



Report Identification Number: BU-21-004

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

Issue Date: Aug 10, 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: 4 day(s)

Jurisdiction: Erie
Gender: Male

Date of Death: 02/09/2021
Initial Date OCFS Notified: 02/09/2021

Presenting Information

On 2/6/2021, Erie County Department of Social Services (ECDSS) received an SCR report regarding the mother's positive toxicology for multiple illicit drugs upon the birth of the subject child. The child was born at home on 2/5/2021 and transported to the hospital. Upon arriving at the hospital, the child was in respiratory distress. The child remained hospitalized until his death on 2/9/2021. ECDSS informed OCFS of the child's death on the same date.

Executive Summary

This report concerns the death of a 4-day-old child which occurred while hospitalized following his birth. On 2/5/2021, the child was born at home in respiratory distress and transported to the hospital by ambulance. On 2/9/2021, ECDSS informed OCFS of the child's death through an OCFS Agency Reporting Form.

ECDSS initiated their investigation upon receipt of the original SCR report on 2/6/2021. ECDSS interviewed the mother in the home. The mother admitted to using illicit substances early in her pregnancy and stated that she had stopped drug abuse aside from taking Subutex, which she had been purchasing illegally. The father denied knowledge of the mother's drug use and declined to speak further with ECDSS.

Medical providers disclosed to ECDSS that the child was diagnosed with an anoxic brain injury and genetic birth defects, including Potter's Syndrome, which caused the child's death. A definitive link between the mother's drug abuse and the child's genetic abnormalities could not be made or ruled out. An autopsy was not completed due to the child's diagnosed condition and prognosis of not being compatible with life.

ECDSS met regulatory requirements when conducting their investigation into the allegations. There was no definitive link between the mother's drug abuse and the child's birth defects which led to his death.

Findings Related to the CPS Investigation of the Fatality

Safety Assessment:

- Was sufficient information gathered to make the decision recorded on the:
 - Safety assessment due at the time of determination? N/A

Determination:

- Was sufficient information gathered to make determination(s) for all allegations as well as any others identified in the course of the investigation? N/A
- Was the determination made by the district to unfound or indicate appropriate? N/A

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:
This was not an SCR reported fatality, therefore, safety assessments were not required, and there were no allegations to determine.

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: 02/09/2021

Time of Death: 02:45 PM

County where fatality incident occurred: Erie
Was 911 or local emergency number called? Yes
Time of Call: Unknown
Did EMS respond to the scene? Yes
At time of incident leading to death, had child used alcohol or drugs? N/A

Child's activity at time of incident:
 Sleeping Working Driving / Vehicle occupant
 Playing Eating Unknown
 Other

Did child have supervision at time of incident leading to death? Yes
At time of incident was supervisor impaired? Unknown if they were impaired.

At time of incident supervisor was:
 Distracted Absent
 Asleep Other: **With child in hospital**

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	No Role	Male	4 Day(s)
Deceased Child's Household	Father	No Role	Male	40 Year(s)
Deceased Child's Household	Mother	No Role	Female	39 Year(s)



LDSS Response

ECDSS received the SCR report on 2/6/2021 which alleged that the BM tested positive for multiple illicit substances following the birth of the SC. The SC was born at home on 2/5/2021 and transported to the hospital in respiratory distress on the same date. A subsequent SCR report was also made on 2/6/2021 which stated that the SC was not breathing upon birth and was revived by first responders. The report alleged that the SC was born with multiple unknown birth defects, and the condition of the home was deplorable. ECDSS initiated their investigation upon receipt of the report and the SC died on 2/9/2021. ECDSS informed OCFS of the child's death through an OCFS Agency Reporting Form on the same date.

ECDSS interviewed the BM in the home. The BM admitted that she had used multiple illicit substance early in her pregnancy and had stopped before giving birth. At the time of the SC's birth, the mother admitted she had been taking Subutex acquired without a prescription throughout the duration of her pregnancy. The BM denied prenatal care following an initial visit to confirm her pregnancy. The BF declined to speak with ECDSS other than to deny knowledge of the BM's illicit drug use.

The BM had two other children who were assessed to be safe in the care of their biological father. A safety plan was made to not allow the BM to have unsupervised contact with the children. The children expressed no knowledge of drug or alcohol abuse by the BM.

