



Report Identification Number: BU-21-018

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

Issue Date: Nov 05, 2021

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: 1 year(s)

Jurisdiction: Erie
Gender: Female

Date of Death: 06/04/2021
Initial Date OCFS Notified: 06/04/2021

Presenting Information

An SCR report was received that stated the foster parent was in the yard as the sole caretaker to the subject child and two siblings. While attending to the needs of the other children, the foster parent became distracted and turned away from the subject child for several minutes while the child was playing in her playhouse. While the foster father was distracted, the child was able to climb the stairs to the above-ground pool. The child then opened the pool cover and went into the pool. When the foster father noticed the child was not in her playhouse he proceeded to check the house and then returned to the yard and checked the pool by pulling the cover back a small amount. The foster parent did not see the child, but could not see her elsewhere, so he removed the cover completely and discovered her unresponsive in the pool. The foster father began CPR and called 911. First responders arrived and transported the child to the hospital where she was pronounced deceased.

Executive Summary

On 6/4/21, Erie County Department of Social Services (ECDSS) received an SCR report regarding the death of a 1-year-old female child that occurred on the same date. The child was in foster care at the time of her death. The child had a 9-month-old and 2-year-old sibling who were also placed in the same foster home. The foster parents had five children of their own, ages 17, 10, 9, 8 and 6 years old. Following the death, the siblings were moved from the foster home. The other children remained with the foster parents.

Through a joint investigation with law enforcement, it was learned that on 6/4/21 the child was at the home with the foster father, foster father's mother, 9-month-old sibling and the 10, 9, 8, and 6-year-old children. The foster mother, 17-year-old and 2-year-old were not home at the time of the incident. The foster father was outside with the subject child, 9-month-old, 10-year-old and 8-year-old while the foster father's mother was inside caring for the 9-year-old and 6-year-old. The foster father reported the child was playing inside a toy playhouse and he looked away from her to speak to one of the other children. When he looked back to check on the child, he was unable to locate her. The foster father looked inside and then returned outside and checked the pool. The foster father discovered the child face-down in the pool and retrieved her. He then called 911 and began CPR. Emergency medical services arrived and transported the child to the hospital where she was pronounced deceased.

An autopsy was completed and the final report was not yet available at the time this report was written. The Medical Examiner reported the condition of the body was consistent with a drowning based on the child's heavy lungs and foam in her airway. It was further stated that the child was in the water for over six to ten minutes based on the brain's condition. The preliminary finding was accidental drowning. Law enforcement investigated and found no criminality regarding the death and closed their investigation.

ECDSS provided funeral assistance and offered the foster parents, biological parents and surviving children counseling services. ECDSS gathered sufficient information throughout the investigation to substantiate the allegation of lack of supervision, inadequate guardianship and DOA/Fatality against the foster father. The allegation of inadequate guardianship against the foster mother was unsubstantiated. The investigation was indicated and closed on 8/5/21. The siblings remained in foster care and the parents had an open services case.

PIP Requirement



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

Findings Related to the CPS Investigation of the Fatality

Safety Assessment:

- **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:

ECDSS completed all casework objectives and made referrals for services regarding the fatality. The CPS investigation was closed and the parents remained open with foster care services.

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.

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: 06/04/2021

Time of Death: Unknown

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

04:30 PM

County where fatality incident occurred:

Erie

Was 911 or local emergency number called?

Yes

Time of Call:

04:41 PM

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 was supervisor impaired? Not impaired.

At time of incident supervisor was:

 Distracted Absent Asleep 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	Female	1 Year(s)
Deceased Child's Household	Foster Parent	Alleged Perpetrator	Female	48 Year(s)
Deceased Child's Household	Foster Parent	Alleged Perpetrator	Male	50 Year(s)
Deceased Child's Household	Other Child - Foster Parent's Child	No Role	Male	17 Year(s)
Deceased Child's Household	Other Child - Foster Parent's Child	No Role	Male	10 Year(s)
Deceased Child's Household	Other Child - Foster Parent's Child	No Role	Male	9 Year(s)
Deceased Child's Household	Other Child - Foster Parent's Child	No Role	Female	8 Year(s)
Deceased Child's Household	Other Child - Foster Parent's Child	No Role	Male	6 Year(s)
Deceased Child's Household	Sibling	No Role	Male	2 Year(s)
Deceased Child's Household	Sibling	No Role	Female	9 Month(s)
Other Household 1	Father	No Role	Male	40 Year(s)
Other Household 1	Mother	No Role	Female	31 Year(s)

