



Report Identification Number: BU-15-015

Prepared by: Buffalo Regional Office

Issue Date: 3/9/2016

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
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
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 Service	ACS-Administration for Children's Services	NYPD-New York City Police Department
PPRS-Purchased Preventive Rehabilitative Services		

Case Information



NYS Office of Children and Family Services - Child Fatality Report

Report Type: Child Deceased
Age: 1 year(s)

Jurisdiction: Cattaraugus
Gender: Female

Date of Death: 04/26/2015
Initial Date OCFS Notified: 04/26/2015

Presenting Information

"Today, April 26, 2015 at 9:31 am the one-year-old subject child died as a result of sustaining multiple injuries indicative of Shaken Baby Syndrome. The subject child had the following injuries: bilateral retinal hemorrhaging, subdural hematoma, spinal injury and fracture, rib fractures, abdominal injury of the left lobe of the liver and chip fractures on the left and right wrist. There is no explanation that is consistent with how the subject child received these injuries, however the injuries were inflicted and non-accidental in nature. The injuries the subject child received occurred over a seven to ten day period while she was in the care of the mother, father, babysitter, uncle and mother's boyfriend."

Executive Summary

This report concerns the death of a one-year-old child whose family had no significant history with Child Protective Services prior to the incident that resulted in the child's death. Two SCR reports with allegations of PDAM, IG and LOM were received the day the child was found unresponsive and taken to the hospital after having sustained what would be fatal injuries. The child had been dropped off to be babysat at her maternal uncle and his girlfriend's home by the mother on her way to work. The child had been seen at two different Emergency rooms in the week and month prior to her death with non specific symptoms of being weak, lethargic and vomiting. In both instances the child was evaluated, treated for symptoms and discharged. No report was made to the SCR in either instance. On the 4/24/15 she was found limp and unresponsive by the babysitter who contacted the mother and then eventually called 911. Although the child presented not breathing, without a pulse and no explanation for her condition the physician at Olean General Hospital was adamant that there was no abuse and no SCR report was received. Once medical interventions re-established a pulse the child was transferred to WCHOB in grave condition. Medical staff at WCHOB found significant evidence of abuse including evidence of Shaken Baby Syndrome with subdural hematoma, bilateral retinal hemorrhages, a fractured and dislocated spine, rib fractures, chip fractures of both wrists and injury to the liver. The child was suspected to be brain dead which was confirmed and she was taken off life support on 4/26/15.

The Erie County Medical Examiner completed an autopsy of the subject child on 4/27/15. The Cause of Death was determined to be Blunt Force Injuries of the Head and Torso with the Manner of Death as Homicide.

An SCR report and a duplicate report were received regarding the fatality on 4/26/15 which contained allegations of DOA/FAT, CTS, II, FX and IG. All of the adults who had contact with the child were named as subjects on the reports; the mother, father, mother's boyfriend, maternal uncle and his girlfriend. Cattaraugus County Child Protective Services (CCCPS) worked closely with the Salamanca Police Department (SPD) during the investigation. Interviews were conducted with all of the adults and two of three other children who were in the home of the maternal uncle and his girlfriend at the time the child was found unresponsive. The uncle's girlfriend also babysat her five-year-old niece and four-year-old nephew and the couple also had a one-year-old son. A safety plan was put in place for all of these children which prohibited unsupervised contact between the adults and the children until it was determined how the subject child was injured. CCCPS made referrals for grief counseling, drug treatment and reviewed safe sleeping information with the uncle and his girlfriend.



The SPD arrested the mother on 5/19/15 and charged her with Manslaughter 2nd, Reckless Endangerment 1st and Endangering the Welfare of a Child in connection to the death of the subject child. The mother was jailed and is currently awaiting trial.

