



Report Identification Number: BU-15-038

Prepared by: Buffalo Regional Office

Issue Date: 5/26/2016

This report, prepared pursuant to section 20(5) of the Social Services Law (SSL), concerns:

- A report made to the New York Statewide Central Register of Child Abuse and Maltreatment (SCR) involving the death of a child.
- The death of a child for whom child protective services has an open case.
- The death of a child whose care and custody or custody and guardianship has been transferred to an authorized agency.
- The death of a child for whom the local department of social services has an open preventive service case.

The Office of Children and Family Services (OCFS) is mandated by section 20 of the SSL to investigate or cause for the investigation of the cause and circumstances surrounding the death, review such investigation, and prepare and issue a fatality report in regard to the categories of deaths noted above involving a child, except where a local or regional fatality review team issues a report, as authorized by law.

Such report must include: the cause of death; the identification of child protective or other services provided or actions taken regard to such child and child's family; any extraordinary or pertinent information concerning the circumstances of the child's death; whether the child or the child's family received assistance, care or services from the social services district prior to the child's death; any action or further investigation undertaken by OCFS or the social services district since the child's death; and as appropriate, recommendations for local or state administrative or policy changes.

This report contains no information that would identify the deceased child, his or her siblings, the parent, parents, or other persons legally responsible for the child, and any members of the deceased child's household.

By statute, this report will be forwarded to the social services district, chief county executive officer, chairperson of the local legislative body of the county where the child died and the social services district that had legal custody of the child, if different. Notice of the issuance of this report will be sent to the Speaker of the Assembly and the Temporary President of the Senate of the State of New York.

This report may **only** be disclosed to the public by OCFS pursuant to section 20(5) of the SSL. **It may be released by OCFS only after OCFS has determined that such disclosure is not contrary to the best interests of the deceased child's siblings or other children in the household.**

OCFS' review included an examination of actions taken by individual caseworkers and supervisors within the social services district and agencies under contract with the social services district. The observations and recommendations contained in this report reflect OCFS' assessment and the performance of these agencies.



Abbreviations

Relationships		
BM-Biological Mother	SM-Subject Mother	SC-Subject Child
BF-Biological Father	SF-Subject Father	OC-Other Child
MGM-Maternal Grand Mother	MGF-Maternal Grand Father	FF-Foster Father
PGM-Paternal Grand Mother	PGF-Paternal Grand Father	DCP-Day Care Provider
MGGM-Maternal Great Grand Mother	MGGF-Maternal Great Grand Father	PGGF-Paternal Great Grand Father
PGGM-Paternal Great Grand Mother	MA/MU-Maternal Aunt/Maternal Uncle	PA/PU-Paternal Aunt/Paternal Uncle
Contacts		
LE-Law Enforcement	CW-Case Worker	CP-Case Planner
Dr.-Doctor	ME-Medical Examiner	EMS-Emergency Medical Services
DC-Day Care	FD-Fire Department	BM-Biological Mother
CPR-Cardio-pulmonary Resuscitation		
Allegations		
FX-Fractures	II-Internal Injuries	L/B/W-Lacerations/Bruises/Welts
S/D/S-Swelling/Dislocation/Sprains	C/T/S-Choking/Twisting/Shaking	B/S-Burns/Scalding
P/Nx-Poisoning/ Noxious Substance	XCP-Excessive Corporal Punishment	PD/AM-Parent's Drug Alcohol Misuse
CD/A-Child's Drug/Alcohol Use	LMC-Lack of Medical Care	EdN-Educational Neglect
EN-Emotional Neglect	SA-Sexual Abuse	M/FTTH-Malnutrition/Failure-to-thrive
IF/C/S-Inadequate Food/ Clothing/ Shelter	IG-Inadequate Guardianship	LS-Lack of Supervision
Ab-Abandonment	OTH/COI-Others	
Miscellaneous		
IND-Indicated	UNF-Unfounded	SO-Sexual Offender
Sub-Substantiated	Unsub-Unsubstantiated	DV-Domestic Violence
LDSS-Local Department of Social Service	ACS-Administration for Children's Services	NYPD-New York City Police Department
PPRS-Purchased Preventive Rehabilitative Services		

Case Information



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Report Type: Child Deceased
Age: 0 day(s)

Jurisdiction: Erie
Gender: Male

Date of Death: 11/11/2015
Initial Date OCFS Notified: 11/11/2015

Presenting Information

On November 11, 2015 An SCR report was made against the mother with allegations of IG/PDRG regarding the newborn subject child (SC). Mother tested positive for marijuana at the time of giving birth. The SC expired at the hospital 16 hours after birth. The attending physician listed the Official cause of death as " extreme prematurity and respiratory failure." There was no autopsy done. Father and one-year-old have unknown roles.