LDSS Response

Upon receipt of the SCR report on 6/4/21, ECDSS initiated their investigation and coordinated efforts with law



enforcement, notified the District Attorney and spoke to the source. ECDSS completed interviews with the foster parents, assessed the safety of the surviving children, and completed home visits.

The foster father and foster mother were interviewed throughout the investigation. The foster mother reported on 6/4/21, she left the home with the 17-year-old to bring him to class. While waiting for the 17-year-old, she did some shopping until it was time for her to pick him up from school and the 2-year-old from daycare. While the foster mother was out, the foster father was outside watching television with the 10-year-old. The 9-month-old was in a bouncer seat next to him and the 8-year-old was playing in the yard along with the subject child. The foster father stated that he was habitually turning around to check on the children. The foster father was speaking with the 10-year-old and when he turned to check on the subject child, he did not see her in the playhouse where she had been. The foster father went to check if she had gone inside but could not find her. The foster father went back outside and checked the pool and slightly pulled back the cover but did not see the child. The foster father then removed the entire cover and discovered the child and jumped in to retrieve her. The child was not responsive, and the foster father called 911 and began CPR. The child was transported to the hospital via ambulance and was unable to be resuscitated.

It was learned through the historical case review that the subject child had been placed in the foster home since she was removed from her parents at birth. The family installed the pool during the summer of 2020 and ECDSS had an open services case at the time. It was documented in the case record that ECDSS completed a safety inspection of the pool after its installation. The pool was an above-ground pool and it had a gate, lock and security system. The foster father reported they had just taken the winter cover off the pool on 6/3/21 and placed the solar cover on to prepare to open it for the summer season. He denied that the alarm was turned off and stated the lock was not broken. The foster parents believed the child may have climbed the lattice surrounding the pool; however, law enforcement did not think that was feasible for her.

ECDSS gathered information from collateral contacts. The school, medical providers and in-home services providers reported no concerns for any of the children. It was reported the foster parents were diligent in having the needs of the children met and they appeared well cared for. The surviving children all received medical examinations following the fatality per ECDSS protocol and there were no concerns for them.

ECDSS immediately notified the biological parents regarding the death of the child. The surviving siblings were removed from the foster parents and placed into another foster home. The parents were engaged in services and had supervised visitation with them. ECDSS arranged for an additional supervised visit to support the parents in comforting the siblings regarding the death. Throughout the investigation, ECDSS assessed the safety of the siblings at their foster home and the other surviving children at their home.

The siblings were not interviewed due to their ages. The foster parents' 10, 9, and 8-year-old children had medical diagnoses that made them unable to participate in an interview. The 6-year-old child reported that the foster father had left the subject child in the yard and went inside to get a drink. The foster father denied this was true, and the foster father's mother also reported the foster father was outside the entire time. The 17-year-old child was interviewed and was not present at the time of the fatal incident. He did not disclose any other CPS concerns.

Official Manner and Cause of Death

Official Manner: Pending

Primary Cause of Death: Pending

Person Declaring Official Manner and Cause of Death: Medical Examiner

Multidisciplinary Investigation/Review

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



Was the fatality reviewed by an OCFS approved Child Fatality Review Team? Yes

Comments: ECDSS indicated in their 30-day fatality report that the fatality would be referred to their OCFS approved Child Fatality Review Team.

