

Report Identification Number: BU-15-021 Prepared by: Buffalo Regional Office

Issue Date: 4/22/2016

This	s report, prepared pursuant to section 20(5) of the Social Services Law (SSL), concerns:
X	A report made to the New York Statewide Central Register of Child Abuse and Maltreatment (SCR) involving the death of a child.
X	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 <u>only</u> 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.

BU-15-021 FINAL Page 1 of 13



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
	Contacts	
LE-Law Enforcement	CW-Case Worker	CP-Case Planner
DrDoctor	ME-Medical Examiner	EMS-Emergency Medical Services
DC-Day Care	FD-Fire Department	BM-Biological Mother
CPR-Cardio-pulmonary Resuscitation		
	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-Others	
	Miscellaneous	
IND-Indicated	UNF-Unfounded	SO-Sexual Offender
Sub-Substantiated	Unsub-Unsubstantiated	DV-Domestic Violence
LDSS-Local Department of Social	ACS-Administration for Children's	NYPD-New York City Police
Service	Services	Department
PPRS-Purchased Preventive Rehabilitative Services		

Case Information

BU-15-021 FINAL Page 2 of 13



Report Type: Child Deceased **Jurisdiction:** Niagara **Date of Death:** 06/14/2015

Age: 5 day(s) Gender: Male Initial Date OCFS Notified: 06/15/2015

Presenting Information

The Niagara County Department of Social Services (NCDSS) had an open SCR investigation when the subject child died on 6/16/15 and notified OCFS as required. NCDSS reported the SC was born on 6/9/15 at home after about 22 weeks of gestation. The SC was transported to the hospital and died on 6/14/15 at 1:55am.

On 3/30/16, NCDSS received an SCR report alleging drug use by the biological mother (BM), biological father (BF) and the maternal grandmother (MGM) while caring for the sister. There were concerns the BM's drug use caused the SC premature birth and he died due to being drug addicted. There were concerns about the sister's care such as feeding, supervision, lack of diaper changing which caused her skin to breakdown, and her wheezing due to the adults smoking in her presence. It was alleged there was drugs/drug sales in her presence. Finally, there were concerns the BM referred to her in derogatory terms and the BF was physically violent with the BM in the sister's presence.

Executive Summary

This fatality report concerns the death of a five-day-old male that occurred on 6/14/15. NCDSS has not obtained a death certificate as of the date of this report. NCDSS had an open SCR investigation at the time of the SC's death and received another SCR report on 3/30/16.

The BM reported that she saw the OBGYN on 6/9/15 who felt that she was in danger of preterm labor. He was considering hospitalizing her but he did not. That night she was not feeling well and her water broke. The SC was born and he was very small. She said that Law Enforcement (LE) and the Emergency Medical Services personnel (EMS) arrived and they blocked the streets to get the SC to the hospital. The SC died at the hospital on 6/14/15.

The BM admitted she took an opioid pain medication due to back pain and medication to control her behavior but denied abusing them. Her prescribing physician told her she should continue taking the medication because it would be worse on her and the SC if she stopped. The BF denied using drugs and that the BM only took her medication as prescribed. The MGM denied the parents were using drugs and the sister was well cared for.

The sister appeared to be very well cared for, well fed, and happy. The BM undressed her and changed her diaper. She did not have diaper rash and there were no bruises. She appeared bonded with her parents. The pediatrician was contacted and there were no concerns regarding the sister.

The hospital documentation reported the SC had many medical issues prior to his death. On 6/10/15, Hospital Personnel reported that a toxicology screen had not been completed on the SC yet. There was no documented follow up as to whether a screen was completed. Due to the allegations of the BM's prescription drug use, information was needed regarding the effects of the drugs as it related to the premature birth and death of the SC. There was no documentation NCDSS spoke with first responders or obtained the death certificate and/or the autopsy; if one was performed.

The 6/10/15 SCR report was UNF and closed on 7/13/15. The SCR report dated 3/30/16 remained open as of the date

BU-15-021 FINAL Page 3 of 13



of this report.

