



**Report Identification Number: BU-18-022**

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

**Issue Date: Nov 30, 2018**

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

| <b>Relationships</b>                              |   |                                       |
|---|---|---------------------------------------|
| 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                              |                                       |
| <b>Contacts</b>                                   |   |                                       |
| 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                     |   |                                       |
| <b>Allegations</b>                                |   |                                       |
| 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                               |                                       |
| <b>Miscellaneous</b>                              |   |                                       |
| 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                 |   |                                       |



## Case Information

**Report Type:** Child Deceased  
**Age:** 5 month(s)

**Jurisdiction:** Erie  
**Gender:** Male

**Date of Death:** 07/22/2018  
**Initial Date OCFS Notified:** 07/22/2018

## Presenting Information

An SCR report alleged on 7/21/18, the SF was highly intoxicated and under the influence of synthetic marijuana while he was the sole caretaker of the SC and 8yo SS. Around 2AM, the SC awoke crying while in bed with the SS. The SF gave the SS a bottle to feed the SC. The SS fed the SC then got back into bed with him. At 6:30AM, the SM returned from work and found the SF asleep in the bathtub; she woke him. The SF then found the SC unresponsive with blue lips, vomit on him, cold to the touch, and with blood on his face. An unrelated home member called 911. The cause of death was unknown; there were no explanations provided. The report alleged both parents' use of drugs while caring for the children was a common occurrence. It was also alleged SF frequently drank alcohol to the point of intoxication. Another ongoing issue alleged was the parents physically assaulted each other in the presence of the SC. The home was allegedly in deplorable conditions, posing health and safety hazards.

## Executive Summary

This fatality report concerns the death of a 5-month-old male child (SC) that occurred on 7/22/18. A report was made to the SCR on 7/22/18, with concerns the father was impaired by drugs and alcohol while caring for the SC and the 8-year-old sibling and that the mother was aware. There were also 5 unrelated home members residing in the home, some of whom were present in other parts of the home at the time of the fatality.

Erie County Department of Social Services (ECDSS) and LE conducted investigations into the events surrounding the fatality. ECDSS promptly interviewed the parents, sibling, all 5 unrelated household members, and observed the environment where the incident occurred.

The SC died while sleeping on an adult sized mattress which was shared with the 8yo SS. The father was the caregiver while the mother was at work. The SC was found face-down in the plastic-covered mattress, which also contained blankets and pillows. The investigation revealed aggravating factors regarding this possible unsafe sleep-related fatality: The father was under the influence of drugs/alcohol to the extent his judgment and/or physical ability was impaired; the physical condition of the sleeping area was unsafe to the infant; and, the infant's sleeping surface was shared with another child. The mother was also held responsible for the death, knowing the father's regular drug/alcohol use and failing to provide a safe sleeping environment for the infant. ECDSS sufficiently gathered some credible evidence to substantiate all allegations against the parents, including DOA/Fatality.

Some unrelated home members reported hearing the father make demeaning statements toward both children during the night prior to the fatality. They also reported the parents frequently failed to provide them with food or clean clothing. They reported about the parents' ongoing drug and alcohol use, and parental violence in the presence of the children. Some reported knowing the father was intoxicated the night of the fatality while being the sole caretaker of the children. For their knowledge and failure to intervene on behalf of the safety of the children, ECDSS substantiated the allegation of IG against all unrelated home members.

ECDSS removed the 8yo SS, as well as the 1yo SS who had been residing with the PGM for the previous 8 months in an informal arrangement. The 8yo was placed with relatives; the 1yo remained in the care of his PGM. Neglect petitions were filed against the parents for both children, and a CPS-Services/Foster Care case was opened. Efforts were made to locate the 8yo SS's BF, but were unsuccessful. ECDSS assessed the safety of the father's 13yo child, who resided with her mother, and found her to be safe; she had not had contact with her father in over 2 years.



The ME reported the cause and manner of the child’s death was “Undetermined.” The criminal investigation was still pending at the time the investigation closed. There had been no arrests made to date.

