



Report Identification Number: BU-21-014

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

Issue Date: Oct 22, 2021

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 | ASTO-Allowing Sex Abuse to Occur | |



Case Information

Report Type: Child Deceased
Age: 8 month(s)

Jurisdiction: Erie
Gender: Male

Date of Death: 04/27/2021
Initial Date OCFS Notified: 04/27/2021

Presenting Information

Erie County Department of Social Services (ECDSS) received the SCR report on 4/27/2021 which alleged that on the same date at 8:00 AM, the mother (SM) found the 8-month-old subject child (SC) unresponsive in his crib. The mother found the child with blood coming from his nose and mouth and emergency services was called. The child was transported to the hospital where he was pronounced dead. The child was an otherwise healthy child. The father, and the siblings, ages 2 and 4 years old had unknown roles.

Executive Summary

This report concerns the death of the 8-month-old subject child which occurred while in the care of his mother and father. The child was last seen alive at 12:02 AM on 4/27/2021 and was found unresponsive in bed with the mother when she and the father awoke the following morning at 8:15 AM. There were also a 4-year-old sibling and 2-year-old sibling in the home that had no role.

ECDSS received the report which initially alleged that the child was found unresponsive in his crib and initiated their investigation. ECDSS coordinated their investigation with law enforcement and conducted initial interviews in conjunction with them. Through the investigation, it was discovered that the mother and father had co-slept with the child after initially reporting to the hospital that they had found him unresponsive in the crib. The mother reported putting the child on his back between her body and the wall, and the father slept on the other side of the mother. The mother woke the father the following morning around 8:00 AM to take out the trash, and when the father returned, he and the mother realized something was wrong with the child. The child was found on his back with his arms raised above his head and blood coming out of his nose. The mother and father began CPR and called 911. Law enforcement disclosed to ECDSS that the home and parents smelled strongly of marijuana when they responded to the home, though they did not appear under the influence of any substances during their interactions.

Upon arrival at the hospital medical providers made unsuccessful efforts to resuscitate the child. An autopsy was performed and although a definitive determination could not be made without parental admission, the Medical Examiner believed the cause of death was a parental overlay. A healed fracture was also found in the right leg, attributed to a jerking motion. Due to the concerns of a previously undiagnosed fracture and the potential drug use in the home at the time of the child's death, a neglect petition was filed by ECDSS and an order of supervision was put in place to ensure the safety of the 4-year-old and 2-year-old siblings.

ECDSS made the decision to substantiate the allegations of DOA/Fatality and Inadequate Guardianship against the mother and the father and closed the investigation. The allegations uncovered in the investigation regarding potential drug use in the home by the parents was investigated further in a subsequent report received by ECDSS on 6/7/2021. Services were put in place through family court, which included parenting classes, and the family remained open with ECDSS in a long term services case.

PIP Requirement

ECDSS will submit a PIP to the Buffalo Regional Office within 30 days of receipt of this report. The PIP will identify action(s) ECDSS has taken, or will take, to address the cited issue(s). For issues where a PIP is currently implemented, ECDSS will review the plan and revise as needed to address ongoing concerns.



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:

ECDSS made a determination of the allegations in congruence with the evidence gathered.

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 case record has detailed documentation of case consultation and the case was opened to continue to provide long term services for the SSs when the investigation was closed.

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: 04/27/2021

Time of Death: 08:52 AM

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

08:00 AM



County where fatality incident occurred: Erie
 Was 911 or local emergency number called? Yes
 Time of Call: 08:25 AM
 Did EMS respond to the scene? Yes
 At time of incident leading to death, had child used alcohol or drugs? No
 Child's activity at time of incident:
 Sleeping Working Driving / Vehicle occupant
 Playing Eating Unknown
 Other

Did child have supervision at time of incident leading to death? Yes
 How long before incident was the child last seen by caretaker? 8 Hours
 At time of incident was supervisor impaired?
 Drug Impaired Alcohol Impaired
 Impaired by illness Impaired by disability
 At time of incident supervisor was:
 Distracted Absent
 Asleep Other:

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 | Male | 8 Month(s) |
| Deceased Child's Household | Mother | Alleged Perpetrator | Male | 23 Year(s) |
| Deceased Child's Household | Sibling | No Role | Female | 4 Year(s) |
| Deceased Child's Household | Sibling | No Role | Male | 2 Year(s) |
| Other Household 1 | Father | Alleged Perpetrator | Male | 21 Year(s) |
| Other Household 2 | Other Adult - BF to SSs | No Role | Male | 27 Year(s) |
| Other Household 3 | Other Adult - BM to OC | No Role | Female | 47 Year(s) |
| Other Household 3 | Other Child - Cousin | No Role | Female | 17 Year(s) |
| Other Household 4 | Other Adult - BF to OC | No Role | Male | 52 Year(s) |

LDSS Response

ECDSS received the SCR report and coordinated their response with LE and notified the DA of the SC's death.

