



**Report Identification Number: NY-16-048**

**Prepared by: New York City Regional Office**

**Issue Date: 12/9/2016**

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
FM-Foster Mother	SS-Surviving Sibling	

### 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	TANF-Temporary Assistance to Needy Families	FC-Foster Care
MH-Mental Health	ER-Emergency Room	



## Case Information

**Report Type:** Child Deceased  
**Age:** 2 month(s)

**Jurisdiction:** Queens  
**Gender:** Male

**Date of Death:** 05/12/2016  
**Initial Date OCFS Notified:** 05/12/2016

## Presenting Information

The 5/12/16 SCR report alleged that the parents put the 2-month-old male infant down for a nap on 5/12/16. When the parents checked the infant, he was unresponsive and not breathing. EMS was called and the emergency medical technician attempted CPR but was not successful. The infant did not have a pre-existing condition and he died unexpectedly in the care of the parents.

## Executive Summary

The 2-month-old male infant died on 5/12/16. As of 11/21/16, NYCRO has not yet received the ME report.

The allegations of the 5/12/16 report were DOA/Fatality and IG of the infant by the SM and SF. The SCR registered a subsequent report on 5/13/16. The allegations of the 5/13/16 report were DOA/Fatality, IG, FX of the infant by the SM, SF, MU, unrelated home member (UHM) and MGM.

ACS investigation revealed on 5/12/16, in the afternoon, the child was in the SF's care. The SF and infant attended a meeting and then they returned to the case address at about 4:00 PM. Upon their return to the home, the infant began to cry and the SF held him in his arms and fed him. The infant fell asleep and the SF placed him on his back to sleep on the bed at about 4:30 PM. The parents said the SM checked the infant as he slept and observed he was moving and breathing. The SM went to the store and before leaving she checked the infant and observed he lifted his head and then returned to sleep. The SF was in the home with the infant but was in an adjoining room sitting on the other bed in the living room as the infant slept in the bedroom. The father said the infant was quiet as he slept so he was fine. The SM returned from the store and made a remark stating that the infant did not normally sleep for long periods of time. The SF then checked the infant and observed the infant was in a face down position, and the infant appeared pale. SF picked him up and his head fell back. He saw that the infant was not breathing and he alerted the SM. The SM called 911 immediately and the SF gave CPR to the infant while the SM received instructions from the 911 operator. The SF observed milk flowed through the infant's nose and mouth. He performed CPR on the bed but EMS told them on the phone to put the infant on a flat surface so they put him on the wood floor. When they placed him on the floor, EMS responded to the home and provided medical assistance. The infant was transported to the hospital. There were no surviving children in the home.

LE said the parents stated the infant was put down for a nap after being fed. The infant was put in his bassinet. The parents initially said they both lay down and took a nap in the next room. Both parents said they woke at about 5:00 PM, checked the infant and found him not breathing. After the second interview with the SF, he indicated that he may have arrived home at about 3:45 PM with the infant. LE said the infant had old fractures. Both parents appeared surprised to learn the infant had fractured ribs. LE took the bassinet as well as two sheets from the room. There were no items observed in the infant's bassinet.

The ME said the infant had three old healing rib fractures. The preliminary findings did not indicate whether the fractures were due to abuse/maltreatment as there was no apparent abuse/maltreatment on the infant's body. The ME



had spoken to the staff in the clinic where the infant was seen and there were no reports of any concerns. The fractures could have occurred at birth. The rib fractures are unrelated to the death; they were not caused by CPR as they were old fractures in various stages of healing. The ME had received information indicating the infant was found face down in the bassinet, the infant more than likely suffocated but more investigation was required.

The SM planned to continue to receive services at the Safe Space agency to assist her with grief. The parents have separated since the infant's death. The SF relocated to reside in the PGM's home.

As of 11/21/16, the 5/12/16 investigation has not yet been completed.

