



Report Identification Number: NY-18-079

Prepared by: New York City Regional Office

Issue Date: Jan 24, 2019

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		



Case Information

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

Jurisdiction: Bronx
Gender: Male

Date of Death: 07/31/2018
Initial Date OCFS Notified: 08/01/2018

Presenting Information

The OCFS-Form 7065 stated on 7/31/18 the FM checked the infant, who was in the crib, and observed he was unresponsive. The FM administered CPR, 911 was called, EMS responded and transported the infant to the hospital, where he was pronounced dead. According to the medical staff, there were no findings of abuse/maltreatment pending the results of the autopsy.

Executive Summary

This 2-month-old male infant died on 7/31/18. ACS received information from the Office of the Medical Examiner in November 2018. The documentation showed the ME listed the cause of death as undetermined and the manner as natural.

At the time of the infant's death, the family had an open foster care case. ACS opened the case on 5/10/18 after the agency found the BM had an extensive drug use history. ACS determined the BM was unable to provide care of the infant, who was born with positive toxicology for heroin and cocaine. The infant was hospitalized from the time of his birth until 7/20/18, when ACS placed him in a kinship foster home under an Article Ten Neglect petition.

ACS findings showed on the day of his death, the infant was at home and in the care of his FM. At approximately 1:40 PM, the FM fed the infant approximately 2 ounces of milk. She then burped the infant and held him in her arms until he fell asleep. She placed him on his back in his portable crib to continue to sleep. The crib was in the FM's bedroom. The FM slept in her bedroom after she placed the infant to sleep. At approximately 4:00 PM, the FM touched the infant and found he was unresponsive. She administered CPR to the infant, 911 was contacted for medical assistance, EMS responded, continued CPR and transported the infant to the hospital. The infant arrived at the hospital at 4:23 PM and was pronounced dead on arrival. The FM's 11-year-old child and adult daughter were in the home and they observed the FM administer CPR to the infant. The FM's 2-year-old child was in school. The infant had a 14-year-old male surviving half-sibling who was in the care of his father (the custodial parent) since 2012. There were no other children in the BM or BF's care and no surviving foster children in the FM's home.

On 8/1/18, ACS submitted the OCFS-7065 Agency Reporting Form for Serious Injuries, Accidents or Deaths of Children in Foster Care and Deaths of Children in Open Child Protective or Preventive Cases. The information regarding the infant's death was reported to OCFS under Chapter 485 of the Laws of 2006. ACS incorporated the information in the open foster care case for further exploration.

ACS visited the FM's home and engaged and interviewed the FM, 11-year-old child and adult daughter within 24 hours of notification of the infant's death. ACS did not make the required safety assessments of the 11-year-old and 2-year-old children who resided in the FM's home. During the home visit, ACS observed LE and ME investigation was in progress. ACS visited the BF in his home and learned the BM resided in an in-patient residential facility.

Between 8/3/18 and 11/15/18, ACS did not make efforts to contact the family and did verify the outcome of LE investigation. The documentation showed ACS withdrew the Article Ten Neglect petition due to the death of the infant. On 11/16/18, ACS closed the service case after the ME provided the autopsy result.

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

Explain:

There were no allegations of abuse/maltreatment pertaining to the infant's death.

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:

There was no SCR report and no investigation regarding the infant's death.

Required Actions Related to the Fatality

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

Issue:	Timely/Adequate Case Recording/Progress Notes
Summary:	ACS did not enter progress notes contemporaneously: events occurred on 6/4/18 and 8/1/18 but were not entered until 7/30/18 and 11/15/18.
Legal Reference:	18 NYCRR 428.5
Action:	ACS must submit a PIP 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:	Adequacy of Documentation of Safety Assessments
Summary:	The ACS case record did not include adequate documentation of safety assessments of the two children who resided in the FM's household.
Legal Reference:	18 NYCRR432.2(b)(3)(ii)(c)&(iii)(b)
Action:	ACS must submit a PIP 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: 07/31/2018

Time of Death: 04:43 PM

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

04:00 PM

County where fatality incident occurred:

Bronx

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?