SCR Fatality Report Summary

Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome
058341 - Deceased Child, Female, 1 Year(s)	058343 - Foster Parent, Male, 50 Year(s)	DOA / Fatality	Substantiated
058341 - Deceased Child, Female, 1 Year(s)	058343 - Foster Parent, Male, 50 Year(s)	Inadequate Guardianship	Substantiated
058341 - Deceased Child, Female, 1 Year(s)	058342 - Foster Parent, Female, 48 Year(s)	Inadequate Guardianship	Unsubstantiated
058341 - Deceased Child, Female, 1 Year(s)	058343 - Foster Parent, Male, 50 Year(s)	Lack of Supervision	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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were appropriate/needed services offered in this case	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Placement Activities in Response to the Fatality Investigation

	Yes	No	N/A	Unable to Determine
Did the safety factors in the case show the need for the surviving siblings/other children in the household be removed or placed in foster care at any time during this fatality investigation?	<input 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Explain as necessary:

The surviving siblings were moved to another foster home. The foster parents' children remained in their care.

Legal Activity Related to the Fatality

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



Have any Orders of Protection been issued? No

Services Provided to the Family in Response to the Fatality

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"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Economic support	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Family planning	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Homemaking Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Parenting Skills	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Domestic Violence Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Early Intervention	<input 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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Child Care	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Intensive case management	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Family or others as safety resources	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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:

The siblings were offered grief counseling services.

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

Explain:

The foster parents and biological parents were provided burial assistance and offered grief counseling.

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? Yes
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

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)
09/04/2020	Sibling, Female, 1 Hours	Mother, Female, 31 Years	Inadequate Guardianship	Substantiated	No
	Sibling, Female, 1 Hours	Father, Male, 39 Years	Inadequate Guardianship	Substantiated	

Report Summary:
 An SCR report alleged that the mother gave birth to the 1-hour-old sibling on 9/4/20. The parents have had their other children, ages 2 and 1 years old, removed from their care. They remained in foster care at the time of the sibling's birth.

Report Determination: Indicated **Date of Determination:** 09/15/2020

Basis for Determination:
 The allegation of IG was substantiated. A mental health evaluation had been conducted and the parents had extensive mental health diagnoses. The doctor reported that any child in the care of either parent would be at imminent risk of harm. ECDSS filed a Derivative Neglect Petition and the child was placed in foster care with the subject child and the 2-year-old sibling.

OCFS Review Results:
 ECDSS filed a Derivative Neglect Petition regarding the sibling and she was remanded into foster care. ECDSS completed home visits and spoke to necessary collaterals. The parents were notified of the existence of the report and the determination of the report in writing. Safe sleep guidance was provided to the parents and mailed to the foster parents. There was supervisory consultation documented throughout the investigation. The case was closed within regulatory timeframes.

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)
08/16/2019	Deceased Child, Female, 0 Minutes	Mother, Female, 30 Years	Inadequate Guardianship	Substantiated	Yes
	Deceased Child, Female, 0 Minutes	Father, Male, 38 Years	Inadequate Guardianship	Substantiated	

Report Summary:
 An SCR report was received three days prior to the birth of the subject child. The report stated that the mother was due to give birth to the subject child and that the mother and the father would be unable to adequately care for the child because of significant developmental disabilities and untreated mental health concerns. The then 1-year-old sibling had been removed from their care and remained in foster care. For years, the home had been in deplorable conditions with a strong odor of garbage and mildew. There were piles of garbage throughout the home and the yard was overflowing with garbage, sheds and storage containers containing garbage.



Report Determination: Indicated **Date of Determination:** 09/25/2019

Basis for Determination:
The allegation of IG was substantiated. ECDSS completed interviews with the family and collaterals and determined the parents were not capable of caring for the subject child. A mental health evaluation had been conducted and the parents had extensive mental health diagnoses. The doctor reported that any child in the care of either parent would be at imminent risk of harm.

OCFS Review Results:
The subject child was born after the receipt of the SCR report. Once the child was born, ECDSS filed a Derivative Neglect Petition regarding the subject child and she was remanded into foster care. ECDSS completed home visits and spoke to necessary collaterals. The parents and other adults were notified of the existence of the report and the determination of the report in writing. Safe sleep guidance was reviewed with the parents and foster parents during home visits. The CPS history check was documented late on 9/10/19.

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

Issue:
Review of CPS History
Summary:
The CPS history check was documented late on 9/10/19.
Legal Reference:
18 NYCRR 432.2(b)(3)(i)
Action:
Within 1 business day of a report, ECDSS must review all SCR records of prior reports, including legally sealed reports, and document such. Within 5 business days, ECDSS will review its own CPS record(s) that apply to the prior reports, including legally sealed unfounded and family assessment response reports.

