



Report Identification Number: BU-22-003

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

Issue Date: Jun 10, 2022

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: 6 month(s)

Jurisdiction: Erie
Gender: Male

Date of Death: 02/15/2022
Initial Date OCFS Notified: 02/15/2022

Presenting Information

On 2/15/22, a report was received from the SCR that alleged on the prior evening the subject mother went to bed with the subject child, and awoke the next morning to find the subject child cold and unresponsive. The subject mother did rescue breaths and called 911. Emergency medical services arrived and the subject child was transported to the hospital. The subject child was pronounced deceased on 2/15/22, at 8:00AM.

Executive Summary

This fatality concerns the death of a 6-month-old male subject child that occurred on 2/15/22. The report contained allegations of DOA/Fatality and Inadequate Guardianship against the mother. At the time of his death, the subject child resided with his mother and two siblings, ages 6 and 9. The father of the subject child resided with the paternal grandmother at the time of the death.

Erie County Department of Social Services (ECDSS) completed collateral and casework contacts and learned that on the evening of 2/14/22, the mother laid in her bed with the subject child between 8:00 and 9:00PM to go to sleep. The subject mother awoke during the night to use the bathroom and observed the subject child to be alive at that time. The mother woke up the following morning to find the subject child face down and unresponsive. The 9-year-old sibling called 911 and emergency medical services responded to the residence. The subject child was transported to the hospital where he was later pronounced deceased.

An autopsy was performed, and the official cause and manner of death were pending at the time the CPS investigation was closed; however, there were no noted signs of abuse or neglect. The medical examiner's office did suggest that co-sleeping could have been a factor in the death, but could not yet say definitively. There had been no criminal charges filed pertaining to the subject child's death.

The allegations of DOA/Fatality and Inadequate Guardianship against the mother were substantiated. ECDSS determined there was a fair preponderance of evidence to support that the mother failed to meet the minimum degree of care resulting in the subject child's death, as she had been made aware of safe sleep practices and continued co-sleeping with the subject child. Bereavement services were offered to the mother and siblings but were declined. The CPS investigation was indicated and closed on 4/29/22.

PIP Requirement

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

Findings Related to the CPS Investigation of the Fatality

Safety Assessment:

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

- Sleeping
- Playing
- Other

- Working
- Eating

- Driving / Vehicle occupant
- Unknown

Did child have supervision at time of incident leading to death? Yes

At time of incident was supervisor impaired? Not impaired.

At time of incident supervisor was:

- Distracted
- Asleep

- Absent
- Other:

Total number of deaths at incident event:

Children ages 0-18: 1

Adults: 0

Household Composition at time of Fatality

Household	Relationship	Role	Gender	Age
Deceased Child's Household	Deceased Child	Alleged Victim	Male	6 Month(s)
Deceased Child's Household	Mother	Alleged Perpetrator	Female	29 Year(s)
Deceased Child's Household	Sibling	No Role	Male	9 Year(s)
Deceased Child's Household	Sibling	No Role	Male	6 Year(s)

LDSS Response

Upon receipt of the SCR report, ECDSS coordinated their investigation with law enforcement, notified the district attorney's office and the medical examiner, spoke with collateral sources, interviewed the mother, and offered services regarding the fatality.

ECDSS interviewed the mother about the events preceding the subject child's death. The mother reported that on 2/14/22, she went to bed with the subject child between 8:00 and 9:00PM. The mother reported that she put the subject child in her king-size bed, on his back, about 5 inches from where she was lying. The mother stated the subject child was wearing only pajamas and denied any blankets or objects being on the bed with the child. The mother woke up during the middle of the night to use the bathroom and observed the subject child still on his back and breathing at that time. The mother reported being woken up by the two siblings in the morning and finding the subject child on his stomach and unresponsive. The 9-year-old sibling was interviewed and reported calling 911 after hearing his mother yelling. The siblings disclosed no further concerns during their interviews with CPS.

Law enforcement, the fire department and emergency medical services responded to the residence after receiving the 911 phone call and transported the subject child to the hospital. The subject child was pronounced deceased at 8:00AM. The mother admitted that she was previously made aware of safe sleep practices; however, continued to occasionally co-sleep with the subject child. The father of the subject child was interviewed, but was not present for the incident and therefore did not have additional information other than what was provided to him by the mother. Shortly after the subject child's death, the mother reported that the father blamed her for the death and she filed an order of protection against him. Diligent efforts were made to speak with the father's of the surviving siblings. The father of the 6-year-old sibling was incarcerated at the time and interviewed by phone, but contact with the father of the 9-year-old sibling was unsuccessful.