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? 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? The CPS report had not yet been determined at the time this Fatality report was issued.
- Was the determination made by the district to unfound or indicate appropriate? N/A

Explain:

NA

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:

NA

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: 05/12/2016

Time of Death: 07:35 PM



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

**County where fatality incident occurred:** QUEENS

**Was 911 or local emergency number called?** Yes

**Time of Call:** 06:40 PM

**Did EMS to 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

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

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**At time of incident supervisor was:** Not 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	Aunt/Uncle	Alleged Perpetrator	Male	24 Year(s)
Deceased Child's Household	Deceased Child	Alleged Victim	Male	2 Month(s)
Deceased Child's Household	Father	Alleged Perpetrator	Male	23 Year(s)
Deceased Child's Household	Grandparent	Alleged Perpetrator	Female	50 Year(s)
Deceased Child's Household	Mother	Alleged Perpetrator	Female	20 Year(s)
Deceased Child's Household	Unrelated Home Member	Alleged Perpetrator	Male	53 Year(s)

### LDSS Response

On 5/13/16, the SM informed ACS that the infant was playing and seemed okay. The infant cried and the SF fed him. The SF held the infant as he fed him and the infant fell asleep. The SF put him down to sleep on his back on the bed in the bedroom and parents went to sleep on the bed in the living room. SM checked the infant and he was fine as she saw him moving. SM decided to go to the store, she checked the infant before she left, and she saw him lift his head and turn so he seemed fine. SM went to the store and returned a few minutes later. She asked the SF if the infant was not up as yet as it was unusual for him to sleep that long. The SF checked the infant and at that time he said the infant was not breathing. The SF said he found the infant face down in the bed and the infant appeared pale.



SM said she called 911 and the operator told her they did not understand the address but she spoke clearly. The SF followed the operator’s instructions and administered CPR to the infant. They were instructed to place the infant on a flat surface so they placed him on the floor. EMS arrived after the parents placed the infant on the floor. EMS provided medical assistance and transported the infant to the hospital. The SM said she recently completed intake at Safe Space agency for treatment services.

On 5/16/16, ACS interviewed the ME who said the examination revealed the infant had sustained three old fractures that were in different stages of healing. The ME said the fractures could be the result of almost any cause. The ME explained that it would be more concerning if the fractures occurred on the posterior region. The ME indicated that the parents had been napping at the time the infant was put down for a nap. ACS informed the ME that the SF reported burping, feeding and putting the infant down for a nap and the SM, who upon returning from the store noticed that the infant was sleeping too long, decided to check the infant.

On 5/17/16, the hospital attending Dr. said there were no signs of trauma, marks or bruises on the infant. The infant appeared to have received adequate care and the infant's body was described as being in “pristine condition.” The Dr. said the parents reported they fed the infant and put him down for a nap and then they went to the next room and took a nap. They checked him and he was found face down in the crib. The Dr. was informed of discrepancies pertaining to the location the infant was placed for his nap. The Dr. was told the infant was in his crib. The Dr. said that when the infant arrived, he was already cold as his temperature was 93.8 degrees so it seemed the infant may have passed away hours before arrival at the hospital. The triage time was 6:57 PM. The infant had vomit in his throat so it seemed he may have vomited and asphyxiated from the vomit. The Dr. stated the infant had no bruising or other signs on him that would cause alarm regarding his ribs.

The family Dr. had examined the infant on 5/6/16 for well-child care. This Dr. did not observe marks, bruises or anything physically wrong with concerning the infant. The Dr. had discussed with the parent information for positioning the infant on the back to sleep. The Dr. said the infant seemed healthy. The Dr. said the infant did not appear to be in pain at the time of the 5/6/16 medical examination.

On 5/23/16, the MU said he was at work at the time the infant died. The MU said he observed the infant had breathing difficulties. The MU said the infant seemed healthy. The MU said whenever he was at the case address, he observed the SM got someone to supervise the infant if she needed to go out of the home. ACS documented details of unsuccessful attempts made to obtain the MGM’s account by telephone and to interview the MGM at the case address. The MGM did not make herself available to ACS. Also, the MGM did not provide information regarding an alleged male paramour; ACS was not able to interview the alleged male paramour.

