



## Report Identification Number: BU-22-015

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

**Issue Date: Dec 23, 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

<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	DA-District Attorney	
<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	SXTF-Sex Trafficking
<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		



## Case Information

**Report Type:** Child Deceased  
**Age:** 3 year(s)

**Jurisdiction:** Erie  
**Gender:** Male

**Date of Death:** 07/03/2022  
**Initial Date OCFS Notified:** 07/05/2022

## Presenting Information

An SCR report was received which alleged that on 6/30/22, the father was caring for the three-year-old subject child and the four-year-old sibling when the father fell asleep. At an unknown time, the subject child was able to get out of the home via the door that led directly to the pool area as the lock on the door was broken. The child went outside and fell in the pool. The sibling found the child face down in the pool and unresponsive. The father got the child out of the pool and called 911. The child was transported to the hospital and placed on life support. On 7/3/22, the child was diagnosed as brain dead. The mother was not present on 6/30/22.

## Executive Summary

This fatality report concerns the death of a three-year-old male subject child that occurred on 7/3/22. A report was registered with the SCR on that same date with allegations of Inadequate Guardianship, Lack of Supervision and DOA/Fatality against the child’s mother and father. Erie County Department of Social Services (ECDSS) received the report and investigated the child’s death. An autopsy was completed; however, the final report was not yet available at the time of this writing. The medical examiner informed ECDSS that the preliminary cause of death was “near drowning/injury due to being submerged in water,” and the manner was accidental.

The subject child resided with his mother, father, and four-year-old surviving sibling. At the time of the fatality, the family was involved in an open CPS investigation which was initiated on 6/30/22 after the subject child was found unresponsive in the family’s swimming pool. The investigation revealed that on 6/30/22, the father was the sole caretaker of the children while the mother was at work. The father fell asleep in his bedroom around 12:00PM, leaving the children unsupervised in the home while they played. It was noted that this was the father’s normal routine since he worked overnights, and he would leave his bedroom door open in case the children needed him. At approximately 5:00PM, the sibling awoke the father and informed him the subject child was not moving. The father found the back door to the home was open, and the subject child face down in the above ground swimming pool. The father broke open the gate that led to the pool and retrieved the child from the water. He immediately called emergency medical services and started cardiopulmonary resuscitation. The child was transported via ambulance to the hospital where he was placed on a ventilator with a poor prognosis. The child was diagnosed as brain dead on 7/3/22, and his organs were harvested for donation on 7/5/22. The child was declared deceased on 7/3/22 at 4:16PM.

ECDSS spoke with collateral sources which included family members, law enforcement, the pediatrician, and hospital staff. The safety of the sibling was assessed on numerous occasions and deemed safe. There was no criminality found regarding the death of the child. ECDSS offered the family services in response to the fatality; however, they were declined. A fair preponderance of evidence was found to support the allegations against the mother and father, and the case was indicated and closed.

## Findings Related to the CPS Investigation of the Fatality

### Safety Assessment:





**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

**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	3 Year(s)
Deceased Child's Household	Father	Alleged Perpetrator	Male	24 Year(s)
Deceased Child's Household	Mother	Alleged Perpetrator	Female	25 Year(s)
Deceased Child's Household	Sibling	Alleged Victim	Female	4 Year(s)

### LDSS Response

On 6/30/22, while the SC was still on life support, ECDSS met with the parents at the hospital. SF was interviewed and reported that SM went to work that morning at 7:00AM, and he was home with the CHN. SF said that after SM left for work, he and the CHN had breakfast and watched TV. SF stated afterward, the CHN played. SF stated he fell asleep around noon in his bedroom, and the CHN were in their bedroom dancing and playing at that time. SF said it was his normal routine to lay down in his room while the CHN played, and that he kept his bedroom door open so he could hear the CHN if they needed him. SF said he was not a heavy sleeper, and the CHN had "free rein" to run around the home. SF stated SC had "a slight seizure disorder," so when SS went into his room to tell him SC was not moving, he thought SC may have had a seizure. SF explained he got up and noticed the back door was open, and saw SC was face down in the pool. SF said he got SC out of the pool and called 911, then brought SC in the home to begin CPR. SF explained they had an above ground pool in the backyard with stairs leading up to a gate that locks. SF said the cover was still on the pool and there was water on it from the rain. SF stated the sliding door that leads from the kitchen to deck was broken and no longer locked. He reported that the deck led to the back yard. He explained SC probably squeezed through the pool gate, as it was locked, and SF had to break the gate to get to SC. SF denied that the CHN had ever gone into the back yard unattended before. SF admitted that he worked nights, and the CHN were usually unsupervised while he napped. SF then stated he would sleep "for a good 7 hours or so," but would get up "here and there" to check on the CHN. SF stated he did not know how long SC was in the pool before he found him. ECDSS next interviewed SM, who reported she left for work that morning at 7:45AM and SF was awake at that time. SM said that she received a text message from SF at 5:04PM saying SC was not breathing. She reported SF would sleep during the day when the CHN were also napping, and the CHN would wake him up if they needed something. SM reported the CHN had never gone by the pool before. SM denied having any additional information regarding the incident. ECDSS spoke with the parents about not allowing SS to be unsupervised. At the time of this interview, SS was with a family friend and deemed safe.

