



Report Identification Number: NY-15-044

Prepared by: New York City Regional Office

Issue Date: 12/16/2015

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

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

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

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

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

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

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

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



Abbreviations

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

Case Information



Report Type: Child Deceased
Age: 1 month(s)

Jurisdiction: Kings
Gender: Male

Date of Death: 05/29/2015
Initial Date OCFS Notified: 05/29/2015

Presenting Information

The SCR report alleged that on 5/29/15, the mother was breastfeeding her one-month-old infant and fell asleep with him in the bed with her. The infant was found unresponsive when the mother awoke. The infant was a premature child at high risk and ultimately died of cardiac arrest and respiratory distress as a result of co-sleeping.

Executive Summary

The one-month-old male infant died on 5/29/15. As of 11/9/15, NYCRO has not yet received the ME's report.

The allegations of the 5/29/15 report were DOA/Fatality and IG of the one-month-old infant by the mother.

The investigation was initiated on 5/29/15. ACS' investigation revealed that on 5/29/15 at about 2:15AM the infant was crying in his bassinet which was located in the mother's room. The mother called the father and asked him to bring the infant to her which he did. The mother was sleeping in the same room on a queen-size bed. The mother said she breastfed the infant lying down and fell asleep while doing so. The mother was unsure of the length of time she remained asleep. When she awoke she saw something was wrong with the infant. She said the infant was in the same position and lying on the same side of the bed where she had placed him. She said the infant did not sleep on top of her and she did not roll on top of him. The father was also in the bed with the mother and infant, but he was asleep on the left side of the bed. The father stated that at about 2:30AM, the mother awoke and said the infant was not breathing. The father said he called the MGM and called 911. The father said he followed the instructions that were provided by the 911 operator and placed the infant on the ground; the mother started CPR. Shortly thereafter, the FD arrived. The mother said that the infant was born premature and his toxicology was negative for drugs. She said her toxicology was positive for marijuana when she first learned she was pregnant which was around January 2015. The mother denied using marijuana on 5/28/15 and 5/29/15. She said she stopped using marijuana once she learned she was pregnant. The father denied that he smoked or drank any alcohol.

The father said he had two other children in a previous relationship: an eight-month-old and four-year-old who reside in a foreign country. The father refused to provide additional information.

The MGM said that she was awakened by the father who called her and stated that the infant was not breathing. The MGM said the mother was on the phone with 911 as they provided instructions. The documentation reflected that the father said he called 911 and passed the phone to the mother.

The ME reported that there was no visible trauma; however, the infant had four fractured ribs that could be from CPR. The infant also had two skull fractures about a half inch in size with no hemorrhage. The ME could not determine the manner in which the infant received the injury, as there was no bruising on the scalp. The ME said there was no way to prove or disprove the parents rolled on the infant. On 7/24/15, the ME said the cause and manner of death were undetermined. LE informed ACS that there seemed to be no criminality regarding the case.

The documentation reflected that ACS referred the family for bereavement counseling and the family planned to



accept the services. The parents submitted to a random drug test; the results were negative.

On 7/27/15, ACS unsubstantiated the allegations of DOA/Fatality and IG. ACS based the decision on the ME's final diagnosis that the cause was Undetermined and the manner was Undetermined. The ME could not definitively link co-sleeping to the infant's death nor could the ME state that the mother's actions and behavior contributed to his death.

ACS based the decision to unsubstantiate the allegation of IG on information received from collateral contacts that revealed the mother was spontaneously breastfeeding her infant and fell asleep together. Contacts with family and friends established the mother routinely placed the infant to sleep in his own crib. There was no evidence that the mother's parenting, in general, placed the infant at risk of harm.

Findings Related to the CPS Investigation of the Fatality

Safety Assessment:

- Was sufficient information gathered to make the decision recorded on the:
 - Safety assessment due at the time of determination?

N/A

Determination:

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

Yes, sufficient information was gathered to determine all allegations.

Yes

Explain:

NA

Was the decision to close the case appropriate?

Yes

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

Yes

Was there sufficient documentation of supervisory consultation?

Yes, the case record has detail of the consultation.