ECDSS learned during their investigation that the subject child was born a month early at 33 weeks gestation due to a medical complication the mother had during pregnancy. The subject child spent a month in the NICU and had a feeding tube; however, had no prolonged medical conditions after being discharged. The subject child and both siblings were up to date medically. ECDSS requested the two surviving siblings be seen by their pediatrician after the subject child's death, which resulted in no noted health concerns. The surviving siblings were observed on multiple home visits and deemed to be safe with the mother.

Official Manner and Cause of Death

Official Manner: Pending

Primary Cause of Death: Pending

Person Declaring Official Manner and Cause of Death: Medical Examiner

Multidisciplinary Investigation/Review

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

Was the fatality referred to an OCFS approved Child Fatality Review Team? Yes

Comments: Erie County Department of Social Services referred this fatality to their OCFS approved Child Fatality Review Team.

SCR Fatality Report Summary

Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome
059781 - Deceased Child, Male, 6 Mons	059784 - Mother, Female, 29 Year(s)	DOA / Fatality	Substantiated
059781 - Deceased Child, Male, 6 Mons	059784 - Mother, Female, 29 Year(s)	Inadequate Guardianship	Substantiated

CPS Fatality Casework/Investigative Activities

	Yes	No	N/A	Unable to Determine
All children observed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
When appropriate, children were interviewed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Alleged subject(s) interviewed face-to-face?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
All 'other persons named' interviewed face-to-face?	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Family Members	<input type="checkbox"/>	<input checked="" 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:

The mother refused services due to having familial support. Erie County Department of Social Services noted that no contact was made with these supports during the course of the investigation.

Fatality Safety Assessment Activities

	Yes	No	N/A	Unable to Determine
Were there any surviving siblings or other children in the household?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was there an adequate assessment of impending or immediate danger to surviving siblings/other children in the household named in the report:				
Within 24 hours?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
At 7 days?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
At 30 days?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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

	Yes	No	N/A	Unable to Determine
Did the safety factors in the case show the need for the surviving siblings/other children in the household be removed or placed in foster care at any time during this fatality investigation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were there surviving children in the household that were removed either as a result of this fatality report / investigation or for reasons unrelated to this fatality?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Economic support	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Funeral arrangements	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Housing assistance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mental health services	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Early Intervention	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alcohol/Substance abuse	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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:**

The mother was offered domestic violence services, as she reported the father of the subject child was blaming her for the death and was harassing her. The mother declined services, and instead filed an order of protection against the father.

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:**

Bereavement services were offered for the two surviving siblings; however, the mother declined. The mother reported the children were doing well and stated if she observed any negative behaviors she would engage the children in counseling. The school counselor met with the 9-year-old sibling and did not feel a referral to additional counseling was necessary at the time.

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

Bereavement services were offered to the mother and were declined. The mother stated that she had familial support.

History Prior to the Fatality

Child Information

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

Infants Under One Year Old

During pregnancy, mother:

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

Infant was born:

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

CPS - Investigative History Three Years Prior to the Fatality

Date of SCR Report	Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome	Compliance Issue(s)
12/22/2021	Sibling, Male, 9 Years	Mother, Female, 29 Years	Excessive Corporal Punishment	Unsubstantiated	Yes



Sibling, Male, 9 Years	Mother, Female, 29 Years	Inadequate Guardianship	Unsubstantiated
Sibling, Male, 9 Years	Mother, Female, 29 Years	Lacerations / Bruises / Welts	Unsubstantiated

Report Summary:

An SCR report was received on 12/22/21 that alleged in the past the mother had punished the 9-year-old sibling for misbehaving by punching him in the face and he sustained a bruise to his mouth as a result.

Report Determination: Unfounded**Date of Determination:** 02/28/2022**Basis for Determination:**

ECDSS determined there was no credible evidence to substantiate the allegations. The mother and 9-year-old sibling denied the allegations. The sibling was observed to be free of marks or bruises, though it was observed that the sibling may be fearful of the mother when he gets into trouble at school. The sibling ran away after the initial visit by CPS and the 6-year-old reported that the mother had slapped the 9-year-old in the face in the past. The mother was advised against using physical discipline on the children and to have the 9-year-old seen for counseling. Collateral sources had no other concerns for the children.

