Office of Children and Family Services

# Child Fatality Report

## Report Identification Number: AL-18-019

## Prepared by: New York State Office of Children & Family Services

## Issue Date: Feb 04, 2019

This report, prepared pursuant to section 20(5) of the Social Services Law (SSL), concerns:

☒ A report made to the New York Statewide Central Register of Child Abuse and Maltreatment (SCR) involving the death of a child.

☐ The death of a child for whom child protective services has an open case.

☐ The death of a child whose care and custody or custody and guardianship has been transferred to an authorized agency.

☐ The death of a child for whom the local department of social services has an open preventive service case.

The Office of Children and Family Services (OCFS) is mandated by section 20 of the SSL to investigate or cause for the investigation of the cause and circumstances surrounding the death, review such investigation, and prepare and issue a fatality report in regard to the categories of deaths noted above involving a child, except where a local or regional fatality review team issues a report, as authorized by law.

Such report must include: the cause of death; the identification of child protective or other services provided or actions taken regard to such child and child's family; any extraordinary or pertinent information concerning the circumstances of the child's death; whether the child or the child's family received assistance, care or services from the social services district prior to the child's death; any action or further investigation undertaken by OCFS or the social services district since the child's death; and as appropriate, recommendations for local or state administrative or policy changes.

This report contains no information that would identify the deceased child, his or her siblings, the parent, parents, or other persons legally responsible for the child, and any members of the deceased child's household.

By statute, this report will be forwarded to the social services district, chief county executive officer, chairperson of the local legislative body of the county where the child died and the social services district that had legal custody of the child, if different. Notice of the issuance of this report will be sent to the Speaker of the Assembly and the Temporary President of the Senate of the State of New York.

This report may **only** be disclosed to the public by OCFS pursuant to section 20(5) of the SSL. **It may be released by OCFS only after OCFS has determined that such disclosure is not contrary to the best interests of the deceased child's siblings or other children in the household.**

OCFS' review included an examination of actions taken by individual caseworkers and supervisors within the social services district and agencies under contract with the social services district. The observations and recommendations contained in this report reflect OCFS' assessment and the performance of these agencies.

## Abbreviations

| | | |
|---|---|---|
| **Relationships** | | |
| BM-Biological Mother | SM-Subject Mother | SC-Subject Child |
| BF-Biological Father | SF-Subject Father | OC-Other Child |
| MGM-Maternal Grand Mother | MGF-Maternal Grand Father | FF-Foster Father |
| PGM-Paternal Grand Mother | PGF-Paternal Grand Father | DCP-Day Care Provider |
| MGGM-Maternal Great Grand Mother | MGGF-Maternal Great Grand Father | PGGF-Paternal Great Grand Father |
| PGGM-Paternal Great Grand Mother | MA/MU-Maternal Aunt/Maternal Uncle | PA/PU-Paternal Aunt/Paternal Uncle |
| FM-Foster Mother | SS-Surviving Sibling | PS-Parent Sub |
| CH/CHN-Child/Children | OA-Other Adult | |
| **Contacts** | | |
| LE-Law Enforcement | CW-Case Worker | CP-Case Planner |
| Dr.-Doctor | ME-Medical Examiner | EMS-Emergency Medical Services |
| DC-Day Care | FD-Fire Department | BM-Biological Mother |
| CPS-Child Protective Services | | |
| **Allegations** | | |
| FX-Fractures | II-Internal Injuries | L/B/W-Lacerations/Bruises/Welts |
| S/D/S-Swelling/Dislocation/Sprains | C/T/S-Choking/Twisting/Shaking | B/S-Burns/Scalding |
| P/Nx-Poisoning/ Noxious Substance | XCP-Excessive Corporal Punishment | PD/AM-Parent's Drug Alcohol Misuse |
| CD/A-Child's Drug/Alcohol Use | LMC-Lack of Medical Care | EdN-Educational Neglect |
| EN-Emotional Neglect | SA-Sexual Abuse | M/FTTH-Malnutrition/Failure-to-thrive |
| IF/C/S-Inadequate Food/ Clothing/ Shelter | IG-Inadequate Guardianship | LS-Lack of Supervision |
| Ab-Abandonment | OTH/COI-Other | |
| **Miscellaneous** | | |
| IND-Indicated | UNF-Unfounded | SO-Sexual Offender |
| Sub-Substantiated | Unsub-Unsubstantiated | DV-Domestic Violence |
| LDSS-Local Department of Social Service | ACS-Administration for Children's Services | NYPD-New York City Police Department |
| PPRS-Purchased Preventive Rehabilitative Services | TANF-Temporary Assistance to Needy Families | FC-Foster Care |
| MH-Mental Health | ER-Emergency Room | COS-Court Ordered Services |
| OP-Order of Protection | RAP-Risk Assessment Profile | FASP-Family Assessment Plan |
| FAR-Family Assessment Response | Hx-History | Tx-Treatment |
| CAC-Child Advocacy Center | PIP-Program Improvement Plan | yo- year(s) old |
| CPR-Cardiopulmonary Resuscitation | | |