N/A

Child's activity at time of incident:

Sleeping

Working

Driving / Vehicle occupant

Playing

Eating

Unknown

Other

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

At time of incident supervisor was:

Drug Impaired

Absent

Alcohol Impaired

Asleep

Distracted

Impaired by illness

Impaired by disability

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	No Role	Male	2 Month(s)
Deceased Child's Household	Foster Parent	No Role	Female	41 Year(s)
Deceased Child's Household	Other Adult - Foster Parent's Daughter	No Role	Female	19 Year(s)
Deceased Child's Household	Other Child - Foster Parent's Child	No Role	Male	11 Year(s)
Deceased Child's Household	Other Child - Foster Parent's child	No Role	Male	2 Year(s)
Other Household 1	Mother	No Role	Female	34 Year(s)
Other Household 2	Father	No Role	Male	58 Year(s)

LDSS Response



ACS staff interviewed a physician in the hospital on 7/31/18. ACS learned that the infant arrived in the hospital at 4:23 PM on 7/31/18. At the time of arrival, the medical staff found the infant was unresponsive. The infant was not breathing, he did not have a pulse and he had a low body temperature, indicating he likely died 1 to 2 hours prior to the time of arrival. The infant did not have bruising or swelling. The medical staff interviewed the FM who said she fed the infant a couple of hours before he fell asleep. The FM reportedly went to sleep and when she awoke she observed the infant was blue.

On the same day, ACS visited the FM's home and observed LE and the ME took pictures of the FM's bedroom and portable crib. LE collected the infant's bottles, unused formula and medical records for further investigation. The documentation showed the home was considered a crime scene. ACS observed and engaged the FM's 11-year-old child and adult daughter. The 11-year-old child said he did not want to speak with ACS. ACS verified the daughter observed the FM administer CPR to the infant while the FM directed her to contact 911 for assistance. Regarding her observations of the infant prior to the time he was found unresponsive, the daughter said the infant usually cried, but seemed fine.

During interviews with ACS on 7/31/18 and 8/1/18, the FM described the infant as a child who cried regularly, slept for approximate 20 minutes intervals, was shaking, and irritable with his arms extended. The FM said she usually slept whenever the infant was asleep. According to the FM's account, on 7/31/18, at about 1:00 PM, she fed the infant approximately 2 ounces of milk, burped him, and walked around the house with him until he fell asleep. She then placed him on his back, with a pacifier in his mouth, in the portable crib to sleep. The FM slept in her bed until approximately 2:15 PM when she awoke, checked the infant and observed he was fine. She returned to sleep in her bed, awoke at approximately 4:00 PM, tapped the infant and observed he did not move. She observed his head was limp and faced down in the mattress, the pacifier was pressed against his lips and not in his mouth. She held the infant and began CPR while her daughter contacted 911 for assistance. ACS reviewed the infant's medical care with the FM. She said she took the infant to the hospital clinic for a scheduled appointment on 7/27/18. The FM explained that the clinic staff asked her to return in 3 months.

On 8/1/18, during a follow up interview with ACS, the 11-year-old child said he overheard the FM ask for assistance as the infant was not breathing. He said he observed the FM administer CPR to the infant.

ACS interviewed the BF in his home on 8/1/18. The BF said on 7/31/18, the FM contacted him and asked him to visit the hospital. He visited the hospital where the physician informed him of the infant's death. The documentation reflected the BM and other family members received notification of the infant's death. The BM continued to reside in a residential treatment facility. ACS and the BF discussed burial arrangements. On 8/6/18, ACS contacted a vendor and discussed financial arrangement for the infant's burial.

On 8/7/18, ACS attended a court hearing and made an application for withdrawal of the Article Ten Neglect petition without prejudice. ACS noted the petition was withdrawn.

Between 8/8/18 and 11/14/18, ACS did not make any effort to contact the BM, BF, FM or other family members. ACS maintained contact with the ME and obtained final autopsy results; however, there were no other collateral contacts.

On 11/15/18, ACS obtained information from the ME. ACS subsequently closed the foster care case.

Official Manner and Cause of Death

Official Manner: Natural

Primary Cause of Death: From a medical cause

Person Declaring Official Manner and Cause of Death: Medical Examiner

Multidisciplinary Investigation/Review



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.

CPS Fatality Casework/Investigative Activities

	Yes	No	N/A	Unable to Determine
All children observed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
When appropriate, children were interviewed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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"/>
First Responders	<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"/>
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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Additional information:

The documentation did not reflect whether ACS observed the 2-year-old child. ACS did not enter progress notes contemporaneously: events occurred on 6/4/18 and 8/1/18 but were not entered until 7/30/18 and 11/15/18.

Fatality Safety Assessment Activities

	Yes	No	N/A	Unable to Determine
Were there any surviving siblings or other children in the household?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was there an adequate assessment of impending or immediate danger to surviving siblings/other children in the household named in the report:				
Within 24 hours?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
At 7 days?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
At 30 days?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was there an approved Initial Safety Assessment for all surviving siblings/ other children in the household within 24 hours?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are there any safety issues that need to be referred back to the local district?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

When safety factors were present that placed the surviving siblings/other children in the household in impending or immediate danger of serious harm, were the safety interventions, including parent/caretaker actions adequate?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Explain:
 ACS did not make safety assessments of the children who resided in the FM's home. There were no surviving children in the BM and BF's care.