Explain:

NA

Required Actions Related to the Fatality

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

Issue:	Overall Completeness and Adequacy of Investigation
Summary:	The parents reported they realized the infant was unresponsive at approximately 2:30 AM and called for EMS; however, EMS and law enforcement reported that a call was received at 3:37 AM. ACS did not explore the inconsistency in the time frames.



NYS Office of Children and Family Services - Child Fatality Report

Legal Reference:	SSL 424.6; 18 NYCRR 432.2(b)(3) and 18 NYCRR 432.2
Action:	ACS must submit a corrective action plan within 45 days that identifies the action the agency has taken or will take to address the citations identified in the fatality report. ACS must meet with the staff involved with this fatality investigation and inform NYCRO of the date of the meeting, who attended and what was discussed.
Issue:	Contact/Information From Reporting/Collateral Source
Summary:	Diligent efforts were not made to interview the pediatrician who pronounced the infant dead.
Legal Reference:	18 NYCRR 432.2(b)(3)(ii)(b)
Action:	ACS must submit a corrective action plan within 45 days that identifies the action the agency has taken or will take to address the citations identified in the fatality report. ACS must meet with the staff involved with this fatality investigation and inform NYCRO of the date of the meeting, who attended and what was discussed.

Fatality-Related Information and Investigative Activities

Incident Information

Date of Death: 05/29/2015

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

County where fatality incident occurred: KINGS

Was 911 or local emergency number called? Yes

Time of Call: 03:37 AM

Did EMS to respond to the scene? Yes

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

Child's activity at time of incident:

- | | | |
|--|----------------------------------|---|
| <input checked="" type="checkbox"/> Sleeping | <input type="checkbox"/> Working | <input type="checkbox"/> Driving / Vehicle occupant |
| <input type="checkbox"/> Playing | <input type="checkbox"/> Eating | <input type="checkbox"/> Unknown |
| <input type="checkbox"/> Other | | |

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

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

1

At time of incident supervisor was: Not impaired.

Total number of deaths at incident event:

Children ages 0-18: 1



NYS Office of Children and Family Services - Child Fatality Report

Household Composition at time of Fatality

Household	Relationship	Role	Gender	Age
Deceased Child's Household	Deceased Child	Alleged Victim	Male	1 Month(s)
Deceased Child's Household	Father	No Role	Male	27 Year(s)
Deceased Child's Household	Grandparent	No Role	Female	50 Year(s)
Deceased Child's Household	Mother	Alleged Perpetrator	Female	23 Year(s)

LDSS Response

During the investigation, ACS interviewed the hospital social worker (HSW), ER SW parents, MGM, MGGM, LE, and ME.

The HSW said the infant was considered high risk as he was premature. The HSW stated the mother was positive for marijuana when she gave birth; the infant was negative.

ACS documentation did not reflect that diligent efforts were made to interview the hospital Dr. who pronounced the child dead.

On 5/29/15, ACS visited the home. The mother said that between 2:00AM-2:30AM the infant was crying in his bassinet which was located in the mother's room. The mother called the father and asked him to bring the infant to her which he did. She said she breastfed the infant lying down and fell asleep while doing so. She was unsure how long she was asleep. She called 911 when she awoke and saw that something was wrong. She saw that the infant was not moving. She said the infant was in the same position that he was before she fell asleep; the infant was lying on the same side on the bed as before. The father was also in the bed with the mother and infant but he was asleep on the left side of the bed. She attempted CPR. The FD arrived first and transported the infant to the hospital. The mother said she had parenting classes during her pregnancy but was not taught about co-sleeping. She said the MGM told her not to have the infant in the bed with her. She was unsure of the amount of times the infant was in the bed with her prior to the incident. The mother informed ACS that the infant did not have a medical condition or any complications. Later, she said the infant was born premature.

The father said that at about 2:00AM the infant began to cry. The mother asked him to pass the infant to her which he did. The father stated that at about 2:30AM, the mother awoke and said the infant was not breathing. He called the MGM from her room and quickly called 911. ACS reported that 911 was called at 3:37 AM by the father; there were two calls to 911 one by a female and one by a male. The 911 operator told him to put the infant on the ground. He placed him on the ground and the mother started CPR. Later, the father said he was aware of the dangers of sleeping with infants. He said he would not call this situation co-sleeping as the mother fed the child and accidentally fell asleep. It was not the mother's intention to sleep with the infant. ACS did not explore the inconsistency regarding the time the infant was found unresponsive and the time the 911 call was made for emergency medical services.