# Child Fatality Report

## Case Information

**Report Type:** Child Deceased
**Age:** 0 day(s)
**Jurisdiction:** Saratoga
**Gender:** Female
**Date of Death:** 08/22/2018
**Initial Date OCFS Notified:** 08/27/2018

### Presenting Information

An SCR report was received on 8/24/18 with concerns the mother gave birth to the subject child at 23 weeks gestation. The report alleged the mother had used cocaine, heroin, marijuana and alcohol, causing the placenta to rupture and go into preterm labor. The subject child lived for approximately four hours after her birth.

### Executive Summary

This fatality report concerns the death of a 1-day-old subject child (SC) that occurred on 8/22/18. A report was made to the SCR on 8/24/18, with allegations of Inadequate Guardianship, Parent's Drug/Alcohol Misuse, and DOA/Fatality against the subject child's mother (SM). Saratoga County Department of Social Services (SCDSS) received the report and conducted a thorough investigation into the subject child's death. An autopsy was not completed, but the physician who called the child's time of death noted the cause as Extreme Prematurity.

The subject child was born at 23 weeks gestation, and lived for approximately 6.5 hours; she was hospitalized from the time of her birth to the time of her death. In the early morning hours of 8/22/18, the mother began bleeding and was brought to the hospital via ambulance. At the hospital, staff quickly determined the mother was in labor, and the subject child was born shortly thereafter. The mother reported the child's father was unknown. It was discovered the mother was unaware she was pregnant, and had used drugs, alcohol, and tobacco products throughout the pregnancy; however, medical staff reported it was impossible to determine if the mother's substance abuse caused the preterm labor. The hospital physician determined that infants born at that gestational age had a 3% chance of survival and a 1% chance of survival without moderate to severe complications. The mother made the decision to cease care, and the subject child lived for approximately 4 hours without medical intervention. The physician called her time of death at 9:09AM on 8/22/18. The coroner was not notified and an autopsy was not ordered.

It was discovered the mother also had a 15-year-old daughter who lived in the home. Due to ongoing concerns regarding the mother's drug use, SCDSS implemented a Safety Plan while the allegations were being investigated. Ultimately, the mother was not cooperative with the department and their recommendations surrounding toxicology screenings and substance abuse evaluations, and filed a Neglect Petition in Saratoga County Family Court as a result.

From the time the investigation began to the time of this writing, SCDSS met with and interviewed all individuals named on the report, as well as numerous collateral sources. Appropriate services were offered in response to the subject child's death. There were no criminal charges pursued against the mother nor any of the household members. SCDSS found evidence to substantiate the allegations against the mother regarding the surviving sibling; however, did not find evidence to substantiate those regarding the subject child. The investigation was concluded and opened for services. At the time of this writing, Family Court intervention remained ongoing.

## Findings Related to the CPS Investigation of the Fatality

**Safety Assessment:**

- **Was sufficient information gathered to make the decision recorded on the:**
  - **Approved Initial Safety Assessment?** Yes
  - **Safety assessment due at the time of determination?** Yes
- **Was the safety decision on the approved Initial Safety Assessment appropriate?** Yes

**Determination:**

- **Was sufficient information gathered to make determination(s) for all allegations as well as any others identified in the course of the investigation?** Yes, sufficient information was gathered to determine all allegations.
- **Was the determination made by the district to unfound or indicate appropriate?** Yes

**Explain:**
SCDSS gathered sufficient information and evidence to determine the investigation and complete the final safety assessment.

