



Report Identification Number: BU-20-016

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

Issue Date: Nov 10, 2020

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

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

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

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

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

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

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

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



Abbreviations

Relationships		
BM-Biological Mother	SM-Subject Mother	SC-Subject Child
BF-Biological Father	SF-Subject Father	OC-Other Child
MGM-Maternal Grand Mother	MGF-Maternal Grand Father	FF-Foster Father
PGM-Paternal Grand Mother	PGF-Paternal Grand Father	DCP-Day Care Provider
MGGM-Maternal Great Grand Mother	MGGF-Maternal Great Grand Father	PGGF-Paternal Great Grand Father
PGGM-Paternal Great Grand Mother	MA/MU-Maternal Aunt/Maternal Uncle	PA/PU-Paternal Aunt/Paternal Uncle
FM-Foster Mother	SS-Surviving Sibling	PS-Parent Sub
CH/CHN-Child/Children	OA-Other Adult	
Contacts		
LE-Law Enforcement	CW-Case Worker	CP-Case Planner
Dr.-Doctor	ME-Medical Examiner	EMS-Emergency Medical Services
DC-Day Care	FD-Fire Department	BM-Biological Mother
CPS-Child Protective Services		
Allegations		
FX-Fractures	II-Internal Injuries	L/B/W-Lacerations/Bruises/Welts
S/D/S-Swelling/Dislocation/Sprains	C/T/S-Choking/Twisting/Shaking	B/S-Burns/Scalding
P/Nx-Poisoning/ Noxious Substance	XCP-Excessive Corporal Punishment	PD/AM-Parent's Drug Alcohol Misuse
CD/A-Child's Drug/Alcohol Use	LMC-Lack of Medical Care	EdN-Educational Neglect
EN-Emotional Neglect	SA-Sexual Abuse	M/FTTH-Malnutrition/Failure-to-thrive
IF/C/S-Inadequate Food/ Clothing/ Shelter	IG-Inadequate Guardianship	LS-Lack of Supervision
Ab-Abandonment	OTH/COI-Other	
Miscellaneous		
IND-Indicated	UNF-Unfounded	SO-Sexual Offender
Sub-Substantiated	Unsub-Unsubstantiated	DV-Domestic Violence
LDSS-Local Department of Social Service	ACS-Administration for Children's Services	NYPD-New York City Police Department
PPRS-Purchased Preventive Rehabilitative Services	TANF-Temporary Assistance to Needy Families	FC-Foster Care
MH-Mental Health	ER-Emergency Room	COS-Court Ordered Services
OP-Order of Protection	RAP-Risk Assessment Profile	FASP-Family Assessment Plan
FAR-Family Assessment Response	Hx-History	Tx-Treatment
CAC-Child Advocacy Center	PIP-Program Improvement Plan	yo- year(s) old
CPR-Cardiopulmonary Resuscitation	ASTO-Allowing Sex Abuse to Occur	



Case Information

Report Type: Child Deceased
Age: 6 month(s)

Jurisdiction: Erie
Gender: Male

Date of Death: 09/22/2019
Initial Date OCFS Notified: 06/22/2020

Presenting Information

A new SCR report was received on 6/22/20 regarding the previously reported fatality that occurred on 9/23/19. The report alleged that on an unknown date the parent substitute killed the unknown child. The circumstances surrounding the child's death were unknown. On a different unknown date, the parent substitute choked the other unknown child as a form of punishment to the point the child lost consciousness. The mother had an unknown role.

Executive Summary

This fatality report concerns the death of the 6-month-old subject child that occurred on 9/23/19. A previous fatality report was issued by OCFS on 2/24/2020 regarding the child's death. The report alleged, while in the care of the father, the 6-month-old subject child sustained subdural hematomas and bilateral retinal hemorrhages. The father found the subject child in his play pen unresponsive and attempted to administer CPR and called 911. EMS arrived and administered CPR and revived the subject child and then transported him to the hospital where he was placed on life support. The subject child remained on life support until 9/22/19, and at 8:20 PM the subject child was pronounced deceased. The subject child had a bruise to his head, red marks on his neck, and a laceration to his forehead.