The MGM reported that she was awaked by the father calling her to inform that the infant was not breathing. The mother was on the phone with 911 as they provided instructions. The MGM said she spoke with the mother about having the infant in her bed. She said the mother was tired and fell asleep. The infant was on his back when he fell asleep. As the infant was still crying, the mother fed him in bed but she then dozed off. The mother jumped up from her sleep and saw that the infant did not eat. Later, she said the mother was not smoking marijuana when caring for the infant.



NYS Office of Children and Family Services - Child Fatality Report

LE informed ACS that there seemed to be no criminality in this case. The infant was observed to be blue when brought to the hospital. He was born premature and with medical issues. Later, LE said the mother awoke at 3:30AM and saw the infant unresponsive. The mother called 911 and performed CPR. The EMS Liaison informed ACS that when one calls 911 you get a police operator. The EMS Liaison said LE obtains the initial call as he did not have the time of the actual call. He obtained the time that comes to EMS. The EMS Liaison reported that a call came in at 3:37 AM on 5/29/15.

On 7/27/15, ACS unsubstantiated the allegations of DOA/Fatality and IG of the child by the parents.

Official Manner and Cause of Death

Official Manner: Pending

Primary Cause of Death: Unknown

Person Declaring Official Manner and Cause of Death: Medical Examiner

Multidisciplinary Investigation/Review

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

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

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

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

SCR Fatality Report Summary

Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome
021001 - Deceased Child, Male, 1 Mons	021003 - Mother, Female, 23 Year(s)	DOA / Fatality	Unsubstantiated
021001 - Deceased Child, Male, 1 Mons	021003 - Mother, Female, 23 Year(s)	Inadequate Guardianship	Unsubstantiated

CPS Fatality Casework/Investigative Activities

	Yes	No	N/A	Unable to Determine
All children observed?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
When appropriate, children were interviewed?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alleged subject(s) interviewed face-to-face?	<input 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"/>



NYS Office of Children and Family Services - Child Fatality Report

Contact with source?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
All appropriate Collaterals contacted?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Emergency Room Personnel	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was a death-scene investigation performed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was there discussion with all parties (youth, other household members, and staff) who were present that day (if nonverbal, observation and comments in case notes)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Coordination of investigation with law enforcement?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the investigation adhere to established protocols for a joint investigation?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was there timely entry of progress notes and other required documentation?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Additional information:

ACS documentation did not reflect that diligent efforts were made to interview the hospital Dr. who pronounced the child dead.

Fatality Safety Assessment Activities
--

	Yes	No	N/A	Unable to Determine
Were there any surviving siblings or other children in the household?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Legal Activity Related to the Fatality

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

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

Services	Provided After Death	Offered, but Refused	Offered, Unknown if Used	Needed but not Offered	Needed but Unavailable	N/A	CDR Lead to Referral
Bereavement counseling	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Economic support	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Funeral arrangements	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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"/>



NYS Office of Children and Family Services - Child Fatality Report

Foster care	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Health care	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Legal services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Family planning	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Homemaking Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Parenting Skills	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Domestic Violence Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Early Intervention	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alcohol/Substance abuse	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
Child Care	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Intensive case management	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Family or others as safety resources	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Additional information, if necessary:
 The parents took a drug test and the results were negative.

Were services provided to siblings or other children in the household to address any immediate needs and support their well-being in response to the fatality? N/A

Explain:
 There were no surviving children in the home.

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

Explain:
 The family was offered Bereavement Counseling.

History Prior to the Fatality

Child Information

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

Infants Under One Year Old



During pregnancy, mother:

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

Infant was born:

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

CPS - Investigative History Three Years Prior to the Fatality

There is no CPS investigative history within three years prior to the fatality.

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

The mother was not known to the SCR or ACS. There were no surviving siblings.

Known CPS History Outside of NYS

There was no known history outside of NYS.

Services Open at the Time of the Fatality

Required Action(s)

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

- Yes
- No

Preventive Services History

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

Required Action(s)

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

- Yes
- No

Foster Care Placement History



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

Legal History Within Three Years Prior to the Fatality

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

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