**Was the decision to close the case appropriate?** N/A
**Was casework activity commensurate with appropriate and relevant statutory or regulatory requirements?** Yes
**Was there sufficient documentation of supervisory consultation?** Yes, the case record has detail of the consultation.

**Explain:**
The level of casework activity was commensurate with the case circumstances. SCDSS' decision to open the case for CPS services was appropriate.

### Required Actions Related to the Fatality

**Are there Required Actions related to the compliance issue(s)?** ☐Yes ☒No

## Fatality-Related Information and Investigative Activities

### Incident Information

**Date of Death:** 08/22/2018 **Time of Death:** 09:09 AM

**Time of fatal incident, if different than time of death:** Unknown

**County where fatality incident occurred:** Albany
**Was 911 or local emergency number called?** Yes
**Time of Call:** Unknown
**Did EMS respond to the scene?** Yes

**At time of incident leading to death, had child used alcohol or drugs?** N/A

**Child's activity at time of incident:**

- ☐ Sleeping
- ☐ Working
- ☐ Driving / Vehicle occupant
- ☐ Playing
- ☐ Eating
- ☐ Unknown
- ☒ Other: Hospitalized.

**Did child have supervision at time of incident leading to death?** Yes
**At time of incident supervisor was:** Not impaired.

**Total number of deaths at incident event:**
**Children ages 0-18:** 1
**Adults:** 0

**Household Composition at time of Fatality**

| Household | Relationship | Role | Gender | Age |
|---|---|---|---|---|
| Deceased Child's Household | Deceased Child | Alleged Victim | Female | 0 Day(s) |
| Deceased Child's Household | Mother | Alleged Perpetrator | Female | 36 Year(s) |
| Deceased Child's Household | Mother's Partner | No Role | Male | 36 Year(s) |
| Deceased Child's Household | Sibling | Alleged Victim | Female | 15 Year(s) |
| Deceased Child's Household | Unrelated Home Member | No Role | Female | 30 Year(s) |
| Deceased Child's Household | Unrelated Home Member | No Role | Male | 31 Year(s) |
| Other Household 1 | Other Adult - BM to OC2 | No Role | Female | 35 Year(s) |
| Other Household 1 | Other Child - OC2 | No Role | Female | 8 Year(s) |
| Other Household 2 | Grandparent | No Role | Male | 64 Year(s) |
| Other Household 3 | Other Adult - BM of OC1 | No Role | Female | 37 Year(s) |
| Other Household 3 | Other Child - OC1 | No Role | Female | 14 Year(s) |

**LDSS Response**

On 8/24/18, SCDSS received a report regarding the death of SC. SCDSS initiated their investigation within 24 hours and coordinated their efforts with their Multidisciplinary Team. SCDSS learned SC was born prematurely at approximately 23 weeks gestation, and never left the hospital prior to her death; her biological father was unknown. SC had one female SS, age 14, who resided in SM's home along with PS, OA1 and OA2. SS's biological father was deceased.

On the date the report was received, SCDSS contacted numerous collateral sources to begin gathering information surrounding the fatality. It was learned SM was no longer in the hospital, and SC was pronounced deceased two days prior. SCDSS met with SM and SS at the SCDSS Field Office to assess the safety of SS, and completed thorough interviews with each. Both SM and SS reported SM was unaware she was pregnant and SM began bleeding heavily at home the night of 8/22/18. SS was not at home when this began, but spoke with SM via phone. SS called 911 for her mother while en route back to the house. EMS arrived and brought SM to the hospital, where upon examination, medical staff found SM to be in labor. SM reported after SC was born, SC needed to be resuscitated multiple times. SC was transported to Albany Medical Center and stabilized; however, doctors informed SM there was a very poor prognosis. SM made the decision to discontinue care. SM stated she held SC but she was "blue and suffering" in her arms. SM had staff bring SC back to the nursery and asked if she could leave. SM stated she was advised she could leave against medical advice; SM signed

paperwork and left the hospital while SC was still alive. SC lived for approximately six hours in the hospital under the care of medical staff. She was pronounced deceased at 9:09 AM on 8/22/18. The case was not referred to the coroner and SM refused an autopsy. SM returned to the hospital the following day to name SC, and sign the birth certificate.