Grief services were offered, and the 8yo SS was provided trauma counseling. Additional services continued in the open case after the investigation closed.

### PIP Requirement

For issues 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:

- **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:

Sufficient information was gathered to make an accurate determination of all allegations, as well as for concerns regarding the surviving sibling.

**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:

The decision to close the CPS investigation was appropriate. A case was then opened to address service needs for the two siblings who entered placement as a result of the fatality.

## 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: 07/22/2018

Time of Death: Unknown

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

Unknown

County where fatality incident occurred:

Erie

Was 911 or local emergency number called?

Yes

Time of Call:

06:20 AM

Did EMS respond to the scene?

Yes

At time of incident leading to death, had child used alcohol or drugs?

No

Child's activity at time of incident:

Sleeping

Working

Driving / Vehicle occupant

Playing

Eating

Unknown

Other

Did child have supervision at time of incident leading to death? No - but needed

At time of incident supervisor was:

Drug Impaired

Absent

Alcohol Impaired

Asleep

Distracted

Impaired by illness

Impaired by disability

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   | 5 Month(s) |
| Deceased Child's Household | Father                | Alleged Perpetrator | Male   | 34 Year(s) |
| Deceased Child's Household | Mother                | Alleged Perpetrator | Female | 22 Year(s) |
| Deceased Child's Household | Sibling               | Alleged Victim      | Female | 8 Year(s)  |
| Deceased Child's Household | Unrelated Home Member | Alleged Perpetrator | Male   | 47 Year(s) |
| Deceased Child's Household | Unrelated Home Member | Alleged Perpetrator | Male   | 37 Year(s) |
| Deceased Child's Household | Unrelated Home Member | Alleged Perpetrator | Male   | 30 Year(s) |
| Deceased Child's Household | Unrelated Home Member | Alleged Perpetrator | Male   | 51 Year(s) |
| Deceased Child's Household | Unrelated Home Member | Alleged Perpetrator | Female | 23 Year(s) |



|                   |         |         |        |            |
|-------------------|---------|---------|--------|------------|
| Other Household 1 | Sibling | No Role | Male   | 1 Year(s)  |
| Other Household 2 | Sibling | No Role | Female | 13 Year(s) |

## LDSS Response

ECDSS immediately responded to the report by reviewing history, contacting collaterals, and interviewing everyone in the home. ECDSS arranged for the hospital to assess the 8yo SS; she was medically well. A safety plan was devised whereby the parents had no unsupervised contact. ECDSS then took appropriate action by petitioning the Court for a protective removal. Though he informally resided with his PGM, ECDSS included the 1yo SS on the petition and removed him from the parents' custody as well.

ECDSS learned the evening before the fatal incident, the 8yo SS accompanied an unrelated home member to an event while SC stayed home with SF; they returned around 10PM. SS said SF put her and SC in bed together at 11PM, then found a bottle under the couch for SS to feed SC around 2AM. After she fed him, the CHN fell back asleep in the bed. SF denied putting the CHN in bed together. SF reported SS gave SC his last bottle by propping it with a blanket on the couch, and said once the CHN were asleep on the couch, he went to take a bath around 4:15AM. He said he came out of the bathroom when SM knocked on the door after returning from work. SF denied he slept at all that night. He said they checked on SC after SM came home and found him face down in bed with SS. He said when he and SM found SC, he was cold and had blood on his face. He reported SS was on the other side of the bed. SF said SC was typically put to sleep on his back in a crib, and noted SC knew how to roll over.

ECDSS interviewed all 5 unrelated home members, many of whom were home around the time of the fatality. One resident reported he saw SS and SC asleep on the mattress around 4:47AM, the SC's face in the SS's armpit, his nose and mouth blocked. This person also observed SF "passed out" on the couch at that time, an empty liquor bottle on the table nearby. This adult then left for work. The adult who was with SS the previous evening said SF had called her to return so SS could watch the baby. This person described the parents' frequent use of synthetic marijuana, including just prior to finding SC unresponsive. She also described frequent violence in the presence of the CHN, and said SS often came to her for food. Another resident regularly allowed SS into his room where he would feed her and watch her while the parents fought and/or used drugs. All household members individually reported they had prior knowledge the parents continuously abused substances and did not meet the CHN's basic needs daily; however, they all failed to intervene to protect the CHN.