Date of SCR Report	Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome	Compliance Issue(s)
01/09/2019	Sibling, Male, 5 Months	Foster Parent, Female, 45 Years	Inadequate Guardianship	Unsubstantiated	Yes
	Sibling, Male, 5 Months	Foster Parent, Female, 45 Years	Swelling / Dislocations / Sprains	Unsubstantiated	

Report Summary:
An SCR report was received that stated while in the care of the foster mother, the now 2-year-old sibling sustained a dark red crease mark on his arm, red marks under his neck and swelling to his face. The sibling lacked the ability to inflict these injuries himself.

Report Determination: Unfounded **Date of Determination:** 02/19/2019

Basis for Determination:
ECDSS completed home visits, interviews and collateral contacts and determined there was no credible evidence to substantiate the allegations. The sibling had a skin condition, which was being treated appropriately. The sibling was taken to the pediatrician following the SCR report, who expressed no concerns for the sibling's care.

OCFS Review Results:
ECDSS initiated their investigation within 24 hours of receipt of the SCR report and notified the preventive and foster units regarding the SCR report. ECDSS completed a home visit, searched SCR history and provided written notice of existence. The safety assessment tool and risk assessment profile were completed to accurately reflect the information obtained during the investigation. The investigation was closed within the regulatory timeframe. There was supervisory consultation documented throughout the investigation. The record did not reflect the then 5-month-old sibling's sleeping arrangements were observed or safe sleep guidance was provided.



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

Issue:

Failure to provide safe sleep education/information

Summary:

The record did not reflect that the foster parents were provided with safe sleep information or that the sibling's sleeping environment was assessed.

Legal Reference:

13-OCFS-ADM-02 & CPS Program Manual, Chapter 6, J-1

Action:

13-OCFS-ADM-02 notes a review and assessment of a child's sleeping environment must be documented, and immediately addressed if assessed to be unsafe. In all CPS investigations with an infant in the home, caregivers must be provided with safe sleep information.

Date of SCR Report	Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome	Compliance Issue(s)
10/16/2018	Sibling, Male, 2 Months	Mother, Female, 29 Years	Inadequate Food / Clothing / Shelter	Substantiated	No
	Sibling, Male, 2 Months	Mother, Female, 29 Years	Inadequate Guardianship	Substantiated	
	Sibling, Male, 2 Months	Father, Male, 37 Years	Inadequate Food / Clothing / Shelter	Substantiated	
	Sibling, Male, 2 Months	Father, Male, 37 Years	Inadequate Guardianship	Substantiated	
	Sibling, Male, 2 Months	Mother, Female, 29 Years	Malnutrition / Failure to Thrive	Unsubstantiated	
	Sibling, Male, 2 Months	Father, Male, 37 Years	Malnutrition / Failure to Thrive	Unsubstantiated	

Report Summary:

The SCR report alleged that the mother and father had cognitive disabilities and had difficulty understanding how to properly care for then 2-month-old SS. The parents only fed the SS until he stopped crying, therefore, he only ate 1oz of formula. As a result, there were concerns for failure to thrive. The parents failed to ensure the SS was fed the proper kind of formula and he was ill and throwing up as a result. The SS's pupils dilated to difference sizes, he had no muscle tone in his arms and legs, and he only had 40% motion in his neck. The SS needed a helmet, physical therapy and further medication evaluations; however, the parents did not understand the seriousness of his conditions.

Report Determination: Indicated

Date of Determination: 11/05/2018

Basis for Determination:

ECDSS substantiated IG and IF/C/S. The parents were engaged with intensive services and continued to fail to provide adequate care for the SS and keep the home free of safety hazards. Prior to the SCR report, a Neglect Petition was filed against the parents and the SS was remanded to ECDSS custody. The SS was in foster care placement at the time of the SCR report and court proceedings were ongoing. M/FTTH was unsubstantiated, as the child was medically evaluated and not diagnosed as malnourished or failure to thrive.