Executive Summary

On 11-11-15 Erie County received an SCR report with allegations of IG and PD/AM against the subject mother after she tested positive for cannabinoids after giving birth to the subject child (SC). The SC's toxicology was unknown at the time. The mother was given CPS notification letter by the case worker to initiate the investigation. Mother admitted to using pot during the pregnancy to alleviate pain and to help her sleep. Mother didn't think that there was anything wrong with her smoking marijuana and it had no side effect on subject child according to hospital records. She stated that she did receive prenatal care and had provisions at home for the SC. The parents were given information on safe sleep from the hospital.

The SC was born at 23 weeks gestation he weighed one pound four ounces and he expired sixteen hours after birth due to extreme prematurity and respiratory failure. The CPS report was made prior to SC death. The parents were allowed to hold the SC after his death and allowed to grieve at the hospital. The parents were given information for grief counseling. Mother declined at the time.

The case worker made case and collateral contacts including family members and medical personnel. Medical records, criminal background, SCR history checks and documentation of the case work activities were completed. The CPS worker made contact with the parents and surviving sibling (SS) at the hospital and their home. The SS was checked by the case worker and found to be healthy with no marks or bruises present. Her pediatrician provided documentation that she was up to date on immunizations and health care well visits. There were no concerns reported by the pediatrician. There were adequate provisions and sleeping arrangement in the home. Case worker stated that the parents deny mental health issues, domestic violence or drug and alcohol issues. Parents acknowledge that they used marijuana occasionally when not caring for SS. When disciplining SS the parents redirect her attention and never use physical punishment. Mother had concerns regarding housing as she was behind on the rent. Case worker provided her with resource for housing and rent assistance which include Community Action Organization (CAO) and their homeless prevention program. The parents were not working at the time but both planned to start new jobs soon.

The report of 11-11-15 against the mother with allegations of IG and PD/AM with respect to the SC was unfounded. Mother had positive toxicology for marijuana at the birth of SC. Mother had positive tox, but there was no evidence to suggest her drug use caused the child's death. Marijuana is not believed to be the cause of SC's death. The family was referred to community based services only. The case was unfounded and closed with no further CPS intervention needed. SS was assessed to be safe at the time.



Findings Related to the CPS Investigation of the Fatality

Safety Assessment:

- Was sufficient information gathered to make the decision recorded on the:
 - Approved Initial Safety Assessment? Yes
 - Safety assessment due at the time of determination? Yes
- Was the safety decision on the approved Initial Safety Assessment appropriate? Yes

Determination:

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

Explain:

The SC died at the hospital sixteen hours after birth.

Was the decision to close the case appropriate? Yes

Was casework activity commensurate with appropriate and relevant statutory or regulatory requirements? Yes

Was there sufficient documentation of supervisory consultation? Yes, the case record has detail of the consultation.

Explain:

Review of the case record showed that LDSS made all appropriate case and collateral contacts including the parents , SS and medical personnel . They completed safety and risk assessment and deemed that SS was safe from risk in the home.

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: 11/11/2015

Time of Death: 08:10 PM

County where fatality incident occurred: ERIE

Was 911 or local emergency number called? No

Did EMS to respond to the scene? No

At time of incident leading to death, had child used alcohol or drugs? No

Child's activity at time of incident:



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- Sleeping
- Playing
- Other

- Working
- Eating

- Driving / Vehicle occupant
- Unknown

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

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

1

At time of incident supervisor was: 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	Deceased Child	Alleged Victim	Male	16 Hour(s)
Deceased Child's Household	Father	No Role	Male	27 Year(s)
Deceased Child's Household	Mother	Alleged Perpetrator	Female	27 Year(s)
Deceased Child's Household	Sibling	No Role	Female	8 Month(s)

LDSS Response

LDSS made all appropriate case contacts and completed safety and risk assessments. LDSS reviewed for CPS history and there were 2 reports that were unfounded. The mother and father were both interviewed at the hospital and in the home on multiple occasions. SS was too young to interview but was observed and assessed to be safe. Collateral contacts were made with medical staff at the hospital and a referral was made to a community agency due to housing issues. Risk assessment of the SS was done and child was deemed to be not at risk.

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?No

Comments: Erie County does not have an OCFS approved CFRT.



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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 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Coordination of investigation with law enforcement?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was there an adequate safety assessment of impending or immediate danger to surviving siblings/other children in the household named in the report:				
Within 24 hours?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
At 7 days?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
At 30 days?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was there an approved Initial Safety Assessment for all surviving siblings/ other children in the household within 24 hours?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Are there any safety issues that need to be referred back to the local district?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

When safety factors were present that placed the surviving siblings/other children in the household in impending or immediate danger of serious harm, were the safety interventions, including parent/caretaker actions adequate?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Fatality Risk Assessment / Risk Assessment Profile

	Yes	No	N/A	Unable to
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				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 siblings/other children in the household removed as a result of this fatality report/investigation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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	Needed but not Offered	Needed but Unavailable	N/A	CDR Lead to Referral
Bereavement counseling	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Economic support	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Funeral arrangements	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Housing assistance	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input 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"/>



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

The parents were offered grief counseling and substance abuse evaluation/treatment which they declined. They denied using drugs or alcohol while caring for SS. A referral was made to CAO. There was nothing to indicate that mother had a chronic drug problem. SS appeared to be safe in the home.

