



**Report Identification Number: NY-21-058**

**Prepared by: New York City Regional Office**

**Issue Date: Nov 24, 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

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



## Case Information

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

**Jurisdiction:** Queens  
**Gender:** Male

**Date of Death:** 05/27/2021  
**Initial Date OCFS Notified:** 05/27/2021

## Presenting Information

On 5/27/2021, the SCR registered an initial report regarding the death of the SC. The report alleged the BM was partying and under the influence of alcohol and she purposely rolled over the SC as part of a gang sacrifice. The report also alleged the mother of the BM's boyfriend abused alcohol and was impaired while caring for her children.

On 5/30/2021, the SCR registered two subsequent reports that alleged the BM used illicit drugs and placed the SC in the middle of the bed with her and her boyfriend. At approximately 4:00AM, the BM awoke and found the SC unresponsive. The report also alleged the BM's boyfriend was 15-yo.

## Executive Summary

On 5/27/2021, the SC was suffocated while co-sleeping in the bed with the BM and her boyfriend at the boyfriend's home. The BM and the SC were visiting the mother's boyfriend, who resided with his mother and his seven siblings at the time.

ACS' case documentation reflected at about 4:00AM, the BM woke up and found the SC under the boyfriend's shoulder and not breathing. The mother of the BM's boyfriend, (who for the purpose of this report shall be referred to as MBMB) gave the SC CPR and then called 911. EMS responded to the home and transported the SC to the hospital where medical staff pronounced him deceased at 4:20AM. The ME reported that the cause of death was asphyxia due to overlay while bed sharing with two adults in an adult bed with soft bedding. The manner of death was ruled accidental.

The SC was the BM's only child. Throughout the investigation, ACS made diligent efforts to locate the BF without success.

On 5/27/2021, ACS received the report and commenced the CPS investigation within the mandated timeframe. ACS interviewed the hospital staff, LE, service provider, and the maternal family. LE did not make any arrest and closed the criminal investigation.

On 11/19/2021, ACS UNSUB the allegations of the report due to lack of credible evidence. ACS based its decision on the ME's report which ruled that the cause of death was asphyxia due to overlay while bed sharing with 2 adults in an adult bed with soft bedding. The manner of death was ruled accidental. ACS assisted the BM financially in cremating the SC.

## 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? 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?** No

**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:**  
ACS' decision to close the case was appropriate.

### Required Actions Related to the Fatality

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

<b>Issue:</b>	Appropriateness of allegation determination
<b>Summary:</b>	ACS should have substantiated the allegation IG of the SC by the BM. There was a causal link from the ME's report which stated the final cause of death was asphyxia due to overlay while bed sharing with 2 adults in an adult bed with soft bedding.
<b>Legal Reference:</b>	FCA 1012 (e) & (f);18 NYCRR 432.2(b)(3)(iv)
<b>Action:</b>	ACS must submit a performance improvement plan within 45 days that identifies what action it has, or will take, to address the citation(s) 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.
<b>Issue:</b>	Overall Completeness and Adequacy of Investigations
<b>Summary:</b>	ACS should have added and substantiated the allegation IG of the SC by the BM's boyfriend as there was a causal link from the ME saying the SC died due to overlay and being in bed with the BM and her boyfriend, co-sleeping.
<b>Legal Reference:</b>	SSL 424.6 and 18 NYCRR 432.2(b)(3)
<b>Action:</b>	ACS must submit a performance improvement plan within 45 days that identifies what action it has, or will take, to address the citation(s) 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:** 05/27/2021

**Time of Death:** 04:20 AM



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

04:00 AM

**County where fatality incident occurred:**

Kings

**Was 911 or local emergency number called?**

Yes

**Time of Call:**

04:00 AM

**Did EMS respond to the scene?**

Yes

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

No

**Child's activity at time of incident:**

- Sleeping
- Playing
- Other

- Working
- Eating

- Driving / Vehicle occupant
- Unknown

**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
- Asleep

- Absent
- Other:

**Total number of deaths at incident event:**

**Children ages 0-18: 1**

**Adults: 0**

### Household Composition at time of Fatality

Household	Relationship	Role	Gender	Age
Deceased Child's Household	Deceased Child	Alleged Victim	Male	1 Month(s)
Deceased Child's Household	Mother	Alleged Perpetrator	Female	20 Year(s)
Other Household 5	Mother's Partner	No Role	Male	18 Year(s)

### LDSS Response

On 5/27/2021, ACS visited the MBMB's home and assessed all the children in the home to be safe. The family denied the MBMB used drugs or that the BM's boyfriend was in a gang. They provided a consistent account of events leading up to the SC's death which revealed that the BM and her boyfriend were co-sleeping with the SC when the incident occurred. The family denied the BM resided at the case address. ACS did not document any concerns for the children in the home at the time of the visit.