**Official Manner and Cause of Death**

**Official Manner:** Pending

**Primary Cause of Death:** Unknown

**Person Declaring Official Manner and Cause of Death:** Medical Examiner

**Multidisciplinary Investigation/Review**

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

**Comments:** The investigation adhered to previously approved protocols for joint investigations.



# NYS Office of Children and Family Services - Child Fatality Report

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

**Comments:** There is no OCFS approved Child Fatality Review Team in NYC.

## SCR Fatality Report Summary

Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome
031405 - Deceased Child, Male, 2 Mons	031407 - Father, Male, 23 Year(s)	Fractures	Pending
031405 - Deceased Child, Male, 2 Mons	031407 - Father, Male, 23 Year(s)	Inadequate Guardianship	Pending
031405 - Deceased Child, Male, 2 Mons	031409 - Grandparent, Female, 50 Year(s)	Inadequate Guardianship	Pending
031405 - Deceased Child, Male, 2 Mons	031410 - Unrelated Home Member, Male, 53 Year(s)	Inadequate Guardianship	Pending
031405 - Deceased Child, Male, 2 Mons	031410 - Unrelated Home Member, Male, 53 Year(s)	DOA / Fatality	Pending
031405 - Deceased Child, Male, 2 Mons	031408 - Aunt/Uncle, Male, 24 Year(s)	DOA / Fatality	Pending
031405 - Deceased Child, Male, 2 Mons	031406 - Mother, Female, 20 Year(s)	Parents Drug / Alcohol Misuse	Pending
031405 - Deceased Child, Male, 2 Mons	031408 - Aunt/Uncle, Male, 24 Year(s)	Inadequate Guardianship	Pending
031405 - Deceased Child, Male, 2 Mons	031406 - Mother, Female, 20 Year(s)	Inadequate Guardianship	Pending
031405 - Deceased Child, Male, 2 Mons	031410 - Unrelated Home Member, Male, 53 Year(s)	Fractures	Pending
031405 - Deceased Child, Male, 2 Mons	031406 - Mother, Female, 20 Year(s)	DOA / Fatality	Pending
031405 - Deceased Child, Male, 2 Mons	031406 - Mother, Female, 20 Year(s)	Fractures	Pending
031405 - Deceased Child, Male, 2 Mons	031409 - Grandparent, Female, 50 Year(s)	DOA / Fatality	Pending
031405 - Deceased Child, Male, 2 Mons	031409 - Grandparent, Female, 50 Year(s)	Fractures	Pending
031405 - Deceased Child, Male, 2 Mons	031407 - Father, Male, 23 Year(s)	DOA / Fatality	Pending
031405 - Deceased Child, Male, 2 Mons	031408 - Aunt/Uncle, Male, 24 Year(s)	Fractures	Pending

## CPS Fatality Casework/Investigative Activities



# NYS Office of Children and Family Services - Child Fatality Report

	Yes	No	N/A	Unable to Determine
All children observed?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
When appropriate, children were interviewed?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alleged subject(s) interviewed face-to-face?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
All 'other persons named' interviewed face-to-face?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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"/>
Did the investigation adhere to established protocols for a joint investigation?	<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 parents of the infant were interviewed. Efforts were made to interview the MGM face-to-face and by telephone. The MGM had not contacted ACS since the start of the 5/12/16 investigation.

**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"/>

**Legal Activity Related to the Fatality**

Was there legal activity as a result of the fatality investigation? There was no legal activity.

Have any Orders of Protection been issued? No

**Services Provided to the Family in Response to the Fatality**



# NYS Office of Children and Family Services - Child Fatality Report

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 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 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 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 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 SM stated she would work with her counselor at Safe Space as she feels comfortable with her. The SF informed ACS that he would try the "counseling." ACS offered burial assistance and the SF said he would be willing to accept assistance.

**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? N/A**

**Explain:**

There were no surviving children in the home.

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

**Explain:**

The SM stated she would work with her counselor at Safe Space as she feels comfortable with her. The SF said he would try counseling.



## History Prior to the Fatality

### Child Information

**Did the child have a history of alleged child abuse/maltreatment?** Yes  
**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?** 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)	Status/Outcome	Compliance Issue(s)
03/08/2016	11342 - Deceased Child, Male, 1 Days	11341 - Mother, Female, 20 Years	Inadequate Guardianship	Unfounded	Yes

#### Report Summary:

The report alleged that the mother has a history of clinical health concerns. The mother has been out of control and physically aggressive with another unknown child in the past. The mother gave birth to her infant. The mother's clinical state was still an issue on whether it impairs her ability to adequately care or protect the infant. The infant's safety and well being while in the mother's care was an ongoing concern.

**Determination:** Unfounded

**Date of Determination:** 05/06/2016

#### Basis for Determination:

ACS based their determination on the physical, clinical, and emotional condition of the infant had not been impaired or placed in imminent danger of impairment. The caretakers did not fail to exercise a minimum degree of care. The basic needs of the infant are being met. They are meeting the needs of the infant for food, clothing, shelter, medical care and supervision. ACS had no evidence that the child the mother babysat was injured as that child's mother reported that she took the child to the doctor after the alleged incident and the child was said to be fine. At the time of the incident, the mother (babysitter) did not have children of her own and therefore, her infant was not in danger.