CCCPS substantiated the allegations of DOA/FAT, CTS, II, IG and LOM against the mother on 6/24/15 due to the injuries inflicted on the subject child and her subsequent death. Allegations of DOA/FAT, CTS, II, FX, IG and LOM were unsubstantiated regarding the father, mother's boyfriend, maternal uncle and his girlfriend as they did not cause the injuries to the subject child. Allegations of PDAM and IG were substantiated against the uncle and his girlfriend on 6/24/15 as when the police responded to the home for the 911 call they found drugs accessible to the children and subsequently obtained text messages from the girlfriend's home that they felt confirmed drug use and sales and that the children were likely present. CCCPS referred the uncle and his girlfriend to the Seneca Nation of Indians for drug treatment.

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:

N/A

Was the decision to close the case appropriate? Yes

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:

There are no surviving siblings in the mother's home. The MU and his girlfriend were referred for services through the Seneca Nation of Indians.

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: 04/26/2015

Time of Death:

Date of fatal incident, if different than date of death: 04/24/2015

County where fatality incident occurred:

CATTARAUGUS

Was 911 or local emergency number called?

Yes

Time of Call:

12:07 PM

Did EMS to 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

Is the caretaker listed in the Household Composition? Yes - Caregiver

1

At time of incident supervisor was: Unknown if they were impaired.

Total number of deaths at incident event:

Children ages 0-18: 1

Household Composition at time of Fatality

Household	Relationship	Role	Gender	Age
Deceased Child's Household	Deceased Child	Alleged Victim	Female	1 Year(s)
Deceased Child's Household	Mother	Alleged Perpetrator	Female	24 Year(s)
Other Household 1	Father	Alleged Perpetrator	Male	31 Year(s)
Other Household 2	Aunt/Uncle	Alleged Perpetrator	Male	21 Year(s)
Other Household 2	Other Adult	Alleged Perpetrator	Female	20 Year(s)
Other Household 2	Other Child	No Role	Male	1 Year(s)
Other Household 3	Mother's Partner	Alleged Perpetrator	Male	24 Year(s)

LDSS Response

CCCPS was called by the Salamanca Police Department (SPD) on 4/24/15 about an unresponsive baby that was taken to



Olean General Hospital (OGH). CCCPS worked closely with SPD. The SC had been at the home of her MU and his girlfriend, who was the SC's babysitter. The SPD went to the 911 call with the ambulance/EMS. The family is Native American and requested representation from the Seneca Nation of Indians (SNI) with whom CCCPS worked closely. Two SCR reports were received on 4/24/15 with allegations of IG, PDAM and LOM about injuries to the SC and drugs that were found in the home of the MU and his girlfriend when the police arrived at the 911 call. The MU and his girlfriend were caring for their one-year-old child, the girlfriend's niece, age 5 and nephew, age 4. Upon the SC's death the fatality report was received with allegations of DOA/FAT, CTS, II and IG on 4/26/15 and a duplicate fatality report on 4/27/15. All of the adults who had contact with the SC were listed on the reports as subjects.

CCCPS interviewed sources, all family members, medical and police. It was found that the SC was dropped off at the MU and his girlfriend's home by the SM at 9:45am on 4/24/15. The MU's girlfriend put the SC to sleep at about 10:30am until noon when she went to wake the SC and noticed that the SC was limp. She texted the SM who texted that the SC had been like that lately and the SF was on the way there to take the SC to Women and Children's Hospital of Buffalo (WCHOB) as the SC had been to OGH on 4/22/15 and she was concerned about how the SC was acting. On 4/22/15 an x-ray and lab work was done, she was given fluids and discharged to SM. The MU's girlfriend noticed the SC wasn't breathing right and called the SM who told her to call 911 which she did. The 911 operator told her to start CPR which she also did until EMS arrived.

The SC arrived at OGH not breathing, without a pulse and was transferred to WCHOB once a pulse was restored. At WCHOB a CT scan showed evidence of shaken baby syndrome as well as bilateral retinal hemorrhages, subdural hematoma, spinal and rib fractures that were approximately 7 to 10 days old. It was later discovered that the SC had chip fractures of both wrists, an injury to the left lobe of the liver and had blood and fluid in her abdomen. The SC's prognosis was very poor.

A safety plan was put in place by CCCPS for the other children (OC) that were in the MU and his girlfriend's home which prohibited unsupervised contact with the OC by any of the adults named as subjects in the reports until it was determined how the SC was injured.