OCFS Review Results:

ECDSS initiated their investigation within 24 hours, contacted the source of the report, assessed for safety, and interviewed all household members when age appropriate. ECDSS made numerous attempts to contact the biological fathers. ECDSS completed the safety and risk assessments timely and adequately. ECDSS reviewed safe sleep practices with the mother and advised against co-sleeping with the subject child.

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

Issue:

Review of CPS History

Summary:

Though the history check was documented in the investigation, it was not completed until 12/29/21.

Legal Reference:

18 NYCRR 432.2(b)(3)(i)

Action:

Within one business day, ECDSS will review SCR records pertaining to all prior reports involving members of the family, including legally sealed unfounded reports where the current report involves a subject of the unfounded report, a child named in the unfounded report or a child's sibling named in the unfounded report. The history check should be documented in progress notes accordingly.

Date of SCR Report	Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome	Compliance Issue(s)
09/11/2021	Deceased Child, Male, 1 Months	Mother, Female, 29 Years	Inadequate Guardianship	Unsubstantiated	Yes
	Deceased Child, Male, 1 Months	Mother, Female, 29 Years	Parents Drug / Alcohol Misuse	Unsubstantiated	
	Sibling, Male, 8 Years	Mother, Female, 29 Years	Inadequate Guardianship	Unsubstantiated	
	Sibling, Male, 8 Years	Mother, Female, 29 Years	Parents Drug / Alcohol Misuse	Unsubstantiated	
	Sibling, Male, 5 Years	Mother, Female, 29 Years	Inadequate Guardianship	Unsubstantiated	



Sibling, Male, 5 Years	Mother, Female, 29 Years	Parents Drug / Alcohol Misuse	Unsubstantiated
Deceased Child, Male, 1 Months	Father, Male, 35 Years	Inadequate Guardianship	Unsubstantiated
Deceased Child, Male, 1 Months	Father, Male, 35 Years	Parents Drug / Alcohol Misuse	Unsubstantiated
Sibling, Male, 8 Years	Father, Male, 35 Years	Inadequate Guardianship	Unsubstantiated
Sibling, Male, 8 Years	Father, Male, 35 Years	Parents Drug / Alcohol Misuse	Unsubstantiated
Sibling, Male, 5 Years	Father, Male, 35 Years	Inadequate Guardianship	Unsubstantiated
Sibling, Male, 5 Years	Father, Male, 35 Years	Parents Drug / Alcohol Misuse	Unsubstantiated

Report Summary:

An SCR report was received on 9/11/21 and alleged that the father had a history of physical and verbal abuse toward the mother in the presence of the siblings and subject child. During an incident, the father broke the mother’s phone. The father verbally abused the siblings by calling them derogatory names and they were afraid of him as a result. The mother threatened to physically harm the siblings. On 9/10/21, the mother and father were impaired by an unknown substance while caring for the children and left illicit substances accessible to them. The mother was incoherent and highly incapacitated.

Report Determination: Unfounded

Date of Determination: 11/11/2021

Basis for Determination:

ECDSS determined there was no credible evidence to substantiate the allegations. Although there appeared to be domestic violence between the mother and the father, ECDSS found there was no credible evidence that the domestic violence was in the presence of the children and had an effect on them. At the time of the determination, the father was reportedly out of the residence and living elsewhere, therefore, alleviating safety concerns. ECDSS learned the father was a level 2 sex offender; however, he had no restrictions regarding contact with children. The investigation was closed with no further CPS intervention required.

OCFS Review Results:

ECDSS initiated the investigation within 24 hours, contacted the source, reviewed the family’s history, and interviewed all household members. ECDSS contacted numerous collaterals to obtain pertinent information about the safety of the children. ECDSS made referrals to services, made diligent efforts to locate and interview all biological fathers and thoroughly reviewed safe sleep on multiple occasions. The case record does not reflect that ECDSS had follow up conversations with the mother and father about the father’s sex offender status. ECDSS documented in the risk assessment profile that the mother and father admitted to marijuana use however this was not documented in the case record.

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

Issue:

Pre-Determination/Assessment of Current Safety/Risk

Summary:

ECDSS learned throughout their investigation that the father was a level 2 registered sex offender, however it was not documented in the case record that there was follow up with the mother or the father to address this.

Legal Reference:

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

Action:

ECDSS will incorporate key safety-related questions as they pertain to case circumstances.