SM told ECDSS she left for work at 6:45PM on 7/21/18. The female resident let SM into the home around 6:20AM the next day, at which point she knocked on the bathroom door for SF. She said SF responded, and told her he had fallen asleep in the bathtub. Around 6:30AM, they checked on SC and found him unresponsive. She denied drug use.

ECDSS learned LE found synthetic marijuana and drug paraphernalia in the bathroom. They also found the drug in the bed where the CHN were sleeping, as well as vodka bottles, cigarette butts and other various items under the SC's portable crib. There were several smoking devices about the home within access to the CHN. SF denied he was under the influence of anything that evening, but said he had an alcoholic drink at 5PM on 7/21/18.

ECDSS assessed the safety of SF's other child. She was interviewed, and her mother shared concerns. This SS had no knowledge of the fatality and was deemed safe. ECDSS assessed all necessary home environments.

ECDSS received records from the pediatrician, where it was noted SC was referred to physical therapy and treatment was ordered for a skin infection. At that time, SM was warned about bottle propping, shaking babies, and unsafe sleeping.

ECDSS made necessary service referrals, and continued to work with the family in the open case. At the time this report was written, the parents were not yet making successful strides toward reunification.



## Official Manner and Cause of Death

**Official Manner:** Undetermined

**Primary Cause of Death:** Undetermined if injury or medical cause

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

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

## SCR Fatality Report Summary

| Alleged Victim(s)                         | Alleged Perpetrator(s)                             | Allegation(s)                        | Allegation Outcome |
|---|--|--------------------------------------|--------------------|
| 048230 - Deceased Child, Male, 5 Month(s) | 048237 - Unrelated Home Member, Female, 23 Year(s) | Inadequate Guardianship              | Substantiated      |
| 048230 - Deceased Child, Male, 5 Month(s) | 048231 - Mother, Female, 22 Year(s)                | Parents Drug / Alcohol Misuse        | Substantiated      |
| 048230 - Deceased Child, Male, 5 Month(s) | 048231 - Mother, Female, 22 Year(s)                | Inadequate Food / Clothing / Shelter | Substantiated      |
| 048230 - Deceased Child, Male, 5 Month(s) | 048240 - Unrelated Home Member, Male, 47 Year(s)   | Inadequate Guardianship              | Substantiated      |
| 048230 - Deceased Child, Male, 5 Month(s) | 048232 - Father, Male, 34 Year(s)                  | Inadequate Food / Clothing / Shelter | Substantiated      |
| 048230 - Deceased Child, Male, 5 Month(s) | 048231 - Mother, Female, 22 Year(s)                | DOA / Fatality                       | Substantiated      |
| 048230 - Deceased Child, Male, 5 Month(s) | 048232 - Father, Male, 34 Year(s)                  | Inadequate Guardianship              | Substantiated      |
| 048230 - Deceased Child, Male, 5 Month(s) | 048231 - Mother, Female, 22 Year(s)                | Inadequate Guardianship              | Substantiated      |
| 048230 - Deceased Child, Male, 5 Month(s) | 048236 - Unrelated Home Member, Male, 30 Year(s)   | Inadequate Guardianship              | Substantiated      |
| 048230 - Deceased Child, Male, 5 Month(s) | 048232 - Father, Male, 34 Year(s)                  | DOA / Fatality                       | Substantiated      |
| 048230 - Deceased Child, Male, 5 Month(s) | 048239 - Unrelated Home Member, Male, 51 Year(s)   | Inadequate Guardianship              | Substantiated      |
| 048230 - Deceased Child, Male, 5 Month(s) | 048232 - Father, Male, 34 Year(s)                  | Parents Drug / Alcohol Misuse        | Substantiated      |
| 048230 - Deceased Child, Male, 5 Month(s) | 048238 - Unrelated Home Member, Male, 37 Year(s)   | Inadequate Guardianship              | Substantiated      |
| 048233 - Sibling, Female, 8 Year(s)       | 048232 - Father, Male, 34 Year(s)                  | Parents Drug / Alcohol Misuse        | Substantiated      |