Fatality Risk Assessment / Risk Assessment Profile

	Yes	No	N/A	Unable to Determine
Was the risk assessment/RAP adequate in this case?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
During the course of the investigation, was sufficient information gathered to assess risk to all surviving siblings/other children in the household?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was there an adequate assessment of the family's need for services?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the protective factors in this case require the LDSS to file a petition in Family Court at any time during or after the investigation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were appropriate/needed services offered in this case	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Explain:
 The BM received drug treatment and case management services.

Placement Activities in Response to the Fatality Investigation

	Yes	No	N/A	Unable to Determine
Did the safety factors in the case show the need for the surviving siblings/other children in the household be removed or placed in foster care at any time during this fatality investigation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were there surviving children in the household that were removed either as a result of this fatality report / investigation or for reasons unrelated to this fatality?	<input 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Economic support	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Funeral arrangements	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



Housing assistance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mental health services	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
Legal services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Family planning	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Homemaking Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Parenting Skills	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Domestic Violence Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Early Intervention	<input 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 BM received services in a residential treatment facility.

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 BM and BF's care. There were no immediate needs identified.

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

Explain:
 The BM received treatment to address her history of substance misuse and mental health needs.

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? Yes
- Was the child ever placed outside of the home prior to the death? Yes
- Were there any siblings ever placed outside of the home prior to this child's death? Yes
- Was the child acutely ill during the two weeks before death? Yes

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)
05/09/2018	Deceased Child, Male, 1 Days	Mother, Female, 33 Years	Parents Drug / Alcohol Misuse	Substantiated	Yes

Report Summary:

The 5/9/18 SCR report alleged in May 2018 the BM gave birth and the infant had a positive toxicology for opiates, benzodiazepines and methadone. The BM admitted that two days prior to 5/9/18, she used heroin. The newborn tested positive for opiates and exhibited signs of withdrawal. The BF's role was unknown.

Report Determination: Indicated

Date of Determination: 05/23/2018

Basis for Determination:

ACS substantiated the allegation of PD/AM of the infant by the BM. ACS did not provide an explanation for the decision to substantiate the allegation.

OCFS Review Results:

ACS interviewed the BM and BF, addressed the allegation of the report and observed the infant in the hospital on 5/9/18. The BM admitted she misused drugs. The BF said he was aware of the BM's drug use. The infant was hospitalized for treatment. ACS observed the BM and BF had a nurturing relationship with the infant. The BM and BF agreed to participate in services, but did not attend the Child Safety Conference on 5/11/18. ACS filed an Article Ten Neglect petition on behalf of the infant on 5/11/18. The judge remanded the infant to ACS custody. The BM resided in a residential drug treatment facility. The infant remained hospitalized. The BM and BF did not have other children in their care

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

Issue:

Appropriate Application of Legal Standards (Abuse/Maltreatment)

Summary:

ACS substantiated the allegation of PD/AM of the infant by the BM; however, the agency did not provide an explanation for the decision to substantiate the allegation. ACS did not appropriately apply the standards of maltreatment to the case circumstances as the infant was never released to the BM.

Legal Reference:

SSL 412(1) and 412(2)

Action:

ACS must submit a PIP 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.



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

The BM was a subject in six reports dated 7/9/10, 8/8/11, 11/2/11, 4/26/12 (two reports) and 5/16/12. The 7/9/10, 8/8/11, and 4/26/12 reports were indicated and the 11/2/11 and 5/16/12 reports were unfounded. The allegations of these reports were a combination of PD/AM, IG, and L/B/W pertaining to the half-sibling. The allegations of IG and PD/AM were substantiated. The family received foster care services and court ordered supervision with ACS.

Known CPS History Outside of NYS

There was no known CPS History outside of NYS.