**OCFS Review Results:**

The investigation was begun timely. ACS completed safety assessments on 3/15/16 and 5/6/16. Both safety assessments reflected that the comments did not support the selected safety factor. The safety assessments did not reflect how the parent's apparent or diagnosed medical or clinical health status or developmental disability negatively impacts his/her ability to supervise, protect, and/or care for the infant. During a home visit, Safe Sleep was discussed with the parents. ACS did not attempt to interview the arresting LE officer of the mother to obtain further information. ACS opened a Family Service Stage (FSS) on 5/5/16 for continued service and monitoring; it was closed on 5/20/16.

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

**Issue:**

Timely/Adequate Seven Day Assessment

**Summary:**

The 5/5/16 safety assessment included comments that did not support the selected safety factor. The safety assessment did not reflect how the parents' apparent or diagnosed condition negatively affected their ability to supervise, protect, and/or care for the infant.

**Legal Reference:**

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

**Action:**

ACS must submit a corrective action plan within 45 days that identifies the action the agency has taken or will take to address the citations identified in the fatality report. ACS must meet with the staff involved with this fatality investigation and inform NYCRO of the date of the meeting, who attended and what was discussed.

**Issue:**

Pre-Determination/Assessment of Current Safety/Risk

**Summary:**

The 5/5/16 safety assessment reflected that the comment did not support the selected safety factor. The safety assessment did not reflect how the parent's apparent or diagnosed medical or clinical health status developmental disability negatively impacts his/her ability to supervise, protect, and/or care for the infant.

**Legal Reference:**

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

**Action:**

ACS must submit a corrective action plan within 45 days that identifies the action the agency has taken or will take to address the citations identified in the fatality report. ACS must meet with the staff involved with this fatality investigation and inform NYCRO of the date of the meeting, who attended and what was discussed.

**Issue:**

Contact/Information From Reporting/Collateral Source

**Summary:**

ACS did not attempt to interview the arresting LE officer to obtain further information about police intervention. The documentation did not reflect whether ACS attempted to interview the observer who allegedly witnessed what occurred with the child and babysitter in the subway train car.

**Legal Reference:**

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

**Action:**

ACS must submit a corrective action plan within 45 days that identifies the action the agency has taken or will take to address the citations identified in the fatality report. ACS must meet with the staff involved with this fatality investigation and inform NYCRO of the date of the meeting, who attended and what was discussed.



# NYS Office of Children and Family Services - Child Fatality Report

Date of SCR Report	Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Status/Outcome	Compliance Issue(s)
03/08/2016	11333 - Other Child - SM babysat child, Male, 1 Years	11331 - Other - Babysitter, Female, 20 Years	Inadequate Guardianship	Unfounded	Yes

**Report Summary:**

The 3/8/16 report alleged that last year, 8/5/15, the babysitter while on the subway train with the 1-year-old child became physically aggressive towards the child. The babysitter screamed at the child and slammed the stroller up and down. The child cried and the babysitter shoved things into the child's mouth with force, to stop the child from crying. The police were called. The police responded to the scene and got the babysitter off the train. The police attempted to ask the babysitter to give up the child to them, to protect the child from any further harm. The babysitter refused and became out of control and proceeded to swing the baby stroller around with the child in it.

**Determination:** Unfounded**Date of Determination:** 04/06/2016**Basis for Determination:**

ACS based their determination lack of evidence that the child was injured in any way as a result of the babysitter's actions. She was not a person legally responsible for the child and had not seen the child since August 2015 as there was an order of protection (OOP).

**OCFS Review Results:**

The investigation was initiated within 24 hours of receipt of the report. ACS did not attempt to interview the arresting LE officer of the mother to obtain further information about the allegations. The documentation did not reflect whether ACS attempted to interview the observer in the subway train car who had allegedly witnessed the child and babysitter. The mother of the child in this report was not listed as a subject; she was listed as having "No Role" according to the CPS Investigation Summary. The mother and child relocated out of state. ACS contacted the out of state non-emergency police to request a courtesy home visit, but the county CPS did not accept the referral.

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

Contact/Information From Reporting/Collateral Source

**Summary:**

ACS did not attempt to interview the arresting LE officer to obtain further information about police intervention. The documentation did not reflect whether ACS attempted to identify and interview the observer who reportedly witnessed the incident that occurred with the child and babysitter in the subway train car.