Issue:

Adequacy of Risk Assessment Profile (RAP)

**Summary:**

ECDSS documented in the risk assessment profile that the mother and father admitted to marijuana use; however, the record did not reflect how this information was obtained or if their marijuana use had any impact on the children.

Legal Reference:

18 NYCRR 432.2(d)

Action:

ECDSS will consider all risk elements identified throughout the course of the investigation and accurately document such elements into the Risk Assessment Profile.

Issue:

Appropriateness of allegation determination

Summary:

ECDSS unsubstantiated the allegation of IG stating the domestic violence did not occur in the presence of the children. However, the 9-year-old reported feeling unsafe with the father and the 6-year-old disclosed seeing the father fight the mother with his hands. During a previous incident, the father broke the mother's phone and took the sibling's phone to prevent him from calling the police.

Legal Reference:

FCA 1012 (e) & (f);18 NYCRR 432.2(b)(3)(iv)

Action:

ECDSS will refer to the CPS Program Manual when determining the appropriateness of allegations and will consult with the Buffalo Regional Office if further guidance is needed.

Date of SCR Report	Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome	Compliance Issue(s)
02/11/2021	Sibling, Male, 8 Years	Father, Male, 34 Years	Inadequate Guardianship	Substantiated	Yes

Report Summary:

An SCR report was received on 2/11/21 with allegations of IG against the father of the subject child. The father arrived home to get his property from the mother's residence. The mother and father engaged in a verbal altercation that escalated to the father becoming physically abusive toward the mother in the presence of the 9-year-old sibling. The father snatched the mother's phone away from her while she attempted to call the police. The 9-year-old sibling attempted to call the police on his phone and the father snatched the 9-year-old siblings' phone as well and fled the residence.

Report Determination: Indicated

Date of Determination: 04/20/2021

Basis for Determination:

ECDSS determined there was credible evidence to substantiate the allegations. The father physically assaulted the mother in the presence of the 9-year-old sibling. The father took the mother's phone when she tried to call the police. The father then took the 9-year-old siblings' phone when he tried to call as well. The father then left the home. The mother and 9-year-old sibling stated that the father was no longer living in the home. The children appeared safe and cared for.

OCFS Review Results:

ECDSS initiated their investigation and assessed for safety within 24 hours of receipt of the SCR report. ECDSS contacted collaterals and completed referrals to community services when appropriate. The CPS history check was documented late on 2/22/21. It was not documented that efforts were made to complete all required face-to-face contacts. A note with the pediatrician was copied from the investigation dated 12/13/20, which identified a concern; however, it was not documented there was follow up regarding the information. The 7-day safety assessment was completed late on 2/22/21.

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

Issue:



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

Summary:

The biological father of the 6-year-old sibling was added to the report as a parent and notified about the investigation in writing. Although it was determined that the biological father visited the 6-year-old sibling and 9-year-old sibling, there was no documented effort of attempts to interview him.

Legal Reference:

18 NYCRR 432.1 (o)

Action:

ECDSS will make casework contacts in accordance with the following regulation: Casework contacts mean face-to-face contacts with a child and/or a child's parents or guardians, or activities with the child and/or the child's parents or guardians, which may include but are not limited to facilitating information gathering and analysis of safety and risk factors and determining the allegations.

Issue:

Timely/Adequate Seven Day Assessment

Summary:

The 7-Day Safety Assessment was completed late on 2/22/21.

Legal Reference:

SSL 424(3);18 NYCRR432.2(b)(3)(ii)(c)

Action:

ECDSS will document and approve all safety assessments within the required time frame.

Issue:

Review of CPS History

Summary:

Though the history check was documented in the investigation, it was not completed until 2/22/21.

Legal Reference:

18 NYCRR 432.2(b)(3)(i)

Action:

Within 1 business day of a report, LDSS must review all SCR records of prior reports, including legally sealed reports, and document such. Within 5 business days, LDSS will review its own CPS record(s) that apply to the prior reports, including legally sealed unfounded and family assessment response reports.

Issue:

Pre-Determination/Nature, Extent and Cause of Any Condition

Summary:

ECDSS copied a medical note from a previous investigation, in which the medical records indicated the surviving siblings had not received a well child exam since 2019 and had not shown up to the last scheduled appointment. It was not documented that this information was addressed with the mother.

