this type of violation in the future.

#### **IV. Recommendation**

The OIG recognizes that FCMs may form close bonds with the families on their caseload. As such, a family might invite a former FCM to attend a CFTM as their "informal support." The OIG recommends that DCS update its CFTM policy to include language prohibiting former FCMs from attending CFTMs with DCS families for whom they were an FCM during their employment at DCS. In its current form, the policy is silent as to whether former FCMs can attend CFTMs as informal support. The presence of a former FCM at these meetings could be distracting and confusing for the families involved as well as for current DCS staff. The policy should stress that participation in a CFTM, even as an informal support, is prohibited by DCS and may constitute a violation of the Code's post-employment rule as it relates to the particular matter restriction.

Dated: September 14, 2020

APPROVED BY:



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Lori Torres, Inspector General