ECDSS first became involved with the family on 7/18/19, after an SCR report was received with concerns about the father of the subject child hitting the 6-year-old surviving sibling. As a result of the report, the mother brought the surviving sibling to his paternal aunt's home to reside. At the time of the fatal incident, the surviving sibling was with his paternal aunt. The father of the subject child was not the father of the 6-year-old surviving sibling. There was also a 10-year-old surviving sibling that was in the care of her mother at the time of the incident.

ECDSS assessed the safety of the 6-year-old surviving sibling and there were no noted concerns. The father of the subject child had another child who resided with her mother. Her safety was assessed and there were no noted concerns.

ECDSS obtained the final autopsy from the medical examiner's office. The official cause of death was listed as blunt force trauma to the head and neck. The manner of death was listed as homicide. The medical examiner noted that the child was otherwise healthy.

ECDSS interviewed family members, first responders, law enforcement, school staff, the medical examiner and multiple medical professionals. ECDSS obtained medical records pertaining to the subject child's death. ECDSS provided referrals for bereavement services to all family members.

ECDSS met all NYS regulations and requirements pertaining to casework contacts, safety assessments, risk assessment and the provision of services in the investigation.

ECDSS substantiated the allegations of DOA/Fatality, lack of supervision, inadequate guardianship, lacerations/bruises/welts, internal injuries, and DOA/Fatality against the father for the subject child and inadequate guardianship for the two surviving siblings. The allegation of inadequate guardianship was substantiated against the mother for the 6-year-old surviving sibling and the subject child. There was enough credible evidence to support the allegations against the father and the mother of the subject child. Based on medical information from multiple sources, the subject child sustained injuries while he was in the sole care of the father. The mother was aware of father's assaultive



behavior and left the subject child in his care. The 6-year-old surviving sibling was in counseling. The case was indicated and was already open for services from the previous fatality investigation.

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 surviving sibling remained in Article 1017 custody with the paternal aunt at the time of this writing. The mother had supervised visits pending further orders of the Court.

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:

Casework activity was commensurate with case circumstances. The case remained open for services and the sibling remained in the custody of the aunt under Article 1017.

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: 09/22/2019

Time of Death: 08:20 PM

Date of fatal incident, if different than date of death:

09/20/2019

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:

Unknown

Did EMS respond to the scene?

Yes

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

N/A

Child's activity at time of incident:

 Sleeping Working Driving / Vehicle occupant Playing Eating Unknown Other

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

At time of incident supervisor was: Unknown if they were impaired.

Total number of deaths at incident event:

Children ages 0-18: 1

Adults: 0

Household Composition at time of Fatality

Household	Relationship	Role	Gender	Age
Deceased Child's Household	Deceased Child	Alleged Victim	Male	6 Month(s)
Deceased Child's Household	Father	Alleged Perpetrator	Male	35 Year(s)
Deceased Child's Household	Sibling	Alleged Victim	Male	6 Month(s)
Other Household 2	Sibling	Alleged Victim	Male	6 Year(s)
Other Household 3	Mother	Alleged Perpetrator	Female	27 Year(s)
Other Household 4	Father	No Role	Male	28 Year(s)
Other Household 5	Other Adult - mother of a surviving sibling	No Role	Female	26 Year(s)
Other Household 5	Sibling	Alleged Victim	Female	9 Year(s)

LDSS Response

ECDSS received an SCR report on 6/22/20, concerning a previously reported fatality that occurred in Erie County on 9/20/19. The death was initially reported to the SCR on 9/20/19 and was investigated by ECDSS and LE. A Child Fatality Report was issued by NYS Office of Children and Family Services on 2/24/20.