# Child Fatality Report

|                                     |                                     |                                      |               |
|-------------------------------------|-------------------------------------|--------------------------------------|---------------|
| 048233 - Sibling, Female, 8 Year(s) | 048231 - Mother, Female, 22 Year(s) | Inadequate Guardianship              | Substantiated |
| 048233 - Sibling, Female, 8 Year(s) | 048232 - Father, Male, 34 Year(s)   | Inadequate Food / Clothing / Shelter | Substantiated |
| 048233 - Sibling, Female, 8 Year(s) | 048232 - Father, Male, 34 Year(s)   | Inadequate Guardianship              | Substantiated |
| 048233 - Sibling, Female, 8 Year(s) | 048231 - Mother, Female, 22 Year(s) | Inadequate Food / Clothing / Shelter | Substantiated |
| 048233 - Sibling, Female, 8 Year(s) | 048231 - Mother, Female, 22 Year(s) | Parents Drug / Alcohol Misuse        | 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 checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Contact with source?  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| All appropriate Collaterals contacted?  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Was a death-scene investigation performed?  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Was there discussion with all parties (youth, other household members, and staff) who were present that day (if nonverbal, observation and comments in case notes)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Coordination of investigation with law enforcement?   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Was there timely entry of progress notes and other required documentation?  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

### 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 checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|

### Fatality Risk Assessment / Risk Assessment Profile

|   | Yes                                 | No                       | N/A                      | Unable to Determine      |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Was the risk assessment/RAP adequate in this case?  | <input 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 checked="" type="checkbox"/> | <input 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"/> |

**Explain:**  
 A CPS-Services/Foster Care case was opened to provide services to the family in response to the fatality and concerns for overall neglect of the SS.

### 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 checked="" type="checkbox"/> | <input 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 checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| If Yes, court ordered?  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

**Explain as necessary:**  
 During the initial court proceeding after neglect and removal petitions were filed, the 1yo and 8yo SS were removed with the parents' consent on 7/26/2018.

### Legal Activity Related to the Fatality

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

Family Court

Criminal Court

Order of Protection



| Family Court Petition Type: FCA Article 10 - CPS |   |   |
|--|---|---|
| Date Filed:                                      | Fact Finding Description:   | Disposition Description:                                  |
| 07/26/2018                                       | There was not a fact finding  | Direct Custody to/or Continued with Relative (Article 10) |
| <b>Respondent:</b>                               | 048231 Mother Female 22 Year(s)   |   |
| <b>Comments:</b>                                 | Based on the concerns revealed during the investigation, the 1-year-old surviving sibling was removed from the custody of the parents. The parents consented to the removal and placement of the child. Custody was awarded to the child's paternal grandparents, pursuant to Family Court Act 1017. Family Court matters remained ongoing. |   |

| Family Court Petition Type: FCA Article 10 - CPS |   |   |
|--|---|---|
| Date Filed:                                      | Fact Finding Description:   | Disposition Description:                                      |
| 07/26/2018                                       | There was not a fact finding  | Direct Custody to/or Continued with Non-Relative (Article 10) |
| <b>Respondent:</b>                               | 048232 Father Male 34 Year(s)   |   |
| <b>Comments:</b>                                 | Based on the concerns revealed during the investigation, the 1-year-old surviving sibling was removed from the custody of the parents. The parents consented to the removal and placement of the child. Custody was awarded to the child's paternal grandparents, pursuant to Family Court Act 1017. Family Court matters remained ongoing. |   |

| Family Court Petition Type: FCA Article 10 - CPS |  |  |
|--|--|--|
| Date Filed:                                      | Fact Finding Description:  | Disposition Description:                       |
| 07/26/2018                                       | There was not a fact finding   | Care/Custody to Local Social Services District |
| <b>Respondent:</b>                               | 048231 Mother Female 22 Year(s)  |  |
| <b>Comments:</b>                                 | Based on the concerns revealed during the investigation, the 8-year-old surviving sibling was removed from the custody of her mother. Petitions were filed against her mother and the SC's father. The parents consented to the removal and placement of the child. The child entered Foster Care and was placed with a relative who was a certified foster parent. Family Court matters remained ongoing. |  |