CCCPS was notified that the SC died on 4/26/15 at 9:31am. An autopsy was conducted by the Erie County Medical Examiner's Office (ECME) on 4/27/15. The ECME determined the Cause of Death to be due to Blunt Force Injuries of the Head and Torso and the Manner of Death as Homicide. CCCPS obtained copies of medical records for the SC and the (OC), the ER and hospital records for the SC and spoke to medical staff at OGH that cared for the SC on 4/22/15 and 4/24/15. The ER physician who saw the SC on 4/24/15 opined there was no abuse. The OC were medically cleared. CCCPS spoke to the OC on 5/4/15 who had no information about the SC's injuries or drug use in the home.

The SM was arrested by the SPD on 5/19/15 and charged with Manslaughter 2nd, Reckless Endangerment 1st and Endangering the Welfare of a Child. Trial is scheduled for May 2016.

On 6/24/15 CCCPS substantiated the allegations of DOA/FAT, CTS, II, IG and LOM against the SM due to the injuries to the SC and failure to obtain medical care for the SC. These allegations were unsubstantiated for the other adult subjects. The allegations of PDAM and IG were substantiated against the MU and his girlfriend due to drugs present and in reach of the children in their home, the SPD had evidence confirming drug use/sales and the probability the OC were likely present.

Official Manner and Cause of Death

Official Manner: Homicide

Primary Cause of Death: From an injury - external cause



NYS Office of Children and Family Services - Child Fatality Report

Person Declaring Official Manner and Cause of Death: Medical Examiner

Multidisciplinary Investigation/Review

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

Comments: CCCPS worked jointly with the Salamanca Police Department throughout the investigation.

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

Comments: This case was reviewed by the Southern Tier CFRT on November 20, 2015.

SCR Fatality Report Summary

Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome
025201 - Deceased Child, Female, 1 Yrs	025224 - Aunt/Uncle, Male, 21 Year(s)	Fractures	Unsubstantiated
025201 - Deceased Child, Female, 1 Yrs	025221 - Mother, Female, 24 Year(s)	Internal Injuries	Substantiated
025201 - Deceased Child, Female, 1 Yrs	025223 - Other Adult - uncle's girlfriend/babysitter, Female, 20 Year(s)	DOA / Fatality	Unsubstantiated
025201 - Deceased Child, Female, 1 Yrs	025221 - Mother, Female, 24 Year(s)	Inadequate Guardianship	Substantiated
025201 - Deceased Child, Female, 1 Yrs	025221 - Mother, Female, 24 Year(s)	Choking / Twisting / Shaking	Substantiated
025201 - Deceased Child, Female, 1 Yrs	025225 - Mother's Partner, Male, 24 Year(s)	Choking / Twisting / Shaking	Unsubstantiated
025201 - Deceased Child, Female, 1 Yrs	025224 - Aunt/Uncle, Male, 21 Year(s)	Inadequate Guardianship	Unsubstantiated
025201 - Deceased Child, Female, 1 Yrs	025222 - Father, Male, 31 Year(s)	Internal Injuries	Unsubstantiated
025201 - Deceased Child, Female, 1 Yrs	025222 - Father, Male, 31 Year(s)	Fractures	Unsubstantiated
025201 - Deceased Child, Female, 1 Yrs	025222 - Father, Male, 31 Year(s)	DOA / Fatality	Unsubstantiated
025201 - Deceased Child, Female, 1 Yrs	025221 - Mother, Female, 24 Year(s)	Fractures	Substantiated
025201 - Deceased Child, Female, 1 Yrs	025222 - Father, Male, 31 Year(s)	Choking / Twisting / Shaking	Unsubstantiated
025201 - Deceased Child, Female, 1 Yrs	025221 - Mother, Female, 24 Year(s)	DOA / Fatality	Substantiated
025201 - Deceased Child, Female, 1 Yrs	025223 - Other Adult - uncle's girlfriend/babysitter, Female, 20 Year(s)	Fractures	Unsubstantiated