The family's neighbor confirmed the MBMB's household composition did not include a baby and denied the BM and the SC resided at the case address. The neighbor denied any concerns for the family.

On 5/27/2021, the MGM reported she last saw the SC on 5/26/21, and the SC appeared fine at the time. She stated the BM did not reside in her home, and she did not know her whereabouts. The MGM denied ACS access to her home or children without a warrant.

On 5/27/2021, the hospital staff reported the SC arrived at the ER in cardiac arrest. There was no trauma to the SC's body.



On 5/28/2021, the service provider reported that between 3/25/2021 and 4/13/2021, the BM received supportive services. There were no concerns for the BM. The service provider denied any contact with the BF.

Also on 5/28/2021, the BM provided an account of the incident which was consistent with the information that was already known. She stated she had appropriate sleeping arrangements for the SC, but not at her boyfriend's home. She reported she moved out of the MGM's home after she gave birth to the SC due to lack of enough space in the home. She denied she or her boyfriend were in a gang. She admitted to using marijuana, but not in the presence of the SC. She denied alcohol use on the night of the incident. The BM denied knowledge of the BF's whereabouts.

On 6/1/2021, the pediatrician reported that the SC was born premature, but did not have any medical condition. The BM kept the SC's appointments. The SC was last seen on 5/17/21 and there were no concerns noted at the time of the visit.

On 6/2/2021, the MGM insisted the BM did not reside with her and denied ACS to speak with her children or assess their well-being.

On 6/2/2021, LE stated the SC's death appeared to be an accident. LE also stated there were no signs of drug or alcohol paraphernalia and no concerns for the children in the home. The criminal investigation would be closed pending toxicology.

On 6/3/2021, the hospital staff reported that the initial findings revealed the SC died from hypoxia, secondary to suffocation and that the account of events provided by the family seemed consistent with the preliminary cause of death.

On 6/10/2021, ACS held a family team meeting with the MBMB. The MBMB declined services for herself and her children. She stated the children were functioning well and had not mentioned the SC since his passing. She did not report any behavioral changes for the children.

On 6/10/2021, LE reported the criminal investigation was closed. LE stated the ME's preliminary autopsy did not find any suspicion of foul play.

On 6/14/2021, the service provider reported the BM declined the offer of services.

On 7/2/2021, the BM reported she was not interested in having a service for the SC, and that she wanted the SC to be cremated.

On 9/8/2021, the ME reported that the final cause of death was asphyxia due to overlay while bed sharing with 2 adults in an adult bed with soft bedding. The manner of death was ruled accidental.

Between 9/8/2021 and 11/15/2021, ACS made casework contacts with the BM, the MBMB and her children, and other collaterals. There was no new information regarding the fatality. ACS provided financial assistance to the BM for the funeral arrangements. The BM declined ACS' offer of bereavement counseling services. ACS assessed the MBMB's children and deemed them safe.

On 11/19/2021, ACS UNSUB the allegations of the report due to lack of credible evidence.

## Official Manner and Cause of Death

**Official Manner:** Accident

**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? No

## SCR Fatality Report Summary

Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome
058861 - Deceased Child, Male, 1 Mons	058862 - Mother, Female, 20 Year(s)	DOA / Fatality	Unsubstantiated
058861 - Deceased Child, Male, 1 Mons	058862 - Mother, Female, 20 Year(s)	Inadequate Guardianship	Unsubstantiated
058861 - Deceased Child, Male, 1 Mons	058862 - Mother, Female, 20 Year(s)	Parents Drug / Alcohol Misuse	Unsubstantiated

## 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
All 'other persons named' interviewed face-to-face?	<input type="checkbox"/>	<input checked="" 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"/>

### Additional information:

The BF's whereabouts were unknown. ACS made diligent efforts to locate the BF without success.

## 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	Not Offered	Needed but Unavailable	N/A	CDR Lead to Referral
Bereavement counseling	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input 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 checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Foster care	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Health care	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Child Care	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other, specify: ACS provided finance to cremate the SC.							

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 siblings.

### History Prior to the Fatality

### Child Information



Did the child have a history of alleged child abuse/maltreatment? 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 in NYS within three years prior to the fatality.

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

The BM did not have any SCR history as an adult.

### Known CPS History Outside of NYS

The family did not have any known CPS history outside of New York State.

### Preventive Services History

Between 3/25/2021 and 4/13/2021, the BM received supportive services. During the period, the agency discussed Safe Sleep practices with the BMs. Following the SC's birth, the BM received additional supportive services as well as supplies for the SC. The BM appeared very receptive of the information she was provided. The service provider did not report any concerns for the BM.

### 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