| Family Court Petition Type: FCA Article 10 - CPS |  |  |
|--|--|--|
| Date Filed:                                      | Fact Finding Description:  | Disposition Description:                       |
| 07/26/2018                                       | There was not a fact finding   | Care/Custody to Local Social Services District |
| <b>Respondent:</b>                               | 048232 Father Male 34 Year(s)  |  |
| <b>Comments:</b>                                 | Based on the concerns revealed during the investigation, the 8-year-old surviving sibling was removed from the custody of her mother. Petitions were filed against her mother and the SC's father. The parents consented to the removal and placement of the child. The child entered Foster Care and was placed with a relative who was a certified foster parent. Family Court matters remained ongoing. |  |

| Have any Orders of Protection been issued? Yes |                    |
|--|--------------------|
| <b>From:</b> 07/26/2018                        | <b>To:</b> Unknown |



**Explain:**  
 Within the Family Court order placing the children outside the custody of the SM and the SF, orders were included to protect the children. For the 1-year-old surviving sibling, the SM and SF were only allowed supervised day access, to be supervised by the paternal grandmother/custodian in the community as agreed and arranged. For the 8-year-old surviving sibling, there was no contact allowed with the SF. The SM was allowed supervised day access, supervised by Children and Family Services, twice a week for two hours. These orders were specified to remain in place during the period of the pendency of action.

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

| Services                             | Provided After Death                | Offered, but Refused     | Offered, Unknown if Used            | Not Offered                         | Needed but Unavailable   | N/A                                 | CDR Lead to Referral     |
|--------------------------------------|-------------------------------------|--------------------------|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|
| Bereavement counseling               | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Economic support                     | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Funeral arrangements                 | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input 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 checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Foster care                          | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Health care                          | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Legal services                       | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Family planning                      | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Homemaking Services                  | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Parenting Skills                     | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Domestic Violence Services           | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Early Intervention                   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input 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 checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Other                                | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

**Additional information, if necessary:**

Many services were referred, and a CPS-Services case was opened to address additional service needs in response to the fatality and ongoing neglect. The 8yo SS was the only family member actively engaged in MH services; they were in process of being established for the parents, as was substance abuse treatment. As the SS were removed, FC & health services were provided to them as well.

**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:**



Weekly trauma-related services were provided to the 8yo SS once she entered Foster Care. Visitation services were provided to facilitate visits with the parents following the removal of the children as a result of the fatality.

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

**Explain:**  
A CPS-Services/Foster Care case was opened to provide necessary services to the parents in response to concerns surrounding the fatality. Many services were referred as a part of the service plan, and were in process of being implemented in the open case. It was not apparent grief counseling was accepted by the parents, though it was referred by ECDSS.

## History Prior to the Fatality

### Child Information

|   |     |
|---|-----|
| <b>Did the child have a history of alleged child abuse/maltreatment?</b>                    | No  |
| <b>Was there an open CPS case with this child at the time of death?</b>                     | No  |
| <b>Was the child ever placed outside of the home prior to the death?</b>                    | No  |
| <b>Were there any siblings ever placed outside of the home prior to this child's death?</b> | Yes |
| <b>Was the child acutely ill during the two weeks before death?</b>                         | No  |

### Infants Under One Year Old

**During pregnancy, mother:**

- |  |  |
|--|--|
| <input type="checkbox"/> Had medical complications / infections                            | <input type="checkbox"/> Had heavy alcohol use         |
| <input type="checkbox"/> Misused over-the-counter or prescription drugs                    | <input type="checkbox"/> Smoked tobacco                |
| <input type="checkbox"/> Experienced domestic violence                                     | <input checked="" type="checkbox"/> Used illicit drugs |
| <input type="checkbox"/> Was not noted in the case record to have any of the issues listed |  |