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?

Safety assessment due at the time of determination?

• Was the safety decision on the approved Initial Safety Assessment No appropriate?

Determination:

 Was sufficient information gathered to make determination(s) for all allegations as well as any others identified in the course of the investigation?

The CPS report had not yet been determined at the time this Fatality report was issued.

• Was the determination made by the district to unfound or indicate N/A appropriate?

Explain:

n/a

Was the decision to close the case appropriate?

Unknown

No

N/A

Was casework activity commensurate with appropriate and relevant

statutory or regulatory requirements?

No

No

Was there sufficient documentation of supervisory consultation?

Explain:

The 3/30/16 SCR investigation remains open as of the date of this report.

Required Actions Related to the Fatality

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

Issue:	Contact/Information From Reporting/Collateral Source
Summary:	There was no documentation NCDSS spoke with first responders or obtained the death certificate and/or the autopsy; if one was performed.
Legal Reference:	18 NYCRR 432.2(b)(3)(ii)(b)
Action:	A corrective action plan must be developed by NCDSS which supports gathering sufficient information from collateral contacts. This plan must articulate the roles and responsibilities of supervisors, senior caseworkers and caseworkers.

Fatality-Related Information and Investigative Activities



	Incide	nt information
Date of Death: 06/14/2015		Time of Death: 01:55 AM
Time of fatal incident, if di	fferent than time of death:	Unknown
County where fatality incid	lent occurred:	NIAGARA
Was 911 or local emergenc	y number called?	Yes
Time of Call:		Unknown
Did EMS to respond to the	scene?	Yes
At time of incident leading	to death, had child used ald	cohol or drugs? No
Child's activity at time of in	ncident:	
☐ Sleeping	\square Working	☐ Driving / Vehicle occupant
☐ Playing	\square Eating	☑ Unknown
☐ Other		
Did child have supervision	at time of incident leading	to death? Unable to determine
Total number of deaths at 1 Children ages 0-18: 1	incident event:	

Household Composition at time of Fatality

Household	Relationship	Role	Gender	Age
Deceased Child's Household	Deceased Child	Alleged Victim	Male	5 Day(s)
Deceased Child's Household	Father	Alleged Perpetrator	Male	37 Year(s)
Deceased Child's Household	Grandparent	Alleged Perpetrator	Female	56 Year(s)
Deceased Child's Household	Mother	Alleged Perpetrator	Female	29 Year(s)
Deceased Child's Household	Sibling	Alleged Victim	Female	10 Month(s)

LDSS Response

NCDSS observed the home was on the cluttered side and was dark and smoky, but there did not appear to be any garbage, feces, or other safety concerns. The home was above minimum standards. The baby had a playpen to sleep in that appeared clean. There are ample supplies, baby food and formula in the house.

Official Manner and Cause of Death

Official Manner: Unknown

Primary Cause of Death: Unknown

Person Declaring Official Manner and Cause of Death: Unknown

BU-15-021 FINAL Page 5 of 13



Multidisciplinary Investigation/Review

Was the fatality investigation conducted by a Multidisciplinary Team (MDT)?No

Was the fatality reviewed by an OCFS approved Child Fatality Review Team? No

Comments: Although there was an OCFS approved Child Fatality Review Team in Niagara County, the SC's death was not reviewed as of the date of this report for unknown reasons.