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

Explain:

Resources for housing and rent assistance were provided due to the family struggling to pay rent. The family was referred to a community based agency to address the housing issue. Substance abuse referral was offered and grief counseling to the parents but they were declined.

History Prior to the Fatality

Child Information

- Did the child have a history of alleged child abuse/maltreatment? No
- Was there an open CPS case with this child at the time of death? 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? Yes

Infants Under One Year Old

During pregnancy, mother:

Had medical complications / infections

Had heavy alcohol use



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- Misused over-the-counter or prescription drugs
- Experienced domestic violence
- Was not noted in the case record to have any of the issues listed
- 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)
11/11/2015	9195 - Deceased Child on Report, Male, 0 Years	9192 - Mother, Female, 27 Years	Inadequate Guardianship	Unfounded	No
	9195 - Deceased Child on Report, Male, 0 Years	9192 - Mother, Female, 27 Years	Parents Drug / Alcohol Misuse	Unfounded	

Report Summary:

There was a report made to the SCR on November 11, 2015 with allegations of IG and PD/AM against the mother who tested positive for cannabinoids after giving birth to the subject child. Mother admitted to using marijuana during the pregnancy stating that it helped her manage pain and diminished nausea. She received prenatal care during the pregnancy. There father and sibling had no roles in this report. The baby was born at 23 weeks gestation and expired four hours after birth due to extreme prematurity and respiratory failure. This occurred after the initial report was made. The report was unfounded as there was no credible link of harm found towards the child.

Determination: Unfounded **Date of Determination:** 12/31/2015

Basis for Determination:

The baby was born at 23 weeks gestation and expired four hours after birth due to extreme prematurity and respiratory failure. This occurred after the initial report was made. The report was unfounded as there was no credible link of harm found towards the child.

OCFS Review Results:

No concerns are evident upon OCFS review.

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

Date of SCR Report	Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Status/Outcome	Compliance Issue(s)
03/10/2015	9197 - Sibling, Female, 1 Years	9191 - Mother, Female, 27 Years	Parents Drug / Alcohol Misuse	Unfounded	No
	9200 - Sibling, Female, 1 Years	9191 - Mother, Female, 27 Years	Inadequate Guardianship	Unfounded	

Report Summary:

There was an SCR report was made on March 10, 2015 with allegations of PD/AM after mother gave birth to child. Mother had a positive toxicology for marijuana at the time of delivery. The child appeared to be healthy and there were no ill affects. There was insufficient credible evidence to support the allegation and the report was unfounded. The parents denied using marijuana while caring for the child. Mother stated that she used marijuana during pregnancy to



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relieve pain and nausea.	
Determination: Unfounded	Date of Determination: 06/09/2015
Basis for Determination: There was insufficient credible evidence to support the allegation and the report was unfounded. The parents denied using marijuana while caring for the child. Mother stated that she used marijuana during pregnancy to relieve pain and nausea.	
OCFS Review Results: No concerns are evident upon OCFS review.	
Are there Required Actions related to the compliance issue(s)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

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

There was one report naming the mother as a maltreated child and MGM as the subject of a report on March 21, 2012. The allegations were EdN , IG, LMC and LS. The report was indicated for EdN and closed.

Known CPS History Outside of NYS

There is no know CPS history outside of NYS.

Services Open at the Time of the Fatality

Required Action(s)

Are there Required Actions related to compliance issues for provisions of CPS or Preventive services ?
 Yes No

Preventive Services History

There is no record of Preventive Services History provided to the deceased child, the deceased child's siblings, and/or the other children residing in the deceased child's household at the time of the fatality.

Casework Contacts

	Yes	No	N/A	Unable to Determine
Were face-to-face contacts with the child in the child's placement location made with the required frequency?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>



Required Action(s)

Are there Required Actions related to the compliance issues for provision of Foster Care Services?

Yes No

Foster Care Placement History

There is no record of foster care placement history provided to the deceased child, the deceased child's siblings, and/or the other children residing in the deceased child's household at the time of the fatality.

Legal History Within Three Years Prior to the Fatality

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

Additional Local District Comments

We find that the facts as stated describe the unfortunate events and the actions taken. We are pleased that OCFS found that the fatality investigation was conducted appropriately and that there are no required actions related to the fatality. We are equally pleased that OCFS found no required actions related to the investigations conducted during the three year period preceding the fatality. We appreciate the opportunity to partner with OCFS in providing the best possible services to families in our community.

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