**Infant was born:**

- |  |   |
|--|---|
| <input type="checkbox"/> Drug exposed  | <input type="checkbox"/> With fetal alcohol effects or syndrome |
| <input checked="" type="checkbox"/> With neither of the issues listed noted in case record |   |

## CPS - Investigative History Three Years Prior to the Fatality

| Date of SCR Report | Alleged Victim(s)        | Alleged Perpetrator(s)   | Allegation(s)                        | Allegation Outcome | Compliance Issue(s) |
|--------------------|--------------------------|--------------------------|--------------------------------------|--------------------|---------------------|
| 09/22/2017         | Sibling, Female, 7 Years | Mother, Female, 21 Years | Educational Neglect                  | Unsubstantiated    | Yes                 |
|                    | Sibling, Female, 7 Years | Mother, Female, 21 Years | Inadequate Food / Clothing / Shelter | Unsubstantiated    |                     |
|                    | Sibling, Female, 7 Years | Mother, Female, 21 Years | Inadequate Guardianship              | Unsubstantiated    |                     |



|                          |                          |                                      |                 |
|--------------------------|--------------------------|--------------------------------------|-----------------|
| Sibling, Female, 7 Years | Mother, Female, 21 Years | Parents Drug / Alcohol Misuse        | Unsubstantiated |
| Sibling, Female, 7 Years | Father, Male, 33 Years   | Educational Neglect                  | Unsubstantiated |
| Sibling, Female, 7 Years | Father, Male, 33 Years   | Inadequate Food / Clothing / Shelter | Unsubstantiated |
| Sibling, Female, 7 Years | Father, Male, 33 Years   | Inadequate Guardianship              | Unsubstantiated |
| Sibling, Female, 7 Years | Father, Male, 33 Years   | Parents Drug / Alcohol Misuse        | Unsubstantiated |
| Sibling, Female, 7 Years | Father, Male, 33 Years   | Lacerations / Bruises / Welts        | Unsubstantiated |

**Report Summary:**

An SCR report alleged the SM was abusing the drug “K2” to the point of impairment in the presence of the eldest sibling, making her unable to adequately care for the child. A subsequent report on 10/31/17 had a similar narrative, and alleged the SM used “K2” throughout her pregnancy with the youngest sibling, causing premature labor, and was high at the time of his birth. It was also alleged the SF was violent at times when he drank. On 10/22/17, the eldest sibling had a 1.5-inch bruise under her eye caused by the SF. It also alleged concerns for homelessness and poor school attendance, affecting the eldest child’s grades. These reports were consolidated into one investigation.

**Report Determination:** Unfounded

**Date of Determination:** 01/19/2018

**Basis for Determination:**

ECDSS investigated all allegations and promptly addressed both reports. After conversations with the parents, observations, and unannounced visits, ECDSS concluded there was no credible evidence to substantiate allegations surrounding parental drug and alcohol misuse. The parents were tested for substances, and no referral for drug/alcohol treatment was deemed necessary. ECDSS learned the youngest sibling resided with the PGM per their plan when they became homeless and lived in a tent. ECDSS made multiple referrals for services which were declined.

**OCFS Review Results:**

ECDSS diligently addressed the reports, evidenced by multiple casework contacts and home visits, collateral contacts, drug/alcohol evaluations, and referrals for services. Though allegations in the second report regarding the youngest child were addressed with all caretakers and his safety was assessed, ECDSS inaccurately removed him from the case near the end of the investigation, citing he did not reside with the parents. There were several progress notes that were not entered contemporaneously with the event dates.

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

**Issue:**

Timely/Adequate Case Recording/Progress Notes

**Summary:**

There were several progress notes that were not entered contemporaneously with the event dates; specifically, 2-3 months later.

**Legal Reference:**

18 NYCRR 428.5

**Action:**

All progress notes will be entered as contemporaneously as possible to their event dates.

**Issue:**

Case record contains information that is relevant, useful, factual and objective

**Summary:**

The youngest sibling, allegedly maltreated, was removed from the case as “reported in error.” This was inappropriate, given the alleged events were about a time when the child was in the mother’s care, and still subject to investigation.