OCFS Review Results:

ECDSS assessed the safety of the SS within 24 hours of receipt of the SCR report. The SS was in foster care at the time the SCR report was received. ECDSS completed a home visit at the foster home and the parents' residence. Face-to-face interviews were documented with the foster parents and biological parents. Appropriate collaterals were contacted, including the pediatrician. Notification letters were provided. Safe sleep guidance was provided to the foster mother.



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)
08/01/2018	Sibling, Male, 6 Days	Mother, Female, 29 Years	Inadequate Food / Clothing / Shelter	Substantiated	No
	Sibling, Male, 6 Days	Mother, Female, 29 Years	Inadequate Guardianship	Substantiated	
	Sibling, Male, 6 Days	Father, Male, 37 Years	Inadequate Food / Clothing / Shelter	Substantiated	
	Sibling, Male, 6 Days	Father, Male, 37 Years	Inadequate Guardianship	Substantiated	

Report Summary:

An SCR report stated that the parents were developmentally disabled and unable to care for the now 5-month-old sibling. Both parents functioned at the level of a 14 or 15 year old. The parents went driving around all day with the sibling in the back seat of their truck. The sibling was sitting all day in the car seat while the parents were digging through dumpsters and searching for trash. The home was unsafe and unsanitary for the sibling. The parents had multiple pets in the home, including cats, guinea pigs, turtles and other unknown animals. The home was infested with mice and fleas and cluttered with junk. The kitchen was cluttered and the stove was unable to be used to cook.

Report Determination: Indicated

Date of Determination: 09/25/2018

Basis for Determination:

ECDSS substantiated the allegations against the parents. ECDSS stated that parents both had limited cognitive skills, had difficulties understanding how to care for the sibling and needed a great deal of support to be able to adequately care for him. Throughout the investigation, the state and condition of the home was an issue that had to be addressed and the parents were advised that if it did not change, a Neglect Petition could be filed. ECDSS opened a voluntary Preventive Services Case for the family.

OCFS Review Results:

ECDSS assessed the safety of the SS within 24 hours of receipt of the SCR report. Home visits were completed, collaterals were spoken to and all necessary face-to-face interviews were documented. The parents were notified of the existence of the report and the determination of the report in writing. ECDSS made a thorough examination of the need for services and made appropriate referrals. Safe sleep guidance was reviewed with the family during home visits.

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

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

In 2011, the foster parents had one unfounded CPS investigation regarding their now 17-year-old child. There were concerns regarding their child's attendance at school. The allegations of IG and EdN were unsubstantiated.

Known CPS History Outside of NYS

There was no known CPS history outside of NYS.

Family Assessment and Service Plan (FASP)



	Yes	No	N/A	Unable to Determine
Was the most recent FASP approved on time?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If not, how many days was it overdue? The FASP was due on 3/19/21 and approved on 3/22/21.				
Was there a current Risk Assessment Profile/Risk Assessment in the most recent FASP?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Preventive Services History

In August of 2018, ECDSS opened a Preventive Services Case for the family because the parents appeared to struggle with parenting and homemaking skills due to possible developmental disabilities. Their home was in disrepair and cluttered and there was concern of risk to the now 2-year-old sibling. There were also concerns for the mother's mental health and police involvement at the home due to verbal disputes between the parents. On 9/28/19, ECDSS filed a Neglect Petition against the parents due to the ongoing concerns and the now 2-year-old sibling was placed in foster care.

Foster Care at the Time of the Fatality

The deceased child(ren) were in foster care at the time of the fatality? Yes

Date deceased child(ren) was placed in care: 08/21/2019

Date of placement with most recent caregiver? 08/21/2019

How did the child(ren) enter placement? Court Order

Review of Foster Care When Child was in Foster Care at the time of the Fatality

	Yes	No	N/A	Unable to Determine
Does the case record document that sufficient steps were taken to safeguard this child's safety while in this placement?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the placement comply with the appropriateness of placement standards?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was the most recent placement stable?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the agency comply with sibling placement standards?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was the child AWOL at the time of death?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Visitation

	Yes	No	N/A	Unable to Determine
Was the visitation plan appropriate for the child?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was visitation facilitated in accordance with the regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was there supervision of visits as required?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Casework Contacts