ECDSS interviewed the mother with her attorney. The mother offered no new information pertaining to the death of the SC or other allegations from previous investigations due to the ongoing family court proceedings and potential of criminal charges being brought against her. The mother disclosed no way to contact the father.

The surviving siblings were assessed as safe in the care of their respective caregivers. The surviving siblings identified



having had no contact with the father and disclosed no new information regarding the death of the SC.

ECDSS exhausted all avenues to attempt to reach the SF by mail, in person, and by phone. All attempts to locate the SF were unsuccessful.

Information gathered about the child’s death was consistent with the information gathered during the previous investigation. ECDSS spoke with law enforcement who said the father admitted to shaking the subject child. LE stated that the criminal investigation was still ongoing; however, they expected criminal charges to be filed against the father. During the previously investigated fatality in 2019, the final autopsy results were not yet available. The final autopsy results were obtained by ECDSS during the 2020 investigation. The autopsy revealed recent and more remote blunt force injuries involving the head and neck, including subdural hemorrhage, retinal hemorrhages, cervical nerve root hemorrhages and diffused axonal injury. Toxicological testing was preformed and is non-contributory. The manner of death is Homicide.

ECDSS filed an Article 10 severe abuse petition in Family Court on behalf of subject child and the surviving siblings during the initial investigation. The Judge ordered continued placement of the 6-year-old surviving sibling in the paternal aunt’s home under a 1017 relative placement and the 10-year-old surviving sibling remained in her mother’s custody. The Judge issued an order of protection that the father of the subject child have no contact with the two surviving siblings. The mother of the subject child was ordered to have only supervised visitation with the 6-year-old surviving sibling pending further orders of the court.

ECDSS determined that the report was a rereport of the initial case. The final autopsy was made available to them and the manner of death was officially identified as Homicide. ECDSS made the decision to indicate the allegations against the father and close the investigation based on the information obtained in the previous investigation. The family remained involved in long term services as ordered in the previous investigation.

Official Manner and Cause of Death

Official Manner: Homicide

Primary Cause of Death: From an injury - external 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?Yes

SCR Fatality Report Summary

Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome
055205 - Deceased Child, Male, 6 Mons	055208 - Father, Male, 35 Year(s)	DOA / Fatality	Substantiated
055205 - Deceased Child, Male, 6 Mons	055208 - Father, Male, 35 Year(s)	Inadequate Guardianship	Substantiated
055207 - Sibling, Female, 9 Year(s)	055208 - Father, Male, 35 Year(s)	Choking / Twisting / Shaking	Substantiated
055207 - Sibling, Female, 9 Year(s)	055208 - Father, Male, 35 Year(s)	Excessive Corporal Punishment	Substantiated



Child Fatality Report

055207 - Sibling, Female, 9 Year(s)	055208 - Father, Male, 35 Year(s)	Inadequate Guardianship	Substantiated
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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 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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"/>
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Fatality Risk Assessment / Risk Assessment Profile



	Yes	No	N/A	Unable to Determine
Was the risk assessment/RAP adequate in this case?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
During the course of the investigation, was sufficient information gathered to assess risk to all surviving siblings/other children in the household?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was there an adequate assessment of the family's need for services?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the protective factors in this case require the LDSS to file a petition in Family Court at any time during or after the investigation?	<input 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"/>

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: ECDSS filed an Article 10 Severe Abuse/Neglect petition in Family Court on 9/27/19. The 6-year-old surviving sibling remained in the paternal aunt's care under an Article 1017 relative placement. The 10-year-old surviving sibling resided with her mother in a separate household and the mother of that child had full custody and a full stay away Order of Protection was in place for that child. The order stated the father was to have no contact with that child.				