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025201 - Deceased Child, Female, 1 Yrs	025223 - Other Adult - uncle's girlfriend/babysitter, Female, 20 Year(s)	Choking / Twisting / Shaking	Unsubstantiated
025201 - Deceased Child, Female, 1 Yrs	025223 - Other Adult - uncle's girlfriend/babysitter, Female, 20 Year(s)	Inadequate Guardianship	Unsubstantiated
025201 - Deceased Child, Female, 1 Yrs	025225 - Mother's Partner, Male, 24 Year(s)	Internal Injuries	Unsubstantiated
025201 - Deceased Child, Female, 1 Yrs	025225 - Mother's Partner, Male, 24 Year(s)	Inadequate Guardianship	Unsubstantiated
025201 - Deceased Child, Female, 1 Yrs	025225 - Mother's Partner, Male, 24 Year(s)	Fractures	Unsubstantiated
025201 - Deceased Child, Female, 1 Yrs	025225 - Mother's Partner, Male, 24 Year(s)	DOA / Fatality	Unsubstantiated
025201 - Deceased Child, Female, 1 Yrs	025224 - Aunt/Uncle, Male, 21 Year(s)	Internal Injuries	Unsubstantiated
025201 - Deceased Child, Female, 1 Yrs	025224 - Aunt/Uncle, Male, 21 Year(s)	Choking / Twisting / Shaking	Unsubstantiated
025201 - Deceased Child, Female, 1 Yrs	025224 - Aunt/Uncle, Male, 21 Year(s)	DOA / Fatality	Unsubstantiated
025201 - Deceased Child, Female, 1 Yrs	025223 - Other Adult - uncle's girlfriend/babysitter, Female, 20 Year(s)	Internal Injuries	Unsubstantiated
025201 - Deceased Child, Female, 1 Yrs	025222 - Father, Male, 31 Year(s)	Inadequate Guardianship	Unsubstantiated

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"/>

**Additional information:**

N/A

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 safety 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"/>
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"/>
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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 type="checkbox"/>	<input checked="" 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



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	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 and placed in foster care at any time during this fatality investigation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were there surviving siblings/other children in the household removed as a result of this fatality report/investigation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Explain as necessary:
 A safety plan was put in place for the MU and his girlfriend's one-year-old child and the MU's girlfriend's niece and nephew. The safety plan was that neither the MU or his girlfriend would have any unsupervised contact with any of the children until approved by CCCPS and the Salamanca Police. This plan remained in place until it was determined that they had no role in inflicting the injuries sustained by the SC.

Legal Activity Related to the Fatality

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

- Family Court Criminal Court Order of Protection

Criminal Charge: Reckless endangerment Degree: 1

Date Charges Filed:	Against Whom?	Date of Disposition:	Disposition:
05/19/2015	mother	Pending	Trial is scheduled for May 2016
Comments:	The SM was arrested on May 19, 2015 and charged with Manslaughter 2nd Degree, Reckless Endangerment 1st Degree and Endangering the Welfare of a Child in connection with the death of the SC. The SM was arraigned and committed to Cattaraugus County Jail on \$100,000 bail. At the time of this report the charges were pending with trial scheduled for May 2016 and the SM had posted bond		

Criminal Charge: Endangering the welfare of a child Degree: NA

Date Charges Filed:	Against Whom?	Date of Disposition:	Disposition:
05/19/2015	mother	Pending	Trial is scheduled for May 2016
Comments:	The SM was arrested on May 19, 2015 and charged with Manslaughter 2nd Degree, Reckless Endangerment 1st Degree and Endangering the Welfare of a Child in connection with the death of the SC. The SM was arraigned and committed to Cattaraugus County Jail on \$100,000 bail. At the time of this report the charges were pending with trial scheduled for May 2016 and the SM had posted bond.		