Legal Reference:

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

Action:

ECDSS will make an adequate assessment of the nature, extent and cause of any condition which may constitute abuse or maltreatment, whether contained in the original SCR report or discovered during the open investigation.

Date of SCR Report	Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome	Compliance Issue(s)
12/13/2020	Sibling, Male, 5 Years	Father, Male, 34 Years	Inadequate Guardianship	Unsubstantiated	Yes



Sibling, Male, 8 Years	Father, Male, 34 Years	Inadequate Guardianship	Unsubstantiated
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Report Summary:

An SCR report was received on 12/13/20 with allegations of IG against the father of the subject child. The father engaged in a verbal argument with the mother. The argument escalated to the father becoming physically aggressive and poking the mother in her face. This incident happened in the presence of the 6-year-old sibling and 9-year-old sibling.

Report Determination: Unfounded**Date of Determination:** 01/06/2021**Basis for Determination:**

ECDSS determined there was no credible evidence to substantiate the allegations against the father. ECDSS wrote in their investigative conclusion that the mother and father got into a verbal argument. The mother and father denied the incident being domestic violence. The mother called the police to have the father removed from the home; however, there were no arrests made. The 6-year-old sibling and 9-year-old sibling were at the paternal grandmother's residence at the time of the incident and did not state any concerns with the mother or father. The 6-year-old sibling and 9-year-old sibling appeared safe and appropriately cared for. The mother was referred to a domestic violence advocate.

OCFS Review Results:

The investigation was initiated within 24 hours, contact with the source of the report was attempted numerous times and all contact with household members, children, and collaterals were completed. ECDSS made referrals to services when appropriate. ECDSS assessed for safety within 24 hours; however, the 7-day safety assessment was completed a day late on 12/21/20. The biological father of the sibling was added and notified of the report, but the record does not reflect any attempts to interview him.

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

Issue:

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

Summary:

The biological father of the 6-year-old sibling was added to the report as a parent and notified about the investigation in writing. Although it was determined that the biological father visited the 6-year-old sibling and 9-year-old sibling, there was no documented effort of attempts to interview him.

Legal Reference:

18 NYCRR 432.1 (o)

Action:

ECDSS will make casework contacts in accordance with the following regulation: Casework contacts mean face-to-face contacts with a child and/or a child's parents or guardians, or activities with the child and/or the child's parents or guardians, which may include but are not limited to facilitating information gathering and analysis of safety and risk factors and determining the allegations.

Issue:

Review of CPS History

Summary:

Though a CPS history check was documented in the investigation, it was not completed until 12/17/20.

Legal Reference:

18 NYCRR 432.2(b)(3)(i)

Action:

Within one business day, ECDSS will review SCR records pertaining to all prior reports involving members of the family, including legally sealed unfounded reports where the current report involves a subject of the unfounded report, a child named in the unfounded report or a child's sibling named in the unfounded report. The history check should be documented in progress notes accordingly.

Issue:

Timely/Adequate Seven Day Assessment

Summary:



The safety assessment was completed late on 12/21/20.

Legal Reference:

SSL 424(3);18 NYCRR432.2(b)(3)(ii)(c)

Action:

ECDSS will document and approve all safety assessments within the required time frame.

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

Between 2014 and 2018, there were two indicated investigations and one unfounded investigation. A common allegation amongst the reports includes IG. The indicated reports from 2014 and 2018 were regarding domestic violence occurring in the presence of the children.

Known CPS History Outside of NYS

There is no known history outside of New York State.

Preventive Services History

There was a voluntary preventive case opened on 12/30/15 to assist the mother with daycare services for the 9-year-old sibling. The 6-year-old sibling had just been born and was hospitalized due to medical conditions. The mother was unable to maintain employment due to the medical needs of the 6-year-old sibling. The case was closed on 2/8/16 at the request of the mother, as the 6-year-old sibling was going to be discharged from the hospital and she was no longer in need of daycare assistance.

Legal History Within Three Years Prior to the Fatality

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

Additional Local District Comments

We at the Erie County Department of Social Services (ECDSS) appreciate the opportunity given us to review the draft report in advance. We find that the facts, as written, 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. With respect to the compliance citations related to the CPS investigations conducted during the three years preceding the fatality, we must unfortunately concur with the reviewer's findings. The issues identified by the reviewer will continue to be addressed through the ongoing implementation of a consolidated Program Improvement Plan currently being executed by ECDSS with the assistance and support of the OCFS Buffalo Regional Office.

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