All other household members were interviewed surrounding the events that led up to SC's death, and all accounts corroborated those provided by SM and SS.

Through interviews, SCDSS determined SM had used cocaine in the days leading up to SC's premature birth. SM reported a history of heroin abuse, but stated she had not used since 2016. SM admitted to frequent marijuana use and occasional alcohol use; she stated she did not regularly use cocaine. SCDSS spoke at length with hospital staff who treated SM and SC, and it was determined there would be no way to know if SM's cocaine use precipitated the preterm labor. There were no drug screens completed on SM or SC while they were hospitalized, but SM reported to staff she had used cocaine, alcohol, marijuana and tobacco within the past three months while unknowingly pregnant.

Due to SM's admitted drug use, SCDSS implemented a Safety Plan where SS was not to be left with SM unsupervised. It was decided SS would stay with her MGF, who had primary physical custody of SS since 2011. Although MGF had custody of the SS, the SS did not reside with him. Throughout the investigation, SCDSS asked SM to complete a hair follicle test, as well as a substance abuse evaluation. SM did not comply, and therefore a Neglect Petition was filed in Saratoga County Family Court.

SCDSS exhibited superlative casework practice throughout this investigation. Exhaustive interviews were completed with all individuals named on the report, as well as an abundance of collateral sources. SCDSS offered the family appropriate services in response to SC's death. There were no criminal charges filed by LE. SCDSS found no evidence SM's actions or inactions caused the premature birth and subsequent death of SC. The investigation was closed and the case was opened for services. Family Court action remained ongoing at the time of this writing.

## Official Manner and Cause of Death

**Official Manner:** Natural
**Primary Cause of Death:** From a medical cause
**Person Declaring Official Manner and Cause of Death:** Hospital physician

## Multidisciplinary Investigation/Review

**Was the fatality investigation conducted by a Multidisciplinary Team (MDT)?**Yes
**Comments:** This fatality investigation was conducted by the Saratoga County MDT.

**Was the fatality reviewed by an OCFS approved Child Fatality Review Team?**Yes
**Comments:** This fatality was reviewed by the Saratoga County Child Fatality Review Team.

## SCR Fatality Report Summary

| Alleged Victim(s) | Alleged Perpetrator(s) | Allegation(s) | Allegation Outcome |
|---|---|---|---|
| 048839 - Deceased Child, Female, 0 Days | 048849 - Mother, Female, 36 Year(s) | Inadequate Guardianship | Unsubstantiated |
| 048839 - Deceased Child, Female, 0 Days | 048849 - Mother, Female, 36 Year(s) | Parents Drug / Alcohol Misuse | Unsubstantiated |

| | | | |
|---|---|---|---|
| 048839 - Deceased Child, Female, 0 Days | 048849 - Mother, Female, 36 Year(s) | DOA / Fatality | Unsubstantiated |
| 048845 - Sibling, Female, 15 Year(s) | 048849 - Mother, Female, 36 Year(s) | Parents Drug / Alcohol Misuse | Substantiated |
| 048845 - Sibling, Female, 15 Year(s) | 048849 - Mother, Female, 36 Year(s) | Inadequate Guardianship | Substantiated |

## CPS Fatality Casework/Investigative Activities

| | Yes | No | N/A | Unable to Determine |
|---|---|---|---|---|
| **All children observed?** | ☒ | ☐ | ☐ | ☐ |
| **When appropriate, children were interviewed?** | ☒ | ☐ | ☐ | ☐ |
| **Alleged subject(s) interviewed face-to-face?** | ☒ | ☐ | ☐ | ☐ |
| **All 'other persons named' interviewed face-to-face?** | ☒ | ☐ | ☐ | ☐ |
| **Contact with source?** | ☒ | ☐ | ☐ | ☐ |
| **All appropriate Collaterals contacted?** | ☒ | ☐ | ☐ | ☐ |
| **Was a death-scene investigation performed?** | ☐ | ☒ | ☐ | ☐ |
| **Was there discussion with all parties (youth, other household members, and staff) who were present that day (if nonverbal, observation and comments in case notes)?** | ☒ | ☐ | ☐ | ☐ |
| **Coordination of investigation with law enforcement?** | ☒ | ☐ | ☐ | ☐ |
| **Was there timely entry of progress notes and other required documentation?** | ☒ | ☐ | ☐ | ☐ |

**Additional information:**

All persons named on the report were interviewed and progress notes were entered contemporaneously throughout the investigation.