	Yes	No	N/A	Unable to Determine
Were face-to-face contacts with the child in the child's placement location made with the required frequency?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were face-to-face contacts with the parent/relative/discharge resource made with required frequency?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were face-to-face contacts with the parent/relative/discharge resource in the parent/relative/discharge resource's home made with required frequency?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were all of the casework contact requirements for contacts with the caretakers made, including requirements for contact at the child's placement location?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Provider Oversight/Training

	Yes	No	N/A	Unable to Determine
Did the agency provide the foster parents with required information regarding the child's health, handicaps, and behavioral issues?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the provider comply with discipline standards?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Were the foster parents receiving enhanced levels of foster care payments because of child need?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If yes, was foster parent provided a training program approved by OCFS that prepared the foster parent with appropriate knowledge and skills to meet the needs of the child?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was the certification/approval for the placement current?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was a Criminal History check conducted? Date: 09/17/2018	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was a check completed through the State Central Register? Date: 11/17/2017	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was a check completed through the Staff Exclusion List? Date: 11/22/2017	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Additional information, if necessary:

The surviving siblings remained in foster care at the time this report was written.

Foster Care Placement History

On 9/28/18, ECDSS filed a Neglect Petition against the parents. The now 2-year-old sibling was remanded to foster care and the parents were given supervised visits. ECDSS requested the parents engage in parenting classes and a parenting assessment. The parenting assessment was completed and divulged concern for the parents being able to adequately care for any children. The subject child and now 9-month-old child were subsequently born. ECDSS filed Derivative Neglect Petitions and the children were removed and placed into the same foster home. At the time this report was written, there



were continued concerns with the parents ability to meet the children's needs. Another parenting assessment had been requested and was in the process of being completed.

Legal History Within Three Years Prior to the Fatality

Was there any legal activity within three years prior to 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:
09/28/2018	There was not a fact finding	Order of Supervision
Respondent:	058351 Mother Female 31 Year(s)	
Comments:	On 9/28/18, ECDSS filed a Neglect Petition against the mother regarding the now 2-year-old sibling and he was placed in foster care. On 8/19/19, the subject child was born and on 9/8/20, the now 9-month-old sibling was born. ECDSS filed Derivative Neglect Petitions and the children were placed in foster care with the sibling.	

Family Court Petition Type: FCA Article 10 - CPS		
Date Filed:	Fact Finding Description:	Disposition Description:
09/28/2018	There was not a fact finding	Order of Supervision
Respondent:	058352 Father Male 40 Year(s)	
Comments:	On 9/28/18, ECDSS filed a Neglect Petition against the father regarding the now 2-year-old sibling and he was placed in foster care. On 8/19/19, the subject child was born and on 9/8/20, the now 9-month-old sibling was born. ECDSS filed Derivative Neglect Petitions and the children were placed in foster care with the sibling.	

Have any Orders of Protection been issued? Yes	
From: 04/01/2019	To: Unknown
Explain: There was an Order of Protection against the parents regarding the foster parents, due to the concerns about harassment.	
From: 09/28/2018	To: Unknown
Explain: The mother and father had an Order of Protection, which allowed for supervised visitation.	

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, accurately describe the unfortunate events and the actions taken in response. We are pleased that OCFS found that the fatality investigation was conducted appropriately and that there are no required actions related to the fatality investigation or to the Services case open at the time of the fatality. However, we must unfortunately concur with the compliance issues noted by the reviewer with respect to two CPS investigations



conducted by ECDSS during the three years preceding the fatality. Specifically, with regard to the investigation of the SCR report dated August 16, 2019, we acknowledge that ECDSS failed to review and complete a CPS history check in a timely manner. Additionally, with regard to the investigation of the SCR report dated January 9, 2019, we concur that the record does not reflect that the foster parents were provided with safe sleep information or that the sibling's sleeping environment was assessed. We note that the timeliness of CPS history checks, as well as the timely completion and provision of required investigative activities and documents, are issues currently being addressed through a consolidated Program Improvement Plan agreed to by ECDSS and the Buffalo Regional Office of OCFS. In addition, a review and reminder of the above identified compliance issues will be completed with all CPS supervisors at a scheduled ECDSS Team Leader meeting in November 2021.

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