



Report Identification Number: RO-16-001

Prepared by: Rochester Regional Office

Issue Date: 6/27/2016

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	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-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



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Report Type: Child Deceased
Age: 2 year(s)

Jurisdiction: Monroe
Gender: Female

Date of Death: 11/22/2010
Initial Date OCFS Notified: 01/05/2016

Presenting Information

On 1/5/16, the Monroe County Department of Human Services (MCDHS) received an SCR report which alleged on an unknown date in 2011 or 2012, the parent substitute (PS) gave the subject child (SC) an overdose of Benadryl. As a result the SC died. Further details were unknown. The role of the biological mother (BM) was unknown. MCDHS found the SC died on 11/22/10 at 3:28am.

Executive Summary

This fatality report concerns the death of a two-year-old female that occurred on 11/22/10. The final autopsy report indicated the manner of death was homicide and the cause of death was diphenhydramine overdose. OCDSS received an SCR report on 1/5/16 regarding the death of the SC. However, the SCR investigation was reassigned to the Monroe County Department of Human Services (MCDHS) as the BM and PS both lived in Monroe County. The SC's death was investigated by MCDHS in 2010 (please see "CPS - Investigative History More Than Three Years Prior to the Fatality" for further information) and OCFS completed the 92-10-023 fatality report regarding the death.

MCDHS spoke with the BM and PS by phone; both refused to be interviewed in person. Both denied having additional children or residing with any children. The BM reported she was convicted for the SC's death and was on probation. She denied any contact with the PS since 2010.

The PS denied the allegations of the SCR report. He stated he was always blamed for the overdose because he did not check the dosage information on the bottle. He stated the SC was not his child and he did not give the medication to her. He did take a plea as a result of the SC's death, spent time in jail and was on probation.

MCDHS received a copy of the BM and PS convictions. Both pled guilty to criminally negligent homicide and were sentenced to five years of probation. The PS was also sentenced to 16 weekends in jail.

According to MCDHS, there would be no new criminal investigation regarding the SC's death.

The SCR investigation remained open as of the date of this report.

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** The CPS report had not yet been



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all allegations as well as any others identified in the course of the investigation? determined at the time this Fatality report was issued.

- Was the determination made by the district to unfound or indicate appropriate? N/A

Explain:
N/A

Was the decision to close the case appropriate? Unknown

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

Was there sufficient documentation of supervisory consultation? Yes, the case record has detail of the consultation.

Explain:
The SCR report has not been closed at the time this fatality report was issued.

Required Actions Related to the Fatality

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

Issue:	Timeliness of Determination
Summary:	The 1/5/16 SCR report remains open as of the date of this report.
Legal Reference:	SSL 424(7);18 NYCRR 432.2(b)(3)(iv)
Action:	MCDHS must complete a corrective action plan to address how they will meet the standard of completing investigations within 60 days of the SCR report being made.

Fatality-Related Information and Investigative Activities

Incident Information

Date of Death: 11/22/2010

Time of Death: 03:28 AM

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

County where fatality incident occurred: MONROE

Was 911 or local emergency number called? Yes

Time of Call: 02:53 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:

- Sleeping
- Working
- Driving / Vehicle occupant
- Playing
- Eating
- Unknown



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Other

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

How long before incident was the child last seen by caretaker? 2 Hours

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

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At time of incident supervisor was:

- Drug Impaired
- Alcohol Impaired
- Distracted
- Impaired by disability
- Absent
- Asleep
- Impaired by illness
- Other:

Total number of deaths at incident event:

Children ages 0-18: 1

Household Composition at time of Fatality

Household	Relationship	Role	Gender	Age
Deceased Child's Household	Deceased Child	Alleged Victim	Female	2 Year(s)
Deceased Child's Household	Mother	No Role	Female	28 Year(s)
Other Household 1	Mother's Partner	Alleged Perpetrator	Male	33 Year(s)

LDSS Response

MCDHS spoke with appropriate collateral contacts of the BM and PS' probation officers (PO). Both PO's reported they were compliant with all of the terms and conditions of probation.

Official Manner and Cause of Death

Official Manner: Homicide

Primary Cause of Death: From an injury - external cause

Person Declaring Official Manner and Cause of Death: Medical Examiner

Multidisciplinary Investigation/Review

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

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

SCR Fatality Report Summary



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Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome
027802 - Deceased Child, Female, 2 Yrs	027805 - Mother's Partner, Male, 33 Year(s)	DOA / Fatality	Pending
027802 - Deceased Child, Female, 2 Yrs	027805 - Mother's Partner, Male, 33 Year(s)	Inadequate Guardianship	Pending
027802 - Deceased Child, Female, 2 Yrs	027805 - Mother's Partner, Male, 33 Year(s)	Poisoning / Noxious Substances	Pending

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"/>
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 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?



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 Family Court

 Criminal Court

 Order of Protection

Criminal Charge: Criminally negligent homicide Degree: NA			
Date Charges Filed:	Against Whom?	Date of Disposition:	Disposition:
09/07/2012	The BM	08/14/2013	guilty
Comments:	On 8/14/13, the BM pled guilty to criminally negligent homicide and was sentenced to five years probation.		

Criminal Charge: Criminally negligent homicide Degree: NA			
Date Charges Filed:	Against Whom?	Date of Disposition:	Disposition:
09/07/2012	The PS	06/26/2013	guilty
Comments:	The PS pled guilty to criminally negligent homicide on 6/26/13 and was sentenced to 16 weekends in jail and probation for five years.		

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 checked="" type="checkbox"/>	<input 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 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input 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 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:
 After the fatality in 2010, MCDHS provided bereavement and mental health services to the family.

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 siblings.

History Prior to the Fatality

Child Information

- Did the child have a history of alleged child abuse/maltreatment?** Yes
- 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

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

On 11/22/10, MCDHS received an SCR report alleging the BM and PS gave the SC, Benadryl at approximately 12:30am-1:00am because she appeared sick. The SC threw up the medication and BM and PS immediately gave her a second dose of Benadryl. At around 2:52am, the PS checked on the SC and she was not breathing. The SC was later pronounced dead at the hospital. The label on the Benadryl bottle stated not to give this medication to a child under four-years-old. There was concern the BM and PS overmedicated the SC causing her death.

The allegations were DOA/fatality, IG and poisoning/noxious substances against the BM and PS regarding the SC.

MCDHS investigated and the BM admitted to giving the SC a dose of Benadryl and the SC vomited so she gave her another dose. The SC died on 11/22/10 at 3:28am. The BM stated she was informed by the pediatrician to administer the medication; however, the pediatrician had no record of prescribing Benadryl and indicated he would not prescribe the



medication for a child under four-years-old. According to the ME, the SC had significant levels of Benadryl in her system which caused her death.

As a result, the SCR report was SUB against the BM for DOA/Fatality, IG and poisoning/noxious substances. The allegations against the PS were UNSUB.

Known CPS History Outside of NYS

There was no known CPS 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.

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