ECDSS interviewed the hospital staff who provided treatment for the SC. ECDSS was informed that the SC was born at home into a toilet, was not breathing upon birth, and suffered an anoxic brain injury. The SC was also diagnosed with Potter's Syndrome and had no functioning kidneys, bladder, and additional dysfunctional organs. The SC's prognosis was that he was not compatible with life, and he was expected to die imminently. The SC died on 2/9/2021 following the family's decision to remove the SC from life support. Medical providers could not state definitively if the SC's medical condition was related to the BM's illicit drug use or genetic birth defects. The cause of death was identified to be Potter's Syndrome.

The allegations against the BM from the SCR report were unsubstantiated as there was not a definitive link made between the BM's drug use and the SC's genetic disorders which caused his death. ECDSS closed their investigation after making multiple unsuccessful attempts to contact the BM and BF.

Official Manner and Cause of Death

Official Manner: Natural

Primary Cause of Death: From a medical cause

Person Declaring Official Manner and Cause of Death: Hospital physician

Multidisciplinary Investigation/Review

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

Comments: Erie county has an OCFS approved Child Fatality Review Team.

CPS Fatality Casework/Investigative Activities



Child Fatality Report

	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"/>
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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Coordination of investigation with law enforcement?	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

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

Information on services was provided to the family. The family did not return attempts made by ECDSS to contact them following the death of the SC.

Were services provided to parent(s) and other care givers to address any immediate needs related to the fatality? No

Explain:

The BM and BF did not respond to ECDSS's attempts to meet with them to offer services.

History Prior to the Fatality

Child Information

- Did the child have a history of alleged child abuse/maltreatment? No
- Was the child ever placed outside of the home prior to the death? No
- Were there any siblings ever placed outside of the home prior to this child's death? 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 fetal alcohol effects or syndrome

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)	Allegation Outcome	Compliance Issue(s)
02/06/2021	Deceased Child, Male, 4 Days	Mother, Female, 38 Years	Inadequate Guardianship	Unsubstantiated	No
	Deceased Child, Male, 4 Days	Mother, Female, 38 Years	Parents Drug / Alcohol Misuse	Unsubstantiated	

Report Summary:

On 2/6/2021 ECDSS received an SCR report after the BM tested positive for cocaine, amphetamines, benzodiazepines and Subutex after giving birth to the SC in the home. The SC was born in respiratory distress and transported to the hospital by ambulance.

Report Determination: Unfounded

Date of Determination: 04/07/2021

Basis for Determination:

ECDSS initiated their investigation upon receipt of the report and conducted familial and collateral interviews. The BM admitted to drug use early in her pregnancy and stated she had stopped drug use aside from illegally purchased Subutex. The SC was diagnosed with Potter's Syndrome and was not compatible with life. The SC passed away on 2/9/2021. Medical providers could not definitively link the SC's birth defects to the BM's drug use during her pregnancy and the allegations of Inadequate Guardianship and Parents Drug Alcohol Misuse were unsubstantiated.

OCFS Review Results:

ECDSS met regulatory requirements in their investigation of the allegations. A determination of the allegations was made based on evidence gathered. The BM and BF declined to speak with ECDSS following the death of the SC, despite the attempts made to contact them to discuss available services.

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

Date of SCR Report	Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome	Compliance Issue(s)
12/05/2019	Sibling, Female, 11 Years	Mother, Female, 37 Years	Inadequate Guardianship	Substantiated	No
	Sibling, Female, 9 Years	Mother, Female, 37 Years	Inadequate Guardianship	Substantiated	

Report Summary:

An SCR report was received which alleged that the mother had untreated mental health concerns and was unable to care for the 11-year-old and 9-year-old siblings.

Report Determination: Indicated

Date of Determination: 03/03/2020

Basis for Determination:

ECDSS conducted familial and collateral interviews. It was learned the mother was missing for several days and the siblings went to stay with their father. The children reported the mother displayed erratic behavior. ECDSS located the mother at the home several days later and it appeared that items may have been taken from the home, the home appeared cluttered, and the mother could not account for her whereabouts. The mother displayed paranoid thoughts to ECDSS and refused to cooperate or speak with ECDSS. The father obtained custody of the children and they were safe in his care.

**OCFS Review Results:**

ECDSS met regulatory requirements while investigating the allegations in the SCR report. The children were safe in the care of their biological father and the mother declined further CPS intervention.

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 four unsubstantiated CPS investigations more than 3 years prior to the fatality. The allegations included alleged drug use by the mother, and not providing proper supervision of her older children.

Known CPS History Outside of NYS

There is no known CPS 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 appreciate the opportunity given us to review the draft report in advance. We find that the facts, as written, 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 or to the CPS investigative history three years prior to the fatality.

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