SCR Fatality Report Summary

Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome
027129 - Deceased Child, Male, 5 Days	027130 - Mother, Female, 29 Year(s)	DOA / Fatality	Pending
027129 - Deceased Child, Male, 5 Days	027130 - Mother, Female, 29 Year(s)	Parents Drug / Alcohol Misuse	Pending
027133 - Sibling, Female, 10 Month(s)	027131 - Father, Male, 37 Year(s)	Parents Drug / Alcohol Misuse	Pending
027133 - Sibling, Female, 10 Month(s)	027132 - Grandparent, Female, 56 Year(s)	Lack of Supervision	Pending
027133 - Sibling, Female, 10 Month(s)	027132 - Grandparent, Female, 56 Year(s)	Parents Drug / Alcohol Misuse	Pending
027133 - Sibling, Female, 10 Month(s)	027130 - Mother, Female, 29 Year(s)	Inadequate Guardianship	Pending
027133 - Sibling, Female, 10 Month(s)	027130 - Mother, Female, 29 Year(s)	Lack of Supervision	Pending
027133 - Sibling, Female, 10 Month(s)	027131 - Father, Male, 37 Year(s)	Inadequate Guardianship	Pending
027133 - Sibling, Female, 10 Month(s)	027131 - Father, Male, 37 Year(s)	Lack of Supervision	Pending
027133 - Sibling, Female, 10 Month(s)	027130 - Mother, Female, 29 Year(s)	Parents Drug / Alcohol Misuse	Pending
027133 - Sibling, Female, 10 Month(s)	027132 - Grandparent, Female, 56 Year(s)	Inadequate Guardianship	Pending

CPS Fatality Casework/Investigative Activities

	Yes	No	N/A	Unable to Determine
All children observed?	\boxtimes			

BU-15-021 FINAL Page 6 of 13



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?		×		
First Responders		X		
Law Enforcement		×		
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)?	X			
Coordination of investigation with law enforcement?				×
Did the investigation adhere to established protocols for a joint investigation?				×
Was there timely entry of progress notes and other required documentation?	×			
Additional information: There was no documentation NCDSS contacted LE regarding the SC's dear		st responder	s were inter	viewed.
Fatality Safety Assessment Activi	ities			
	Yes	No	N/A	Unable to Determine
Were there any surviving siblings or other children in the household?	×			
Was there an adequate safety assessment of impending or immediate on the household named in the report:	langer to su	rviving sib	lings/other	children
Within 24 hours?	X			
At 7 days?	\boxtimes			

At 30 days? X Was there an approved Initial Safety Assessment for all surviving \times siblings/ other children in the household within 24 hours? Are there any safety issues that need to be referred back to the local X district? When safety factors were present that placed the surviving siblings/other children in the household in impending or immediate \times danger of serious harm, were the safety interventions, including parent/caretaker actions adequate? BU-15-021 FINAL Page 7 of 13



Fatality Risk Assessment / Risk Assessment Profile **Unable to** Yes No N/A Determine Was the risk assessment/RAP adequate in this case? П X During the course of the investigation, was sufficient information $|\mathsf{X}|$ gathered to assess risk to all surviving siblings/other children in the household? |X| \Box 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 $|\mathsf{X}|$ \Box petition in Family Court at any time during or after the investigation? |X|Were appropriate/needed services offered in this case \Box Placement Activities in Response to the Fatality Investigation Unable to No N/A Yes Determine Did the safety factors in the case show the need for the surviving $|\mathsf{X}|$ siblings/other children in the household be removed or placed in foster care at any time during this fatality investigation? Were there surviving siblings/other children in the household $|\mathsf{X}|$ removed as a result of this fatality report/investigation? Legal Activity Related to the Fatality Was there legal activity as a result of the fatality investigation? There was no legal activity Services Provided to the Family in Response to the Fatality **Provided** Offered. Offered. Needed Needed CDR **Services** N/A After but Unknown but not but Lead to Referral Death Refused if Used **Offered** Unavaliable $|\mathsf{X}|$ Bereavement counseling П \square **Economic support** \boxtimes **Funeral arrangements** П П |X|Housing assistance