ECDSS performed initial interviews of the SM and SF with LE at the hospital. The SM and SF disclosed that the SC was last seen alive at 12:02 AM on 4/27/2021. The SM stated the SC had been asleep on his side, and she moved him onto his back, placed between herself and the wall. The SF slept on the other side of her. The SM stated she initially reported the SC had been asleep in his crib because of her knowledge of safe sleep practices and knowing it was wrong to sleep with the SC in bed. The SM stated in a later interview that she had a relative pass away due to unsafe sleep as well. The SM and



SF stated that the SM woke the SF up to take out the trash in the morning at approximately 8:15 AM. The SF returned to the bedroom and he saw the SC on his back with his arms raised above his head and the SM then noticed blood coming from his nose. The SM and the SF began CPR and called 911 at 8:25 AM.

The emergency room physician that treated the SC was interviewed by ECDSS. The SC had no signs of trauma. ECDSS was informed that the SC was dead upon arrival at the hospital and rigor had set in. EMS was unable to intubate the SC due to rigor. Lifesaving efforts continued for 15 minutes upon the arrival at the hospital, though it was clear the SC had been deceased for a significant amount of time. The official time of death was 8:52 AM.

The mother's 17-year-old cousin (OC) spent the night in the home the night of the fatal incident. She identified little knowledge of the incident and was assessed as safe in the care of her mother and father.

The ME was interviewed by ECDSS. The ME believed the cause of death to be an overlay, though they could not be certain without a parental admission. The final autopsy report was pending at the time the investigation was closed.

LE and EMS responded to the home on 4/27/2021 upon receipt of the 911 call. LE informed ECDSS that the home was cluttered and smelled strongly of marijuana. LE also stated the SM and the SF smelled strongly of marijuana in the home and at the hospital, though they did not appear to be impaired. The autopsy revealed that the SC had a healed fracture in their right leg which would have been caused by a jerking motion. LE and the DA did not pursue criminal charges against the SF or SM.

ECDSS received additional information from the ME following further tests that were performed during the autopsy. X-rays showed a healed fracture in the SC's leg that would have been caused by a jerking motion. The ME did not provide ECDSS with definitive information that the injury would have been caused by abuse or maltreatment or with enough information to warrant adding additional allegations to the case record. ECDSS interviewed the SM and SF and neither had knowledge of the injury and they could not provide an explanation for how the SC sustained the injury. ECDSS filed a neglect petition in family court and an order of supervision was put in place to prevent the SM and the SF from having unsupervised contact with the SSs due to the concerns for marijuana use in the home and the unknown origin of the SC's injury. Bereavement counseling was offered to the SM and the SF and parenting classes were put in place through the court order. Concerns for domestic violence between the SF and the SM were revealed during the investigation and a referral for services was made to address the concern.

ECDSS met regulatory requirements in their investigation of the allegations and took steps to ensure the safety of the SSs. The SSs were not able to be interviewed in depth due to their ages and expressed limited knowledge of the fatal incident. ECDSS made the determination to substantiate the allegations of DOA/Fatality and Inadequate Guardianship against the SF and the SM regarding the SC. The investigation was closed, and the family remained open with the department for long term services.

Official Manner and Cause of Death

Official Manner: Pending

Primary Cause of Death: Pending

Person Declaring Official Manner and Cause of Death: Medical Examiner

Multidisciplinary Investigation/Review

Was the fatality investigation conducted by a Multidisciplinary Team (MDT)? Yes

Was the fatality reviewed by an OCFS approved Child Fatality Review Team? Yes

Comments: The case was referred to an OCFS approved child fatality review team.



