



## Report Identification Number: RO-21-021

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

Issue Date: Jan 31, 2022

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 month(s)

**Jurisdiction:** Wayne  
**Gender:** Male

**Date of Death:** 09/20/2021  
**Initial Date OCFS Notified:** 09/20/2021

## Presenting Information

Wayne County Department of Social Services (WCDSS) received the SCR report on 9/20/2021 which alleged the mother (SM) slept with the 1-month-old child (SC) on a couch in her friend's (OA) home. The mother fed the child some time in the night and fell asleep. The mother awoke at 5:19 AM with the child tucked in her right arm unresponsive and cold to the touch. The role of the father (BF) was unknown. The report was subsequent to an open report dated 8/5/2021 which alleged the child was born with a positive toxicology for marijuana.

## Executive Summary

This report concerns the death of a 1-month-old child which occurred while in the care of his mother on 9/20/2021. WCDSS received the report which alleged the mother had fallen asleep on a couch while feeding the child and awoke to find him blueish in color and unresponsive. There were no surviving siblings in the household composition.

WCDSS interviewed the mother, and it was learned that she was staying with a friend for one night while awaiting an opening in a homeless shelter program. The mother reported having fed the child sometime between 1:00-2:00 AM and fell asleep while feeding him. The mother awoke at 5:19 AM and found the child unresponsive, cradled in her right arm.

The investigation revealed concerns for drug abuse by the mother, possibly during the day and night of the fatal incident. The mother checked herself into a substance abuse treatment program prior to the investigation being closed.

The father was interviewed and disclosed no knowledge of the incident and expressed no concerns for the mother's drug use or care for the child. The paternal grandparents expressed their concerns to WCDSS for the mother's drug use during the open investigation prior to the child's death. The mother had been staying with them prior to leaving to stay with her sister and then her friend's home.

The medical examiner identified that the preliminary autopsy results were consistent with positional asphyxiation. The final autopsy would not be available for several months and the cause and manner of death were pending.

WCDSS substantiated the allegations of DOA/Fatality and Inadequate Guardianship against the mother regarding the child. The determination was made in congruence with the evidence gathered. WCDSS made unsuccessful attempts to contact the mother to offer services in relation to the child's death prior to closing the investigation.

## 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?** Yes, sufficient information was gathered to determine all allegations.
- **Was the determination made by the district to unfound or indicate appropriate?** Yes

**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:**

The decision to close the investigation was appropriate and was done with supervisory consult.

### Required Actions Related to the Fatality

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

### Fatality-Related Information and Investigative Activities

#### Incident Information

**Date of Death:** 09/20/2021

**Time of Death:** 06:40 AM

**Time of fatal incident, if different than time of death:** 05:20 AM

**County where fatality incident occurred:** Ontario

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

**Time of Call:** Unknown

**Did EMS respond to the scene?** Yes

**At time of incident leading to death, had child used alcohol or drugs?** No

**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?** Unknown if they were 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	Male	1 Month(s)
Deceased Child's Household	Mother	Alleged Perpetrator	Female	29 Year(s)
Other Household 1	Father	No Role	Male	32 Year(s)

### LDSS Response

WCDSS received the SCR report and coordinated their response with LE. LE informed WCDSS the SM was staying the night at a friend's house with the SC. The SM was staying on the couch in the living room and fell asleep feeding the SC a bottle. The SM awoke at 5:19 AM to find the SC blue in color and unresponsive. The coroner pronounced the SC dead in the home at 6:40 AM and an autopsy was scheduled. The SM was hospitalized due to statements she made at the scene and was receiving mental health treatment at the time the report was made.

The SM was interviewed and confirmed to WCDSS she had been staying with a friend on 9/19/2021 before entering a shelter program with the SC on 9/20/2021. The SM stated she was staying on the couch, and she slept with the SC on her chest. The SM stated she went to sleep with the SC at approximately 11:00 PM, waking between 1:00 and 2:00 AM to feed the SC. The SM stated she fell asleep feeding the SC and awoke at 5:19 AM to find the SC unresponsive and blueish in color. She yelled for help and the OA1 and OA1's husband (OA2) called 911 and assisted with administering CPR. The SC was pronounced dead in the home. The SM denied substance use the night of the fatal incident, though admitted to substance use prior to picking the SC up from the paternal grandparents who had been watching him.

The PGM was interviewed in her home. The PGM expressed multiple concerns for the SM, including drug use while caring for and while apart from the SC. The SM had been staying with the SC's paternal grandparents prior to leaving their home and staying with her own family and friends while awaiting shelter placement. The PGM stated the SM left the home after an argument with the BF and the PGM and PGF confronting the SM about their concerns for her drug use. The PGM disclosed concerns the SM was co-sleeping with the SC while in their home and counseled her many times regarding not sleeping with the SC. The PGM stated she had been watching the SC the day prior to his death and believed the SM was using crack cocaine while she was watching the SC.

The OA1 was interviewed in her home. The OA1 stated the SM had a portable crib with her and that it was not set up by the SM prior to her going to bed at 9:30 PM. The SM and the SC were both awake at that time. The OA1 did express concerns the SM had used drugs prior to her arrival to her home, though appeared sober and coherent when she went to sleep. The SC was with the PGM prior to the SM's arrival at OA1's home and not in the care of the SM.

The BF disclosed no concerns to WCDSS for the SM's drug use or care for the SC. The BF expressed his desire to not see the SM in trouble for the death of the SC. The BF admitted to drug use with the SM in the past. The BF was not present at the time of the fatal incident and knew only what the SM had reported to him. The BF was offered and declined services in relation to the SC's death.