BU-15-021 FINAL Page 8 of 13



Mental health services						X	
Foster care						×	
Health care						\boxtimes	
Legal services						×	
Family planning						×	
Homemaking Services						×	
Parenting Skills						×	
Domestic Violence Services						X	
Early Intervention						×	
Alcohol/Substance abuse						×	
Child Care						×	
Intensive case management						X	
Family or others as safety resources						X	
Other						×	
	Hist	ory Prior	to the Fat	ality			
		Child Inf	ormation				
Did the child have a history of alleg Was there an open CPS case with the Was the child ever placed outside of Were there any siblings ever placed Was the child acutely ill during the	his child at f the home l outside of two weeks	the time of prior to the the home p before deat	death? death? rior to this h?		No Yes No th? No Yes		
	In	nfants Under	One Year O	ld			
During pregnancy, mother: ☐ Had medical complications / infec ☐ Misused over-the-counter or presc ☐ Experienced domestic violence ☐ Was not noted in the case record to	ription drug			☐ Had heavy ☑ Smoked to ☐ Used illici			
Infant was born: ☐ Drug exposed				☐ With fetal	alcohol effec	ets or syndro	ome

BU-15-021 FINAL Page 9 of 13

☑ With neither of the issues listed noted in case record



CPS - Investigative History Three Years Prior to the Fatality

Date of SCR Report	Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Status/Outcome	Compliance Issue(s)
06/10/2015	8592 - Sibling, Female, 10 Months	8595 - Grandparent, Female, 56 Years	Inadequate Food / Clothing / Shelter	Unfounded	Yes
	8592 - Sibling, Female, 10 Months	8595 - Grandparent, Female, 56 Years	Parents Drug / Alcohol Misuse	Unfounded	
	8592 - Sibling, Female, 10 Months	8593 - Mother, Female, 29 Years	Parents Drug / Alcohol Misuse	Unfounded	
	8592 - Sibling, Female, 10 Months	8594 - Father, Male, 37 Years	Inadequate Food / Clothing / Shelter	Unfounded	
	8592 - Sibling, Female, 10 Months	8593 - Mother, Female, 29 Years	Inadequate Food / Clothing / Shelter	Unfounded	
	8592 - Sibling, Female, 10 Months	8593 - Mother, Female, 29 Years	Inadequate Guardianship	Unfounded	
	8592 - Sibling, Female, 10 Months	8594 - Father, Male, 37 Years	Inadequate Guardianship	Unfounded	
	8592 - Sibling, Female, 10 Months	8594 - Father, Male, 37 Years	Parents Drug / Alcohol Misuse	Unfounded	
	8592 - Sibling, Female, 10 Months	8595 - Grandparent, Female, 56 Years	Inadequate Guardianship	Unfounded	
	8591 - Deceased Child, Male, 5 Years	8593 - Mother, Female, 29 Years	Inadequate Guardianship	Unfounded	
	8591 - Deceased Child, Male, 5 Years	8594 - Father, Male, 37 Years	Inadequate Guardianship	Unfounded	

Report Summary:

The report alleged the BM, BF, and MGM used marijuana and prescription medications to impairment while caring for the sister. The adults left the sister in a playpen for hours at a time. The sister was not crawling and has been covered in urine and feces when her diaper was not changed for unknown lengths of time. The home was filthy with garbage, dog urine and dog feces throughout the home. On 6/9/15, the BM prematurely gave birth to the SC on the floor of the family's bathroom. The BM was only twenty-three weeks along at the time. The SC was at risk of harm if sent home with the parents based on their history of drug use and the history of their poor care of the sister.

Determination: Unfounded **Date of Determination:** 07/13/2015

Basis for Determination:

NCDSS UNF the investigation as there was no evidence the BF or MGM were abusing drugs. The BM admitted she took an opioid pain medication due to back pain and a medication to control behavior but there was no evidence the BM was abusing them. The sister appeared well cared for and the home was found clean and maintained with ample food.

OCFS Review Results:

NCDSS conducted an adequate assessment of immediate danger to all children within 24 hours and explored service needs of counseling but it was unclear if services were offered. There was no documentation the MGM's drug use or the safety/risk factors were explored with each family member; as a result it was unclear if further services were needed.