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:
09/27/2019	There was not a fact finding	There was not a disposition
Respondent:	055206 Mother Female 27 Year(s)	
Comments:	On 9/27/19, ECDSS filed an Article 10 Severe Abuse petition in Family Court. The petition was heard on the same day and the Judge placed the surviving sibling under an Article 1017 relative placement with his paternal aunt. The surviving sibling was residing with the paternal aunt prior to the Article 10 petition being filed. The mother was ordered to have supervised visits pending further orders of the court.	



Family Court Petition Type: FCA Article 10 - CPS		
Date Filed:	Fact Finding Description:	Disposition Description:
09/27/2019	There was not a fact finding	There was not a disposition
Respondent:	055208 Father Male 35 Year(s)	
Comments:	On 9/27/19, ECDSS filed an Article 10 Severe Abuse petition in Family Court against the father of the subject for the subject child and the surviving sibling. The Judge issued a full stay away order of protection for the surviving sibling. The respondent was not the father of the surviving sibling.	

Have any Orders of Protection been issued? Yes	
From: 09/27/2019	To: Unknown
Explain: A full stay away Order of Protection was issued in Family Court under an Article 10 Severe Abuse petition against the father of the subject child for the surviving sibling.	

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

The mother refused to speak with ECDSS and referred them to speak with her attorney.

History Prior to the Fatality

Child Information

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

Infants Under One Year Old

During pregnancy, mother:

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

Infant was born:

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

CPS - Investigative History Three Years Prior to the Fatality

Date of SCR Report	Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome	Compliance Issue(s)
09/23/2019	Deceased Child, Male, 6 Months	Mother, Female, 27 Years	Inadequate Guardianship	Substantiated	No
	Sibling, Male, 6 Years	Mother, Female, 27 Years	Inadequate Guardianship	Substantiated	
	Deceased Child, Male, 6 Months	Father, Male, 35 Years	DOA / Fatality	Substantiated	
	Deceased Child, Male, 6 Months	Father, Male, 35 Years	Choking / Twisting / Shaking	Substantiated	
	Deceased Child, Male, 6 Months	Father, Male, 35 Years	Inadequate Guardianship	Substantiated	
	Deceased Child, Male, 6 Months	Father, Male, 35 Years	Internal Injuries	Substantiated	
	Sibling, Male, 6 Years	Father, Male, 35 Years	Inadequate Guardianship	Substantiated	
	Sibling, Female, 9 Years	Father, Male, 35 Years	Inadequate Guardianship	Substantiated	



Deceased Child, Male, 6 Months	Mother, Female, 27 Years	Lacerations / Bruises / Welts	Substantiated
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Report Summary:

ECDSS received a subsequent report from the SCR on 9/23/20 which alleged that on 9/20/19, the father shook the 6-month-old subject child. The child sustained a subdural hematoma and a bilateral retinal hemorrhage. On 9/22/19, at 8:20 PM, the child was pronounced dead. The child also had small marks on his neck and a laceration on his forehead. The father is responsible for the death of the child.

Report Determination: Indicated **Date of Determination:** 11/21/2019

Basis for Determination:

An autopsy was performed on the SC. The preliminary results showed that the SC experienced head and neck trauma. The father admitted to LE that he had shaken the baby. An Article 10 severe abuse petition was filed against the mother and the father and the 6-year-old sibling was placed in 1017 relative placement. Orders of protection were put in place on behalf of the surviving siblings against the mother and the father.

OCFS Review Results:

ECDSS met all NYS regulations and requirements pertaining to casework contacts, safety and risk assessment, and the provision of services throughout the investigation. The criminal investigation and final autopsy results were pending at the time of case closing. The surviving siblings were safe in the care of relative placements. The case was indicated and opened for services.