On 7/1/22, ECDSS spoke with LE. LE explained SF reported he last saw SC some time that morning and was then awakened by SS, who was wearing a swimsuit that she did not have on prior. The additional information obtained by LE from SF corroborated the information that was gathered by ECDSS. LE noted there was no way to know if the pool gate



was locked or unlocked as SF had reportedly destroyed the gate to gain access to SC.

On 7/1/22, ECDSS interviewed SS, who reported SC could not swim and SF got him out of the pool. She did not respond when asked how she and SC got out of the house and into the pool. SS denied she or her brother had ever gone into the pool before. She also stated when SF is asleep, she also sleeps. SS did not disclose any additional safety concerns.

ECDSS was informed that SC was diagnosed as brain dead on 7/3/22. On 7/7/22, ECDSS spoke with the hospital physician who reported it would have taken only 5 minutes under water to result in the neurological damage SC sustained.

ECDSS obtained medical records regarding the CHN and found SC was diagnosed with a seizure disorder and on medication. SC's last seizure was 2/18/22. The record did not note the date of his next follow up appointment.

Throughout the investigation, collateral sources were contacted who noted no concerns regarding the CHN prior to the death of SC. There were no criminal charges, and by the close of the investigation, the family had moved out of state. ECDSS found evidence to support the allegations in the report and indicated and closed the case.

### 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

**Comments:** This fatality investigation was conducted by the Erie County MDT.

**Was the fatality referred to an OCFS approved Child Fatality Review Team?** Yes

**Comments:** This fatality was submitted for review by the Erie County Child Fatality Review Team.

### SCR Fatality Report Summary

Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Allegation Outcome
062201 - Deceased Child, Male, 3 Yrs	062202 - Mother, Female, 25 Year(s)	Inadequate Guardianship	Substantiated
062201 - Deceased Child, Male, 3 Yrs	062202 - Mother, Female, 25 Year(s)	Lack of Supervision	Substantiated
062201 - Deceased Child, Male, 3 Yrs	062203 - Father, Male, 24 Year(s)	Inadequate Guardianship	Substantiated
062201 - Deceased Child, Male, 3 Yrs	062203 - Father, Male, 24 Year(s)	Lack of Supervision	Substantiated
062201 - Deceased Child, Male, 3 Yrs	062203 - Father, Male, 24 Year(s)	DOA / Fatality	Substantiated
062204 - Sibling, Female, 4 Year(s)	062202 - Mother, Female, 25 Year(s)	Inadequate Guardianship	Substantiated
062204 - Sibling, Female, 4 Year(s)	062202 - Mother, Female, 25 Year(s)	Lack of Supervision	Substantiated



# Child Fatality Report

062204 - Sibling, Female, 4 Year(s)	062203 - Father, Male, 24 Year(s)	Inadequate Guardianship	Substantiated
062204 - Sibling, Female, 4 Year(s)	062203 - Father, Male, 24 Year(s)	Lack of Supervision	Substantiated

### 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 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"/>

**Additional information:**

ECDSS interviewed the family and appropriate collateral sources. Progress notes and other documentation were completed and entered timely.

### 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
At 7 days?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
At 30 days?	<input checked="" type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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"/>



# Child Fatality Report

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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
---	-------------------------------------	--------------------------	--------------------------	--------------------------

### 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:**  
ECDSS offered the family appropriate services in response to the SC's death.

### 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"/>

**Explain as necessary:**  
The SS did not need to be removed as a result of this fatality report.

### 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"/>				



<b>Economic support</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Funeral arrangements</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Housing assistance</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Mental health services</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Foster care</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Health care</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Legal services</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Family planning</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Homemaking Services</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Parenting Skills</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Domestic Violence Services</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Early Intervention</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Alcohol/Substance abuse</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Child Care</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Intensive case management</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Family or others as safety resources</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Other</b>	<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:**  
 ECDSS offered the family services in response to the fatality; however, they declined.

**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? No**

**Explain:**  
 ECDSS offered the family services in response to fatality; however, the declined.

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

**Explain:**  
 ECDSS offered the family services in response to fatality; however, the declined.

## 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? No
- 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 in NYS within three years prior to the fatality.

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

There was no CPS investigative history more than three years prior to the fatality.

## 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 at the Erie County Department of Social Services appreciate the opportunity given us to review the draft report in advance. We find that the facts, as written, describe the unfortunate events and the actions taken in response. We are pleased that OCFS found that the fatality investigation was conducted appropriately and that there are no required actions related to the fatality.

## 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