Services Open at the Time of the Fatality

Was the deceased child(ren) involved in an open Child Protective Services case at the time of the fatality? Yes

Date the Child Protective Services case was opened: 05/10/2018

Evaluative Review of Services that were Open at the Time of the Fatality

	Yes	No	N/A	Unable to Determine
Did the service provider(s) comply with the timeliness and content requirements for progress notes?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the services provided meet the service needs as outlined in the case record?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did all service providers comply with mandated reporter requirements?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was there information in the case record that indicated the existence of behaviors or conditions that placed the children in the case in danger or increased their risk of harm?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Casework Contacts

	Yes	No	N/A	Unable to Determine
Did the service provider comply with case work contacts, including face-to-face contact as required by regulations pertaining to the program choice?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were face-to-face contacts with the child in the child's placement location made with the required frequency?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Services Provided

	Yes	No	N/A	Unable to Determine
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>



Were services provided to parents as necessary to achieve safety, permanency, and well-being?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Family Assessment and Service Plan (FASP)

	Yes	No	N/A	Unable to Determine
Was the most recent FASP approved on time?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If not, how many days was it overdue? ACS did not complete the FASP that was due on 8/8/18. The FASP was 100 days overdue.				
Was there a current Risk Assessment Profile/Risk Assessment in the most recent FASP?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was the FASP consistent with the case circumstances?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Closing

	Yes	No	N/A	Unable to Determine
Was the decision to close the Services case appropriate?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Preventive Services History

Between 7/12/00 and 4/10/14, the family received preventive services to address the BM's drug misuse and to monitor safety and well-being of the half-sibling. The preventive services included court ordered supervision with ACS from 9/13/10 through 5/13/12, and again from 9/27/12 through 3/14/14. The Family Court granted the father custody of the half-sibling. The BM no longer had custody of the half-sibling but had supervised visitation. The BM received drug treatment and the half-sibling and his father received case management. The services ended after the father complied with ACS service plan.

Foster Care at the Time of the Fatality

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

Date deceased child(ren) was placed in care: 07/20/2018

Date of placement with most recent caregiver? 07/20/2018

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

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

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



Did the agency comply with sibling placement standards?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Was the child AWOL at the time of death?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Visitation

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

Casework Contacts

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

Provider Oversight/Training

	Yes	No	N/A	Unable to Determine
Did the agency provide the foster parents with required information regarding the child's health, handicaps, and behavioral issues?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did the provider comply with discipline standards?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were the foster parents receiving enhanced levels of foster care payments because of child need?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If yes, was foster parent provided a training program approved by OCFS that prepared the foster parent with appropriate knowledge and skills to meet the needs of the child?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Was the certification/approval for the placement current?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was a Criminal History check conducted? Date: 07/02/2018	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Was a check completed through the State Central Register? Date:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>



Was a check completed through the Staff Exclusion List?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Date:				

Additional information, if necessary:
 ACS obtained criminal history check and results of other database checks; however, the documentation did not clarify whether ACS completed the State Central Register database check. ACS closed the foster home on 9/20/18.

Required Action(s)

Are there Required Actions related to the compliance issues for provision of Foster Care Services?
 Yes No

Issue:	Adequacy of foster home certification, approval training, or monitoring
Summary:	The documentation did not reflect whether ACS completed SCR database checks for the FM and other adult who resided in the foster home.
Legal Reference:	18 NYCRR Part 443
Action:	ACS must submit a PIP 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.

Foster Care Placement History

Between 5/3/12 and 10/9/12 the half-sibling received foster care services under an Article Ten Neglect petition that was filed in New York County Family Court. The half-sibling was discharged from foster care to his father.

The infant received foster care services under an Article Ten Neglect petition that was filed in Bronx County Family Court on 5/11/18. Between 5/11/18 and 7/20/18, ACS monitored the infant's medical care, maintained contact with the BM and BF and planned for the infant's hospital discharge. The BM received random toxicology screening, prescribed medication, health care, individual therapy and other services through her in-patient program. On 6/28/18, ACS visited the BF in his home and observed he made some preparations for the infant.

The family identified a kinship FM for infant, ACS completed an expedited home study and later approved the relative foster home. ACS transported the infant from the hospital to the FM's home on 7/20/18. ACS discussed safe sleep practice and hospital discharge information with the FM. ACS met with the FM and infant in the LDSS office on 7/27/18; however, the documentation did not include details of observations of the infant. On 7/31/18, the FM contacted ACS and stated the infant was found unresponsive. ACS completed the required number of casework contacts to meet the program requirement

Legal History Within Three Years Prior to the Fatality

Was there any legal activity within three years prior to the fatality investigation?
 Family Court Criminal Court Order of Protection

Family Court Petition Type: FCA Article 10 - CPS		
Date Filed:	Fact Finding Description:	Disposition Description:
05/15/2018	There was not a fact finding	Withdrawn
Respondent:	048986 Mother Female 34 Year(s)	



Comments:	According to the Child Care Review Services records, ACS filed an Article Ten Neglect petition in Bronx County Family Court on 5/11/18. The judge remanded the infant to the care and custody of the Commissioner of ACS. The petition was withdrawn on 8/7/18.
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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