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

Date of SCR Report	Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome	Compliance Issue(s)
09/20/2019	Deceased Child, Male, 6 Months	Mother, Female, 27 Years	Inadequate Guardianship	Substantiated	No
	Sibling, Male, 6 Years	Mother, Female, 27 Years	Inadequate Guardianship	Substantiated	
	Sibling, Female, 9 Years	Father, Male, 35 Years	Inadequate Guardianship	Substantiated	
	Sibling, Male, 6 Years	Father, Male, 35 Years	Inadequate Guardianship	Substantiated	
	Deceased Child, Male, 6 Months	Father, Male, 35 Years	Inadequate Guardianship	Substantiated	
	Deceased Child, Male, 6 Months	Father, Male, 35 Years	Internal Injuries	Substantiated	
	Deceased Child, Male, 6 Months	Father, Male, 35 Years	Lacerations / Bruises / Welts	Substantiated	
	Deceased Child, Male, 6 Months	Father, Male, 35 Years	Lack of Supervision	Substantiated	

Report Summary:

ECDSS received the initial report from the SCR on 9/20/19 which alleged that the SC was found by the father unresponsive in his play pen. The SC was transferred to the hospital and placed on life support. A subsequent fatality report was registered with the SCR on 9/23/20 following the child's death. The SC had a bruise on his head, small marks on his neck, and a laceration to his forehead.

Report Determination: Indicated **Date of Determination:** 11/21/2019

Basis for Determination:

An autopsy was performed on the SC. The preliminary results showed that the SC experienced head and neck trauma. The father admitted to LE that he had shaken the SC. An Article 10 severe abuse petition was filed against the mother



and the father and the 6-year-old sibling was placed in 1017 relative placement. Orders of protection were put in place on behalf of the surviving siblings against the mother and the father.

OCFS Review Results:

ECDSS met all NYS regulations and requirements pertaining to casework contacts, safety and risk assessment, and the provision of services throughout the investigation. The criminal investigation and final autopsy results were pending at the time of case closing. The surviving siblings were safe in the care of relative placements. The case was indicated and opened for services.

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

Date of SCR Report	Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome	Compliance Issue(s)
07/18/2019	Sibling, Male, 6 Years	Father, Male, 35 Years	Inadequate Guardianship	Substantiated	No
	Sibling, Male, 6 Years	Mother, Male, 27 Years	Inadequate Guardianship	Substantiated	

Report Summary:

The SCR report alleged that on an unknown date, the father became upset and hit the surviving sibling in the head. The father hit him with such force that the surviving sibling was knocked over and into a closet. The father was not the biological father to the surviving sibling.

Report Determination: Indicated Date of Determination: 11/13/2019

Basis for Determination:

The surviving sibling was interviewed and disclosed that the SF would kick and choke him. The SS disclosed he would force him to hold a plank position for several minutes at a time. The SS said the mother would watch and do nothing. The mother sent the SS to live with his paternal aunt during the investigation. While this investigation was still open, a fatality report was received about the subject child. The subject child died due to alleged abuse by his father (the PS of the SS). On 9/27/19, an Article 10 abuse/neglect petition was filed by ECDSS and the SS was placed with the PA under Article 1017. The case was indicated and the investigation about the subject child remained open.

OCFS Review Results:

ECDSS completed all casework activity in a timely fashion. ECDSS appropriately determined the allegations given the information obtained during the investigation.

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

Date of SCR Report	Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome	Compliance Issue(s)
02/21/2019	Sibling, Male, 6 Years	Father, Male, 35 Years	Choking / Twisting / Shaking	Unsubstantiated	No
	Sibling, Male, 6 Years	Father, Male, 35 Years	Inadequate Guardianship	Unsubstantiated	

Report Summary:

An SCR report alleged the father of the subject child was physically abusing the surviving sibling. The father of the subject child choked and kicked the surviving sibling on the legs whenever he did something wrong. The father of the subject child also kicked the surviving sibling in the stomach. The father of the subject child punished the surviving sibling by making him hold his body in a plank position for extended periods of time.