SCR Fatality Report Summary

| Alleged Victim(s) | Alleged Perpetrator(s) | Allegation(s) | Allegation Outcome |
|---|-----------------------------------|-------------------------|--------------------|
| 058123 - Deceased Child, Male, 8 Month(s) | 058127 - Father, Male, 21 Year(s) | DOA / Fatality | Substantiated |
| 058123 - Deceased Child, Male, 8 Month(s) | 058127 - Father, Male, 21 Year(s) | Inadequate Guardianship | Substantiated |
| 058123 - Deceased Child, Male, 8 Month(s) | 058124 - Mother, Male, 23 Year(s) | DOA / Fatality | Substantiated |
| 058123 - Deceased Child, Male, 8 Month(s) | 058124 - Mother, Male, 23 Year(s) | Inadequate Guardianship | Substantiated |

CPS Fatality Casework/Investigative Activities

| | Yes | No | N/A | Unable to Determine |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|
| All children observed? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| When appropriate, children were interviewed? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Alleged subject(s) interviewed face-to-face? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| All 'other persons named' interviewed face-to-face? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Contact with source? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| All appropriate Collaterals contacted? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Was a death-scene investigation performed? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 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)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Coordination of investigation with law enforcement? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Was there timely entry of progress notes and other required documentation? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Fatality Safety Assessment Activities

| | Yes | No | N/A | Unable to Determine |
|--|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Were there any surviving siblings or other children in the household? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 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? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| At 7 days? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| At 30 days? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |



Child Fatality Report

| | | | | |
|--|-------------------------------------|-------------------------------------|--------------------------|--------------------------|
| Was there an approved Initial Safety Assessment for all surviving siblings/ other children in the household within 24 hours? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Are there any safety issues that need to be referred back to the local district? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

| | | | | |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|
| 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? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|

Fatality Risk Assessment / Risk Assessment Profile

| | Yes | No | N/A | Unable to Determine |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Was the risk assessment/RAP adequate in this case? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| During the course of the investigation, was sufficient information gathered to assess risk to all surviving siblings/other children in the household? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Was there an adequate assessment of the family's need for services? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 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? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Were appropriate/needed services offered in this case | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

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? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Explain as necessary:
 A neglect petition was filed and an order of supervision was put in place barring unsupervised contact between the SSs and the SM and SF. The children were not removed from the home and family resources were utilized.

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: Other Family Court (Including Article 6 Custody/Guardianship) | | |
| Date Filed: | Fact Finding Description: | Disposition Description: |



| | | |
|--------------------|---|-----------------------------|
| 05/01/2021 | There was not a fact finding | There was not a disposition |
| Respondent: | None | |
| Comments: | A neglect petition was filed through family court and an order of supervision was issued. Other information on the court proceedings is not present in the case record. | |

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 | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Economic support | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Funeral arrangements | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Housing assistance | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Mental health services | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Foster care | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Health care | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Legal services | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Family planning | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Homemaking Services | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Parenting Skills | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Domestic Violence Services | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Early Intervention | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Alcohol/Substance abuse | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Child Care | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Intensive case management | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Family or others as safety resources | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Other | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Additional information, if necessary:

The SSs were placed under an order of supervision and not allowed unsupervised contact with the SM and the SF. Family resources were being utilized at the time the investigation was closed.

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? No

Explain:

Services in relation to the fatality were offered and declined due to the age of the children.

Were services provided to parent(s) and other care givers to address any immediate needs related to the fatality? Unable to Determine

**Explain:**

Information for bereavement counseling was provided to the parents by ECDSS. It is unclear if the parents utilized the service during the investigation.

History Prior to the Fatality

Child Information

- Did the child have a history of alleged child abuse/maltreatment? Yes
- 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? No
- Was the child acutely ill during the two weeks before death? No

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

| Date of SCR Report | Alleged Victim(s) | Alleged Perpetrator(s) | Allegation(s) | Allegation Outcome | Compliance Issue(s) |
|--------------------|------------------------------|--------------------------|-------------------------------|--------------------|---------------------|
| 08/22/2020 | Deceased Child, Male, 1 Days | Mother, Female, 22 Years | Inadequate Guardianship | Unsubstantiated | Yes |
| | Deceased Child, Male, 1 Days | Mother, Female, 22 Years | Parents Drug / Alcohol Misuse | Unsubstantiated | |

Report Summary:

ECDSS received the SCR report on 8/22/2020 which alleged that the SM tested positive for marijuana at the time the SC was born. The roles of the 4-year-old and 2-year-old children was unknown.