## Fatality Safety Assessment Activities

| | Yes | No | N/A | Unable to Determine |
|---|---|---|---|---|
| **Were there any surviving siblings or other children in the household?** | ☒ | ☐ | ☐ | ☐ |
| **Was there an adequate assessment of impending or immediate danger to surviving siblings/other children in the household named in the report:** | | | | |
| **Within 24 hours?** | ☒ | ☐ | ☐ | ☐ |
| **At 7 days?** | ☒ | ☐ | ☐ | ☐ |
| **At 30 days?** | ☒ | ☐ | ☐ | ☐ |
| **Was there an approved Initial Safety Assessment for all surviving siblings/ other children in the household within 24 hours?** | ☒ | ☐ | ☐ | ☐ |
| **Are there any safety issues that need to be referred back to the local district?** | ☐ | ☒ | ☐ | ☐ |

| | | | | |
|---|---|---|---|---|
| **When safety factors were present that placed the surviving siblings/other children in the household in impending or immediate danger of serious harm, were the safety interventions, including parent/caretaker actions adequate?** | ☒ | ☐ | ☐ | ☐ |

## Fatality Risk Assessment / Risk Assessment Profile

| | Yes | No | N/A | Unable to Determine |
|---|---|---|---|---|
| **Was the risk assessment/RAP adequate in this case?** | ☒ | ☐ | ☐ | ☐ |
| **During the course of the investigation, was sufficient information gathered to assess risk to all surviving siblings/other children in the household?** | ☒ | ☐ | ☐ | ☐ |
| **Was there an adequate assessment of the family's need for services?** | ☒ | ☐ | ☐ | ☐ |
| **Did the protective factors in this case require the LDSS to file a petition in Family Court at any time during or after the investigation?** | ☒ | ☐ | ☐ | ☐ |
| **Were appropriate/needed services offered in this case** | ☒ | ☐ | ☐ | ☐ |

**Explain:**
As a result of the investigation, a Neglect Petition against SM was filed in Family Court. A services case was opened and remained ongoing at the time of this writing.

## Placement Activities in Response to the Fatality Investigation

| | Yes | No | N/A | Unable to Determine |
|---|---|---|---|---|
| **Did the safety factors in the case show the need for the surviving siblings/other children in the household be removed or placed in foster care at any time during this fatality investigation?** | ☐ | ☒ | ☐ | ☐ |
| **Were there surviving children in the household that were removed either as a result of this fatality report / investigation or for reasons unrelated to this fatality?** | ☐ | ☒ | ☐ | ☐ |

**Explain as necessary:**
No children needed to be removed as a result of this fatality or reasons unrelated; however, the SS continued to reside with her MGF while Family Court proceedings were ongoing.

## Legal Activity Related to the Fatality

**Was there legal activity as a result of the fatality investigation?**

☒Family Court ☐Criminal Court ☐Order of Protection

| **Family Court Petition Type:** FCA Article 10 - CPS | | |
|---|---|---|
| **Date Filed:** | **Fact Finding Description:** | **Disposition Description:** |
| Pending | There was not a fact finding | There was not a disposition |

| | |
|---|---|
| **Respondent:** | 048849 Mother Female 36 Year(s) |
| **Comments:** | Due to concerns for SM's substance abuse and failure to obtain a substance abuse evaluation, SCDSS planned to file a Neglect Petition in Family Court. A CPS services case was opened on 10/31/18; however, there is nothing documented noting the day the petition was filed. The last court appearance was 12/12/18, and an Order of Protection was put into place where SM would not be allowed unsupervised contact with SS. Court was adjourned pending SM retaining counsel. |