Criminal Charge: Manslaughter Degree: 2

Date	Against Whom?	Date of Disposition:	Disposition:



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Charges Filed:			
05/19/2015	mother	Pending	Trial is scheduled for May 2016
Comments:	The SM was arrested on May 19, 2015 and charged with Manslaughter 2nd Degree, Reckless Endangerment 1st Degree and Endangering the Welfare of a Child in connection with the death of the SC. The SM was arraigned and committed to Cattaraugus County Jail on \$100,000 bail. At the time of this report the charges were pending with trial scheduled for May 2016 and the SM had posted bond.		

Services Provided to the Family in Response to the Fatality

Services	Provided After Death	Offered, but Refused	Offered, Unknown if Used	Needed but 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Domestic Violence Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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:

Referrals were made for bereavement counseling for the father and drug treatment for the MU and his girlfriend after the death of the subject child. It is unknown if the father followed up on the counseling. The MU and his girlfriend indicated they would follow through on drug treatment. Other family members were safety resources for the other children during the investigation.



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:

A safety plan was put in place for the three children present in the babysitter's home following discovery of the injuries to the SC and remained in place until it was determined that the MU and his girlfriend had no role in inflicting the injuries to the SC. The safety plan was that neither the MU or his girlfriend would have any unsupervised contact with their one-year-old child or the MU's girlfriend's niece and nephew. All involved complied with this safety plan until discontinued.

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

Explain:

The MU and his girlfriend were referred to the Seneca Nation of Indians for drug treatment. Information regarding grief counseling was given to the father.

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? 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? N/A
Was the child acutely ill during the two weeks before death? Yes

CPS - Investigative History Three Years Prior to the Fatality

Table with 6 columns: Date of SCR Report, Alleged Victim(s), Alleged Perpetrator(s), Allegation(s), Status/Outcome, Compliance Issue(s). Row 1: 10/30/2014, 7711 - Other Child - SM boyfriend/father's child, Female, 1 Years, 7712 - Other Adult - SM's boyfriend/father, Male, 24 Years, Inadequate Guardianship, Indicated, Yes

Report Summary:

Cattaraugus County Child Protective Services (CCCPS) received a report from the SCR on 10/30/14 in which the subject mother's boyfriend was named as a subject regarding his own child. The report alleged IG due to domestic violence in the home between the subject mother's boyfriend, his mother and the mother of his seventeen-month-old child in the presence of that child. The report alleged that an argument ensued between the subject mother's boyfriend and the mother of his child which escalated and turned physical in the presence of the child. It was alleged that the subject mother's



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boyfriend threw his mother onto the couch during the incident. The report stated that the child was not harmed

Determination: Indicated **Date of Determination:** 11/24/2014

Basis for Determination:
 CCCPS substantiated the allegation of IG against the subject mother's boyfriend on 11/24/14 because all adults in the home confirmed that the incident happened and that the subject mother's boyfriend shoved the mother of his child into a window causing her to hit her head and pushed his mother onto a couch. A second incident occurred the day after the first incident

OCFS Review Results:
 Review of the case documentation found that the mother stated that the child was asleep at the time of the incident and did not witness the violence between the parents. The case record did not contain information which established risk of harm or harm to the child, therefore the determination of indicated is not supported by the information gathered during the investigation.

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

Issue:
 Appropriateness of allegation determination

Summary:
 Review of the case documentation found that the mother stated that the child was asleep at the time of the incident and did not witness the violence between the parents. The case record did not contain information which established risk of harm or harm to the child, therefore the determination of indicated is not supported by the information gathered during the investigation.

Legal Reference:
 18 NYCRR 432.2(b)(3)(iii)(c)

Action:
 CCCPS must make appropriate determinations which are supported by the evidence gathered during the investigation.