Report Determination: Unfounded

Date of Determination: 10/20/2020

Basis for Determination:

ECDSS conducted familial and collateral interviews to assess the safety of the children and investigate the allegations. The SM admitted to occasional marijuana use while the children were not in her care. The SC was tested and came back positive for marijuana. There were no signs of withdrawal and medical providers identified no lasting concerns for the SC due to exposure to marijuana. No additional health or safety concerns were identified for the SC or SSs while in the care of the SM. The SF and the BF of the SSs did not disclose any concerns for the care of the children.

**OCFS Review Results:**

ECDSS conducted familial interviews and made relevant collateral contacts to assess the safety of the children while in the care of the SM. The mother was educated on safe sleep; however, a Plan of Safe Care is not documented to have been completed with the SM as required. A determination of the allegations was made in congruence with the evidence gathered and the safety of the children was assessed throughout the investigation.

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

Issue:

Failure to complete, document, and monitor a Plan of Safe Care

Summary:

ECDSS failed to develop, document & monitor a Plan of Safe Care to address the health and substance use disorder treatment needs of both the infant and affected caregiver despite knowledge the infant was identified as being born exposed to substances.

Legal Reference:

17-OCFS-LCM-03 & 18-OCFS-LCM-06

Action:

ECDSS will complete, document & monitor a plan of safe care that specifically addresses the child(ren) affected by substance abuse and the affected caregiver. LDSS will complete the required form (OCFS-2196 Plan of Safe Care), when developing and documenting the Plan of Safe Care with the family.

| Date of SCR Report | Alleged Victim(s) | Alleged Perpetrator(s) | Allegation(s) | Allegation Outcome | Compliance Issue(s) |
|--------------------|-----------------------|--------------------------|-------------------------------|--------------------|---------------------|
| 11/23/2018 | Sibling, Male, 1 Days | Mother, Female, 21 Years | Inadequate Guardianship | Unsubstantiated | No |
| | Sibling, Male, 1 Days | Mother, Female, 21 Years | Parents Drug / Alcohol Misuse | Unsubstantiated | |

Report Summary:

ECDSS received the SCR report on 11/23/2018 which alleged that the SM gave birth to the SS on 11/22/2018. The SM tested positive for marijuana at the time the child was born.

Report Determination: Unfounded

Date of Determination: 01/12/2019

Basis for Determination:

ECDSS conducted familial and collateral interviews in their investigation of the allegations. The mother admitted to occasional marijuana use while not caring for the 2-year-old SS. The newborn SS was tested and returned a positive toxicology for marijuana at the time of his birth. Medical providers identified the SS appeared to suffer no ill effects due to the SM's marijuana use. There were no immediate health or safety concerns identified for the children during the investigation and drug treatment services were offered and declined by the family.

OCFS Review Results:

ECDSS met regulatory requirements in their investigation of the allegations. The SM and BF to the SSs were counseled on safe sleep, and services were offered and declined by the family. A determination of the allegations was made in congruence with the evidence gathered and the investigation was closed following supervisory consult.

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

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

There were 2 unsubstantiated investigations which occurred more than 3 years prior to the fatality. The investigations included concerns for domestic violence between the SM and BF to the SSs in the presence of the SSs and concerns for the condition of the home.

Known CPS History Outside of NYS



There is no known history outside of NYS.

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

Additional Local District Comments

We at the Erie County Department of Social Services (ECDSS) appreciate the opportunity given us to review the draft report in advance. We find that the facts, as written, accurately describe the unfortunate events and the actions taken in response. We are pleased that OCFS found that the fatality investigation was conducted appropriately and that there are no required actions related to the fatality investigation. However, we must unfortunately concur with the compliance issue noted by the reviewer with respect to a CPS investigation conducted by ECDSS during the three years preceding fatality. With respect to the investigation of the SCR report dated August 22, 2020, we acknowledge that ECDSS failed to complete, document and monitor a Plan of Safe Care after a newborn tested positive for marijuana at birth, indicating prenatal drug exposure. However, we note that, effective October 26, 2020, ECDSS began contracting with a local substance abuse treatment agency to assist with the development and monitoring of Plans of Safe Care.

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