Though it was investigated, no formal determination of the respective allegations was able to be made as he was removed from the case.

**Legal Reference:**

18 NYCRR 428.1 (b)(1)

**Action:**

ECDSS will review the criteria to determine whether a person may be removed from the case as “reported in error.”

| Date of SCR Report | Alleged Victim(s)        | Alleged Perpetrator(s)   | Allegation(s)                        | Allegation Outcome | Compliance Issue(s) |
|--------------------|--------------------------|--------------------------|--------------------------------------|--------------------|---------------------|
| 10/20/2016         | Sibling, Female, 6 Years | Mother, Female, 20 Years | Inadequate Food / Clothing / Shelter | Unsubstantiated    | No                  |
|                    | Sibling, Female, 6 Years | Mother, Female, 20 Years | Inadequate Guardianship              | Unsubstantiated    |                     |
|                    | Sibling, Female, 6 Years | Mother, Female, 20 Years | Parents Drug / Alcohol Misuse        | Unsubstantiated    |                     |
|                    | Sibling, Male, 21 Days   | Mother, Female, 20 Years | Inadequate Food / Clothing / Shelter | Unsubstantiated    |                     |
|                    | Sibling, Male, 21 Days   | Mother, Female, 20 Years | Inadequate Guardianship              | Unsubstantiated    |                     |
|                    | Sibling, Male, 21 Days   | Mother, Female, 20 Years | Parents Drug / Alcohol Misuse        | Unsubstantiated    |                     |
|                    | Sibling, Female, 6 Years | Father, Male, 32 Years   | Inadequate Food / Clothing / Shelter | Unsubstantiated    |                     |
|                    | Sibling, Female, 6 Years | Father, Male, 32 Years   | Inadequate Guardianship              | Unsubstantiated    |                     |
|                    | Sibling, Female, 6 Years | Father, Male, 32 Years   | Parents Drug / Alcohol Misuse        | Unsubstantiated    |                     |
|                    | Sibling, Male, 21 Days   | Father, Male, 32 Years   | Inadequate Food / Clothing / Shelter | Unsubstantiated    |                     |
|                    | Sibling, Male, 21 Days   | Father, Male, 32 Years   | Inadequate Guardianship              | Unsubstantiated    |                     |
|                    | Sibling, Male, 21 Days   | Father, Male, 32 Years   | Parents Drug / Alcohol Misuse        | Unsubstantiated    |                     |

**Report Summary:**

An SCR report alleged the two siblings were living in deplorable conditions, and the home was alleged to be unsanitary and a health hazard to the children. The home was allegedly filthy with dirty clothes on the floor, dirty dishes piled in the sink, no furniture, dirty and sticky floors with cigarette butts about, and the female sibling was sleeping on a mattress with no cover. The parents smoked cigarettes and marijuana to impairment around the children. The infant sibling was allegedly born premature; therefore, the smoking was detrimental to his health.

**Report Determination:** Unfounded

**Date of Determination:** 12/28/2016

**Basis for Determination:**

ECDSS investigated the allegations with the family and collateral contacts, and observed the home was not deplorable and met minimal standards. There were appropriate sleeping arrangements for the children. Both parents denied drug use and appeared sober and coherent during unannounced home visits.

**OCFS Review Results:**

ECDSS thoroughly documented observations and how they pertained to safety of the children. ECDSS provided the family with ample written information for child health and safety prevention, including safe sleep. Safe sleep was also discussed at length during the first contact, in addition to gathering other information about areas of potential child welfare concern.

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

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

The eldest sibling (SF's daughter, referred to as SS1) was an alleged maltreated child in 2 cases. In 2008, SF was a subject for allegations of IG and IF/C/S regarding SS1's sibling (of whom SF was the parent substitute). SS1 had no role, and the report was UNF. In 2010, allegations for IG and XCP regarding SS1 against her mother were Unsub. In 2012, allegations of PD/AM and IG regarding SS1 were Sub against her mother, and IG against her PS was Unsub.