Date of SCR Report	Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Status/Outcome	Compliance Issue(s)
04/24/2015	7577 - Other Child - cousin, Male, 1 Years	7574 - Other Adult - MU's girlfriend, Female, 20 Years	Inadequate Guardianship	Indicated	Yes
	7571 - Deceased Child, Female, 1 Years	7575 - Aunt/Uncle - MU's girlfriend, Male, 21 Years	Inadequate Guardianship	Indicated	
	7577 - Other Child - cousin, Male, 1 Years	7575 - Aunt/Uncle - MU's girlfriend, Male, 21 Years	Parents Drug / Alcohol Misuse	Indicated	
	7582 - Other Child - MU's girlfriend's nephew, Male, 4 Years	7575 - Aunt/Uncle - MU's girlfriend, Male, 21 Years	Parents Drug / Alcohol Misuse	Indicated	
	7571 - Deceased Child, Female, 1 Years	7574 - Other Adult - MU's girlfriend, Female, 20 Years	Parents Drug / Alcohol Misuse	Indicated	
	7577 - Other Child - cousin, Male, 1 Years	7574 - Other Adult - MU's girlfriend, Female, 20 Years	Parents Drug / Alcohol Misuse	Indicated	
	7580 - Other Child - MU's girlfriend's niece, Female, 5 Years	7574 - Other Adult - MU's girlfriend, Female, 20 Years	Inadequate Guardianship	Indicated	

7582 - Other Child - MU's girlfriend's nephew, Male, 4 Years	7574 - Other Adult - MU's girlfriend, Female, 20 Years	Inadequate Guardianship	Indicated
7577 - Other Child - cousin, Male, 1 Years	7575 - Aunt/Uncle - MU's girlfriend, Male, 21 Years	Inadequate Guardianship	Indicated
7580 - Other Child - MU's girlfriend's niece, Female, 5 Years	7575 - Aunt/Uncle - MU's girlfriend, Male, 21 Years	Inadequate Guardianship	Indicated
7582 - Other Child - MU's girlfriend's nephew, Male, 4 Years	7575 - Aunt/Uncle - MU's girlfriend, Male, 21 Years	Inadequate Guardianship	Indicated
7571 - Deceased Child, Female, 1 Years	7574 - Other Adult - MU's girlfriend, Female, 20 Years	Inadequate Guardianship	Indicated
7580 - Other Child - MU's girlfriend's niece, Female, 5 Years	7574 - Other Adult - MU's girlfriend, Female, 20 Years	Parents Drug / Alcohol Misuse	Indicated
7582 - Other Child - MU's girlfriend's nephew, Male, 4 Years	7574 - Other Adult - MU's girlfriend, Female, 20 Years	Parents Drug / Alcohol Misuse	Indicated
7571 - Deceased Child, Female, 1 Years	7575 - Aunt/Uncle - MU's girlfriend, Male, 21 Years	Parents Drug / Alcohol Misuse	Indicated
7580 - Other Child - MU's girlfriend's niece, Female, 5 Years	7575 - Aunt/Uncle - MU's girlfriend, Male, 21 Years	Parents Drug / Alcohol Misuse	Indicated

Report Summary:

CCCPS received a report from the SCR which alleged that the one-year-old subject child (SC) and three other children (OC) ages 1, 4 and 5 were maltreated because the adults in the home, the SC's maternal uncle (MU) and his girlfriend who babysat all four children were selling drugs out of the home with drugs and paraphernalia accessible to the children. The report stated that the uncle's girlfriend put the SC down for a nap and when the SC woke up she was sluggish, turned blue and became unresponsive. 911 was called and the SC was taken to the hospital. The uncle's girlfriend had no explanation for what happened to the SC. The MU and his girlfriend are the parents of the one-year-old OC.

Determination: Indicated

Date of Determination: 06/24/2015

Basis for Determination:

CCCPS substantiated the allegations and indicated the report because when the police responded to the 911 call regarding the SC not breathing they found marijuana and pain pills in the home and suspected that there were drug sales out of the home. The MU and his girlfriend admitted smoking marijuana but denied doing so with the children present. The investigation conclusion stated that the police confirmed that text messages were sent from the girlfriend's phone that confirmed drug sales were happening from the home and most likely when the children were present. Because drug use and sales were happening where the children lived and were babysat the report was indicated.