**Legal Reference:**

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

**Action:**

ACS must submit a corrective action plan within 45 days that identifies the action the agency has taken or will take to address the citations identified in the fatality report. ACS must meet with the staff involved with this fatality investigation and inform NYCRO of the date of the meeting, who attended and what was discussed.

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

The SF, MU and UHM were not known to the SCR or ACS as subjects. The SM was not known to the SCR or ACS as a subject more than three years prior to the fatality.

The MGM was known to the SCR and ACS as a subject in 11 reports dated: 12/29/88, 1/20/93, 8/4/98, 2/1/99, 3/30/99,



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10/31/06 (two reports), 12/6/07, 3/20/09, 9/14/09, and 11/25/09. The allegation of the 12/29/88 report was Other and it was Sub on 1/30/89. The allegations of the 1/20/93 report were Other and IF/C/S. On 3/5/93, the report was IND. The allegations of the 8/4/98 report were SA and IG. On 10/6/98, ACS Unsub the allegation of SA by the Parental Substitute (PS) and MGM and IG by the PS. The allegation of IG of the SM, MU and two siblings was Sub. The allegations of the 2/1/99 report were IG, MN, and IF/C/S by the MGM. On 3/31/99, ACS Sub the allegations. The allegations of the 3/30/99 report were IG and PD/AM by the MGM. On 4/27/99, ACS Sub the allegation of IG and Unsub the allegation of PD/AM. The allegations of the 10/31/06 report were IG and IF/C/S of the MU by the MGM and step-parent. The report was Unf on 1/25/07. The allegation of the 12/6/07 report was IG; the report was Unf on 1/31/08. The allegations of the 3/20/09 report were IG and MN and the 9/14/09 report was IG by the MGM. Both reports were Unf on 5/19/09 and 11/13/09 respectively. The allegations of the 11/25/09 report were IF/C/S, IG, LS, and PD/AM. The report was IND on 2/3/10.

### Known CPS History Outside of NYS

There was no known history outside of NYS.

### Services Open at the Time of the Fatality

Was the deceased child(ren) involved in an open preventive services case at the time of the fatality? Yes

Date the preventive services case was opened: 05/05/2016

Was the deceased child(ren) involved in an open Child Protective Services case at the time of the fatality? Yes

Date the Child Protective Services case was opened: 05/05/2016

### Evaluative Review of Services that were Open at the Time of the Fatality

	Yes	No	N/A	Unable to Determine
Was there information in the case record that indicated the existence of behaviors or conditions that placed the children in the case in danger or increased their risk of harm?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### Family Assessment and Service Plan (FASP)

	Yes	No	N/A	Unable to Determine
Was the most recent FASP approved on time?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was there a current Risk Assessment Profile/Risk Assessment in the most recent FASP?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was the FASP consistent with the case circumstances?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Closing



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	Yes	No	N/A	Unable to Determine
Was the decision to close the Services case appropriate?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## Provider

	Yes	No	N/A	Unable to Determine
Were Services provided by a provider other than the Local Department of Social Services?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Additional information, if necessary:**  
 The Family Service Stage (FSS) was opened on 5/5/16 and closed on 5/20/16. The documentation reflected that ACS opened the FSS for the purpose of providing PPRS to monitor family functioning. The only child in the home was deceased; there was no longer the need for PPRS.

## Required Action(s)

**Are there Required Actions related to compliance issues for provisions of CPS or Preventive services ?**

Yes No

## Preventive Services History

During the 3/8/16 investigation, the Family Service Stage (FSS) was opened on 5/5/16 and was closed on 5/20/16. The Family Services Progress Notes showed ACS opened the FSS for the purpose of providing preventive services to addressing health services to the mother and monitoring the home. Following the infant's death, the case was closed because there were no surviving children in the home.

## 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



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Was there any legal activity within three years prior to the fatality investigation?

Family Court

Criminal Court

Order of Protection

**Have any Orders of Protection been issued? Yes**

**From:** 03/11/2016

**To:** 09/09/2016

**Explain:**

That an order of protection (OOP) issued against the SM to stay away from a child she babysat.

**From:** 04/29/2015

**To:** 04/28/2017

**Explain:**

There was an OOP issued against the SF and the protected person was listed as the SM.

**From:** 07/22/2014

**To:** 07/21/2016

**Explain:**

An OOP was issued for the SF in which the protected person was a female individual (the same individual identified in an OOP issued on 1/27/14) and an additional individual, was noted.

**From:** 01/27/2014

**To:** 01/26/2019

**Explain:**

There was an OOP issued for the SF and the protected person was a woman.

**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