SM's eldest child (referred to as SS2) was an alleged maltreated child in 10 cases, 4 of which alleged SM as a subject. In these cases, SM was a minor living in the MGM's home. SM was a non-confirmed subject in May of 2010 (for IG) and again in November of 2012 (for IG and PD/AM). SM was a confirmed subject regarding SS2 twice in 2013 (for IG and IF/C/S), the second time resulting in the removal of SS2 from her custody and an OP being put into place. There were 11 additional reports between 2010 and 2012 where SS2 was an alleged maltreated child in reports against MGM (6 cases in total, as some reports were consolidated into one investigation). Some of those reports also named other adults as subjects, such as MGGF, MU, SF, and unrelated household members. Substance abuse and poor home conditions were frequent allegations against the MGM. Four cases – from June of 2010 to May of 2011 – were UNF. The 2 cases in 2012 were IND; the first was IND against MGM only, the second was IND against her and the MU, SF, and SF's relative.

**Known CPS History Outside of NYS**

There was no known CPS history outside of New York State.

**Preventive Services History**

A Preventive Services case was opened on 5/13/10 to assist SM with parenting her first child, given her limited experience. The SM was linked with a teen parenting program which ECDSS monitored; ECDSS also provided biweekly in-home assistance teaching parenting skills and techniques. The children resided with the SM's mother, who was linked with services to fit her needs. ECDSS regularly monitored the safety, medical care, and school attendance of all the children in the home. Family counseling was referred, but declined. The case closed on 9/9/11 as the family was reportedly stable with familial supports in place.

Beginning 7/2/12, the SM and her first child were recipients of Preventive Services as children following indicated CPS concerns for the MGM. The SM's child was removed from her care twice during this open case. ECDSS monitored and provided services to the SM for her role as a mother, including: casework counseling, MH Tx, parenting classes, a GED program, supervised visitation, and a referral for a substance evaluation. Services continued after the child was deemed safe to return to the SM's care, and ECDSS noted SM successfully maintained a steady income and safe housing, enrolled the child in daycare, and got the child into MH counseling. The case was closed on 7/31/15 at the SM's request when service goals were achieved and court-ordered supervision ended.

**Foster Care Placement History**

The SM's eldest child was removed with her consent on 5/13/13. The SM and her child were living with the MGF, after SM was removed from MGM. There were supervision orders prohibiting contact between the MGM and SM's child,



which SM violated, but she was let off on a warning. SM made the same violation in May of 2013 and the child was removed. The MGF then obtained 1017 custody of the child, and SM was no longer allowed unsupervised contact. SM worked with the agencies involved and attended MH counseling, parenting classes, entered a GED program, and ensured the child's medical and dental needs were met. After completing her court menu of services, the child was returned to the SM on 1/13/14.

The same child was removed again on 4/9/14, at which time she entered Foster Care. The SM had lied about her whereabouts and was residing with the child in an inappropriate environment. The child was placed in a foster home and supervised visits with the SM were facilitated with a specialist who helped foster the therapeutic relationship between them. Though she never completed the recommended substance abuse evaluation, SM worked with ECDSS who assisted and monitored while she obtained a safe living environment, participated in visitation, and maintained a job. Her child was returned to her care on 9/30/14. ECDSS monitoring continued until July 2015, when court ordered supervision ended.

### 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

ECDSS is pleased OCFS found the fatality investigation was conducted appropriately. However, we concur with compliance issues noted regarding the investigation of a previous SCR report dated 9/22/17, i.e. that several progress notes were not entered in a timely manner and that an allegedly maltreated child was incorrectly "reported in error." Although the allegations regarding this child were investigated, no formal determination of said allegations could be recorded because the child was removed from the case. In response, ECDSS has reiterated a 14 day standard for progress note entry and has instructed all Team Leaders to implement strategies to ensure timely progress note entry, including "spot checking" workers' notes for compliance. Additionally, ECDSS will be reviewing with all CPS Team Leaders the criteria by which to determine whether a person may be removed from a case as "reported in error." The Team Leaders will, in turn, review and enforce these criteria with their workers.

### 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