**Services Provided to the Family in Response to the Fatality**

| Services | Provided After Death | Offered, but Refused | Offered, Unknown if Used | Not Offered | Needed but Unavailable | N/A | CDR Lead to Referral |
|---|---|---|---|---|---|---|---|
| **Bereavement counseling** | ☐ | ☒ | ☐ | ☐ | ☐ | ☐ | ☐ |
| **Economic support** | ☐ | ☐ | ☐ | ☐ | ☐ | ☒ | ☐ |
| **Funeral arrangements** | ☒ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| **Housing assistance** | ☐ | ☐ | ☐ | ☐ | ☐ | ☒ | ☐ |
| **Mental health services** | ☐ | ☒ | ☐ | ☐ | ☐ | ☐ | ☐ |
| **Foster care** | ☐ | ☐ | ☐ | ☐ | ☐ | ☒ | ☐ |
| **Health care** | ☐ | ☐ | ☐ | ☐ | ☐ | ☒ | ☐ |
| **Legal services** | ☐ | ☐ | ☐ | ☐ | ☐ | ☒ | ☐ |
| **Family planning** | ☐ | ☐ | ☐ | ☒ | ☐ | ☐ | ☐ |
| **Homemaking Services** | ☐ | ☐ | ☐ | ☐ | ☐ | ☒ | ☐ |
| **Parenting Skills** | ☐ | ☐ | ☐ | ☐ | ☐ | ☒ | ☐ |
| **Domestic Violence Services** | ☐ | ☐ | ☐ | ☐ | ☐ | ☒ | ☐ |
| **Early Intervention** | ☐ | ☐ | ☐ | ☐ | ☐ | ☒ | ☐ |
| **Alcohol/Substance abuse** | ☐ | ☒ | ☐ | ☐ | ☐ | ☐ | ☐ |
| **Child Care** | ☐ | ☐ | ☐ | ☐ | ☐ | ☒ | ☐ |
| **Intensive case management** | ☐ | ☐ | ☐ | ☐ | ☐ | ☒ | ☐ |
| **Family or others as safety resources** | ☒ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| **Other** | ☒ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |

**Other, specify:** CPS Services Case

**Additional information, if necessary:**
In response to the fatality, bereavement services were offered to the family but declined. The investigation uncovered concerns surrounding SM's substance abuse, and a Neglect Petition was filed in Family Court. A services case was opened involving SM and SS to address ongoing needs.

**Were services provided to siblings or other children in the household to address any immediate needs and support their well-being in response to the fatality?** Yes
**Explain:**

Grief services were offered to the family but declined. A services case was opened in response to this investigation, and services for the SS were being explored.

**Were services provided to parent(s) and other care givers to address any immediate needs related to the fatality?** Yes
**Explain:**
Grief services were offered to the family but declined. A services case was opened in response to this investigation to address SM's ongoing needs.

## History Prior to the Fatality

### Child Information

| | |
|---|---|
| **Did the child have a history of alleged child abuse/maltreatment?** | No |
| **Was there an open CPS case with this child at the time of death?** | No |
| **Was the child ever placed outside of the home prior to the death?** | No |
| **Were there any siblings ever placed outside of the home prior to this child's death?** | Yes |
| **Was the child acutely ill during the two weeks before death?** | Yes |

### Infants Under One Year Old

**During pregnancy, mother:**

- ☐ Had medical complications / infections
- ☐ Misused over-the-counter or prescription drugs
- ☐ Experienced domestic violence
- ☐ Was not noted in the case record to have any of the issues listed
- ☐ Had heavy alcohol use
- ☒ Smoked tobacco
- ☒ Used illicit drugs

**Infant was born:**

- ☐ Drug exposed
- ☒ With neither of the issues listed noted in case record
- ☐ With fetal alcohol effects or syndrome

## CPS - Investigative History Three Years Prior to the Fatality

There is no CPS investigative history in NYS within three years prior to the fatality.

### CPS - Investigative History More Than Three Years Prior to the Fatality

There is no CPS history more than three years prior to the fatality regarding this family.

### Known CPS History Outside of NYS

There is no known CPS history outside of New York State.

## Legal History Within Three Years Prior to the Fatality

**Was there any legal activity within three years prior to the fatality investigation?** There was no legal activity

## Recommended Action(s)

**Are there any recommended actions for local or state administrative or policy changes?** ☐Yes ☒No

**Are there any recommended prevention activities resulting from the review?** ☐Yes ☒No