OCFS Review Results:

The OCFS review of the case record and documentation did not find information that drug use or sales occurred in the presence of the children other than a reference in the investigation conclusion that the police had or saw text messages from the girlfriend's phone that they felt confirmed drug sales from the home. The reference stated the police stated that the children were likely present however this was not confirmed. Interviews conducted with the 4 and 5 year old OC did not contain any information about drug use or sales in the home. Although the MU and his girlfriend confirmed smoking



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marijuana they denied doing so with the children present. The girlfriend had a Rx for the pain pills.

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

Issue:

Appropriateness of allegation determination

Summary:

Review of case record did not document drug use or sales with the children present. The conclusion states that the police saw text messages from the girlfriend's phone confirming drug sales in the home and they felt the children were likely present. Interviews of the 4 and 5 year old OC did not show drug use or sales. The MU and his girlfriend confirmed drug use but denied children were present.

Legal Reference:

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

Action:

CCCPS must make appropriate determinations which are supported by the evidence gathered during the investigation.

Date of SCR Report	Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Status/Outcome	Compliance Issue(s)
04/24/2015	7599 - Deceased Child - MU's girlfriend, Female, 1 Years	7595 - Mother - mother of MU's girlfriend's nephew, Female, 24 Years	Lack of Medical Care	Indicated	No
	7599 - Deceased Child - MU's girlfriend, Female, 1 Years	7596 - Mother's Partner - mother of MU's girlfriend's nephew, Male, 24 Years	Lack of Medical Care	Unfounded	
	7599 - Deceased Child - MU's girlfriend, Female, 1 Years	7597 - Other Adult - MU's girlfriend, Female, 20 Years	Lack of Medical Care	Unfounded	

Report Summary:

CCCPS received a report from the SCR which stated that on 4/22/15 the SC was lethargic and vomiting and that the SM took the child to the ER and although the child was prescribed an antibiotic she did not improve. The SC continued to display the same symptoms on 4/23/15 and also did not urinate at all and the SM could barely wake the SC. Neither the SM or her boyfriend sought medical care for the SC. On 4/24/15 the SC's condition was the same and the SM brought the SC to the babysitter and went to work. The babysitter texted the mother about the child's poor condition and the SM told the babysitter to call 911. CPR was done for over thirty minutes and the SC is in ICU and likely brain dead.

Determination: Indicated

Date of Determination: 06/24/2015

Basis for Determination:

CCCPS substantiated the allegations against the SM based on the SM's actions in shaking the SC and then taking her to the babysitter's and not getting medical care for the SC. The SC died as a result of the injuries inflicted by the SM. The allegations against the babysitter and the SM's boyfriend were unsubstantiated as the SM's boyfriend was not a person legally responsible for the SC and the babysitter did not know the SM had injured the SC and acted appropriately when the SC was unresponsive by calling 911 for help for the SC.

OCFS Review Results:

OCFS review found that CCCPS investigation included appropriate safety and risk assessments. Collateral contacts were made during the investigation and the information was incorporated into the case decisions.

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



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

There is no CPS history more than three years prior to the fatality in which any of the subjects in this report were named as subjects.

Known CPS History Outside of NYS

There is 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 of CPS or Preventive services ?

Yes No

Preventive Services History

There is no record of Preventive Services 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.

Casework Contacts

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

Required Action(s)

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

Additional Local District Comments

Cattaraugus County DSS agrees with the OCFS review of this case. The LDSS will facilitate the recommendations made in the review.

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

Explain: The SC had been evaluated, treated and discharged by medical staff at Olean General Hospital (OGH) Emergency Room (ER) two days before being found unresponsive prior to her death. The injuries she sustained in the seven to ten days prior to her death (fractures of her spine and ribs) went undiagnosed and no SCR report was made. Upon being evaluated at OGH and transferred to Women and Children's Hospital of Buffalo with fatal injuries, the ER physician at OGH who treated her stated to CCCPS that there was no sign of abuse and that he would stake his reputation on it. Again no SCR report was made. It is recommended that CCCDSS and the Southern Tier Child Fatality Review Team offer and facilitate Mandated Reporter training including recognizing physical indicators of child abuse or maltreatment to medical staff at OGH, specifically to the ER staff including physicians. Training by a physician knowledgeable in identification of child abuse or maltreatment is recommended.