Report Determination: Unfounded Date of Determination: 03/06/2019

Basis for Determination:

ECDSS unsubstantiated the allegations of inadequate guardianship and choking/twisting/shaking against the father of the subject child for the surviving sibling. The surviving sibling denied that the father of the subject child choked and kicked him. ECDSS interviewed multiple collaterals in a position to provide information about the care of the child and no injuries or bruises were observed on the surviving sibling. There was no credible evidence to support the allegations.

**OCFS Review Results:**

ECDSS gathered sufficient information to make a determination in this case.

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

Date of SCR Report	Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome	Compliance Issue(s)
09/17/2018	Sibling, Male, 5 Years	Father, Male, 34 Years	Inadequate Guardianship	Unsubstantiated	Yes
	Sibling, Male, 5 Years	Mother, Female, 27 Years	Inadequate Guardianship	Unsubstantiated	
	Sibling, Male, 5 Years	Mother, Female, 27 Years	Lacerations / Bruises / Welts	Unsubstantiated	

Report Summary:

The SCR report alleged that on the evening of 9/16/18, the father put the surviving sibling out of the residence because he was misbehaving. The surviving sibling had to stand outside in the dark for an unknown amount of time. The mother was aware the father put her son out of the home, and condoned this behavior, because she was unable to control the surviving sibling. The SF was not the biological father of the surviving sibling. The biological father's role was unknown.

Report Determination: Unfounded

Date of Determination: 01/11/2019

Basis for Determination:

The child and collateral contacts disclosed that the child was left outside in the cold for misbehaving. The child was in his underwear. A collateral contact that witnessed the child outside in his underwear stated it was a cold night. The child disclosed he was crying and the mother put him outside. The child said he was outside for a long time in his underwear. The child had three linear red lines on his upper left arm which he said was from his mother grabbing and pulling him out of bed.

OCFS Review Results:

ECDSS unsubstantiated the allegation of inadequate guardianship against the father and the mother for the surviving sibling and unsubstantiated the allegation of lacerations/bruises/welts against the father for the surviving sibling.

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

Issue:

Appropriateness of allegation determination

Summary:

Based on the information gathered during the investigation there was some credible evidence to substantiate the allegations against the mother and the parent substitute for the surviving sibling. The 5 year old was locked outside on the porch at night in his underwear. A neighbor witnessed the child outside in only his underwear and crying. The child was afraid and had hand print marks on his arm.

Legal Reference:

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

Action:

This compliance issue was identified in the previous fatality report. A program improvement plan has already been implemented and is being followed. No new actions are required by ECDSS in relation to this compliance issue.

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

There was no history more than three years prior to the fatality.

Known CPS History Outside of NYS

There was no known history outside of NYS.



Legal History Within Three Years Prior to the Fatality

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

Additional Local District Comments

We at the Erie County Department of Social Services (ECDSS) appreciate the opportunity given us to review the draft report in advance. We find that the facts, as written, describe the unfortunate events and the actions taken in response. We are pleased that OCFS found that the fatality investigation was conducted appropriately and that there were no required actions related to the fatality or to the then-open investigation. Unfortunately, we must concur with the reviewer’s citation regarding one of the CPS investigations conducted within the three-year period preceding the fatality. Namely, we agree that the SCR report dated September 17, 2018 was determined inappropriately. Said report was unfounded when it should have been indicated. We note that this current Fatality Report (BU-20-016) involves a re-reported fatality, and as such, ECDSS was previously cited for this issue on Child Fatality Report BU-19-034, which was posted on February 4, 2020. In response to this compliance issue and as a corrective action plan, ECDSS reminded all CPS Team Leaders during a February 11, 2020 Team Leader meeting of the need to refer to the CPS Program Manual and/or to consult with the OCFS Buffalo Regional Office when determining the appropriateness of questionable allegations, as well as the need to take into consideration all information when applying the circumstances to the definition of such allegations. The Team Leaders did advise their respective caseworkers of these same needs during scheduled team meetings. As such, the corrective action plan has already been implemented in reference to the previously reported citation.

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