The ME provided LE and WCDSS with the preliminary autopsy results. The autopsy showed no signs of trauma or abuse and the preliminary cause of death was consistent with positional asphyxiation. LE stated marijuana was in the living room where the SM was staying, and they believed it was hers. No other drugs were in the home and the SM was drug tested upon her arrival to the hospital, though the results were not available from LE prior to the investigation being closed.



WCDSS made the determination to substantiate the allegations of DOA/Fatality and IG against the SM regarding the SC. The determination of the allegations was made in congruence with the evidence gathered. The evidence raised concerns for possible drug use by the SM prior to picking up the SC from the PGM and the SM co-slept with the SC, potentially under the influence of substances. The allegation of PD/AM was not added, though WCDSS investigated the concerns when they arose. The SM entered an inpatient substance abuse treatment program prior to the investigation being closed.

**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 referred to an OCFS approved Child Fatality Review Team?** No

**Comments:** Wayne County does not have an OCFS approved Child Fatality Review Team.

**SCR Fatality Report Summary**

Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome
058754 - Deceased Child, Male, 1 Month(s)	058755 - Mother, Female, 29 Year(s)	DOA / Fatality	Substantiated
058754 - Deceased Child, Male, 1 Month(s)	058755 - Mother, Female, 29 Year(s)	Inadequate Guardianship	Substantiated

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

Were services provided to parent(s) and other care givers to address any immediate needs related to the fatality? No

Explain:



The SM was not offered services when WCDSS initially met with her. WCDSS documented three unsuccessful phone calls to her treatment facility and made no further attempts. The BF was offered and declined services by WCDSS.

## History Prior to the Fatality

### Child Information

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

Was the child ever placed outside of the home prior to the death? No

Were there any siblings ever placed outside of the home prior to this child's death? Yes

Was the child acutely ill during the two weeks before death? No

### Infants Under One Year Old

#### During pregnancy, mother:

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

#### Infant was born:

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

## 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)
08/05/2021	Deceased Child, Male, 1 Days	Mother, Female, 29 Years	Parents Drug / Alcohol Misuse	Substantiated	Yes

#### Report Summary:

The SCR report alleged the SM gave birth to the SC on 8/3/2021. The SC tested positive for marijuana and the SM refused to be tested. The SM admitted to using marijuana while pregnant and relapsed on crack cocaine in March 2021 while pregnant. The SC showed signs of withdrawal. The BF and paternal grandmother had unknown roles.

**Report Determination:** Indicated

**Date of Determination:** 11/08/2021

#### Basis for Determination:

WCDSS initiated their investigation and met with the family members and obtained information from relevant collateral sources. Upon the birth of the SC, the SM stayed with the paternal grandparents. The arrangement was deemed safe by WCDSS and the SC was discharged home. The SM was referred for a substance abuse evaluation and to register for parenting classes. The PGM expressed concerns prior to the death of the SC that the SM was using drugs and provided a urine sample positive for cocaine. The SM tested negative when tested by a substance abuse counselor. The SM reported to WCDSS she left the PGP's home due to a domestic violence incident with the BF.

#### OCFS Review Results:

WCCDSS failed to complete and monitor a Plan of Safe Care with the SM as required. WCDSS was aware of the SM's



history of drug use and removal of a previous child. WCDSS was aware of the concerns for drug use expressed by the PGM and the SM's unstable housing at the time the SC died. WCDSS failed to ensure the SM was able to provide the SC with a safe sleep environment upon her departure from the PGP's home. The SM admitted to WCDSS she was unable to continue staying with her sister and did not have a place to stay after 9/2/2021 until their next contact with her on 9/7/2021. On 9/7/2021, the SM reported being on a wait list for shelter and was staying with a friend outside of the county.

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

**Issue:**  
Failure to complete, document, and monitor a Plan of Safe Care

**Summary:**  
WCDSS failed to develop, document & monitor a Plan of Safe Care to address the health and substance use disorder treatment needs of both the infant and affected caregiver despite knowledge the infant was identified as being born exposed to substances.

**Legal Reference:**  
17-OCFS-LCM-03 & 18-OCFS-LCM-06

**Action:**  
WCDSS will complete, document & monitor a plan of safe care that specifically addresses the child(ren) affected by substance abuse and the affected caregiver. LDSS will complete the required form (OCFS-2196 Plan of Safe Care), when developing and documenting the Plan of Safe Care with the family.

**Issue:**  
Pre-Determination/Nature, Extent and Cause of Any Condition

**Summary:**  
New information and evidence became apparent during the open case regarding the SM's inability to provide adequate shelter for the SC. WCDSS did not take adequate measures to ensure the SM and SC had adequate housing. The SM reported being on the waitlist for shelter. WCDSS failed to ensure the home the SM was temporarily staying in had a safe sleeping environment for the SC.

**Legal Reference:**  
18 NYCRR 432.2(b)(3)(iii)(c)

**Action:**  
WCDSS will make an adequate assessment of the nature, extent and cause of any condition which may constitute abuse or maltreatment, whether contained in the original SCR report or discovered during the open investigation.

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

The SM had two substantiated cases from 2013 in which her child was removed from her care due to concerns for drug and alcohol abuse. The SM's parental rights were terminated in 2015 and the child was freed for adoption.

### Known CPS History Outside of NYS

There was no known CPS history outside of NYS.



## Legal History Within Three Years Prior to the Fatality

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

## Additional Local District Comments

We agree with the lack of Plan of Safe Care. We expect more help in completing this as well as the assessment of acceptable living conditions and safe sleep environment the from other counties when the family members are found outside of Wayne.

## 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