BU-15-021 FINAL Page 10 of 13



There was no documented contact with the BM's physician who prescribed the opioid medication to verify the BM was not abusing her medication or the OBGYN to inquire if there were any drug screens. There was no contact with LE to inquire if there were concerns for drug related issues. There was no safe sleep conversation document as required.

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

Issue:

Pre-Determination/Assessment of Current Safety/Risk

Summary:

There was no documentation that the safety/risk factors were explored with each family member; as a result it was unclear if further services were needed.

Legal Reference:

18 NYCRR 432.2(b)(3)(iii)(b)

Action:

A corrective action plan must be developed by NCDSS which supports gathering, assessing, and documenting appropriate information to make appropriate safety/risk and service needs assessments. This plan must articulate the roles and responsibilities of supervisors, senior caseworkers and caseworkers.

Issue:

Contact/Information From Reporting/Collateral Source

Summary:

There was no documentation of a collateral contact with the BM's physician who prescribed the opioid pain medication to verify the BM was not abusing her medication or the OBGYN to inquire if there were any drug screens. There was no contact with LE to inquire about any contact with the home for drug related issues.

Legal Reference:

18 NYCRR 432.2(b)(3)(ii)(b)

Action.

A corrective action plan must be developed by NCDSS which supports assessing appropriate collateral contacts for each investigations. This plan must articulate the roles and responsibilities of supervisors, senior caseworkers and caseworkers.

Issue:

Adequacy of face-to-face contacts with the child and/or child's parents or guardians

Summary:

There was no documentation the MGM's drug use was explored with each family member. Furthermore, per 13-OCFS-ADM-02 Safe Sleeping of Children in Child Welfare Cases, safe sleep was not addressed with the family regarding the sister who was 10 months old at the time.

Legal Reference:

18 NYCRR 432.1 (b)(3)(ii)(a)

Action:

A corrective action plan must be developed by NCDSS which supports gathering, assessing, and documenting information regarding the allegations of the report. Furthermore, that safe sleep will be addressed with families who have infants in the manner described in 13-OCFS-ADM-02. This plan must articulate the roles and responsibilities of supervisors, senior caseworkers and caseworkers.

Issue:

Determination of Nature, Extent and Cause of Conditions (Report)

Summary:

Due to the lack of collateral contacts and addressing all allegations, OCFS determined that sufficient information was not

BU-15-021 FINAL Page 11 of 13

NEW YORK STATE

NYS Office of Children and Family Services - Child Fatality Report

gathered to determine all allegations. Legal Reference: 18 NYCRR 432.2(b)(3)(ii)(d) Action: A corrective action plan must be developed by NCDSS which supports gath	ering, asses	sing, and do	ocumenting	sufficient
information to make and appropriately determine each allegation of abuse are the roles and responsibilities of supervisors, senior caseworkers and caseworkers	nd/or maltre	-	_	
CPS - Investigative History More Than Three Years	Prior to the	Fatality		
There was no CPS history more than three years prior to the fatality.				
Known CPS History Outside of N	YS			
There was no known CPS history outside of NYS.				
Services Open at the Time of the	Fatality			
Required Action(s)				
Are there Required Actions related to compliance issues for provisions o ☐Yes ☒No	of CPS or 1	Preventive s	services ?	
Preventive Services History				
There is no record of Preventive Services History provided to the deceased other children residing in the deceased child's household at the time of the fa		eceased child	d's siblings,	and/or the
Casework Contacts				
				I
	Yes	No	N/A	Unable to Determine
Were face-to-face contacts with the child in the child's placement location made with the required frequency?			X	
Required Action(s)				

BU-15-021 FINAL Page 12 of 13



Are there Required Actions related to the compliance issues for provision of Foster Care Services? □Yes ⊠No
Foster Care Placement History
There is no record of foster care placement history provided to the deceased child, the deceased child's siblings, and/or the other children residing in the deceased child's household at the time of the fatality.
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? $\Box Ves \boxtimes No$

BU-15-021 FINAL Page 13 of 13