



**Report Identification Number: NY-16-045**

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

**Issue Date: 12/9/2016**

This report, prepared pursuant to section 20(5) of the Social Services Law (SSL), concerns:

- A report made to the New York Statewide Central Register of Child Abuse and Maltreatment (SCR) involving the death of a child.
- The death of a child for whom child protective services has an open case.
- The death of a child whose care and custody or custody and guardianship has been transferred to an authorized agency.
- The death of a child for whom the local department of social services has an open preventive service case.

The Office of Children and Family Services (OCFS) is mandated by section 20 of the SSL to investigate or cause for the investigation of the cause and circumstances surrounding the death, review such investigation, and prepare and issue a fatality report in regard to the categories of deaths noted above involving a child, except where a local or regional fatality review team issues a report, as authorized by law.

Such report must include: the cause of death; the identification of child protective or other services provided or actions taken regard to such child and child's family; any extraordinary or pertinent information concerning the circumstances of the child's death; whether the child or the child's family received assistance, care or services from the social services district prior to the child's death; any action or further investigation undertaken by OCFS or the social services district since the child's death; and as appropriate, recommendations for local or state administrative or policy changes.

This report contains no information that would identify the deceased child, his or her siblings, the parent, parents, or other persons legally responsible for the child, and any members of the deceased child's household.

By statute, this report will be forwarded to the social services district, chief county executive officer, chairperson of the local legislative body of the county where the child died and the social services district that had legal custody of the child, if different. Notice of the issuance of this report will be sent to the Speaker of the Assembly and the Temporary President of the Senate of the State of New York.

This report may **only** be disclosed to the public by OCFS pursuant to section 20(5) of the SSL. **It may be released by OCFS only after OCFS has determined that such disclosure is not contrary to the best interests of the deceased child's siblings or other children in the household.**

OCFS' review included an examination of actions taken by individual caseworkers and supervisors within the social services district and agencies under contract with the social services district. The observations and recommendations contained in this report reflect OCFS' assessment and the performance of these agencies.



## Abbreviations

### Relationships

BM-Biological Mother	SM-Subject Mother	SC-Subject Child
BF-Biological Father	SF-Subject Father	OC-Other Child
MGM-Maternal Grand Mother	MGF-Maternal Grand Father	FF-Foster Father
PGM-Paternal Grand Mother	PGF-Paternal Grand Father	DCP-Day Care Provider
MGGM-Maternal Great Grand Mother	MGGF-Maternal Great Grand Father	PGGF-Paternal Great Grand Father
PGGM-Paternal Great Grand Mother	MA/MU-Maternal Aunt/Maternal Uncle	PA/PU-Paternal Aunt/Paternal Uncle
FM-Foster Mother	SS-Surviving Sibling	

### Contacts

LE-Law Enforcement	CW-Case Worker	CP-Case Planner
Dr.-Doctor	ME-Medical Examiner	EMS-Emergency Medical Services
DC-Day Care	FD-Fire Department	BM-Biological Mother
CPR-Cardio-pulmonary Resuscitation		

### Allegations

FX-Fractures	II-Internal Injuries	L/B/W-Lacerations/Bruises/Welts
S/D/S-Swelling/Dislocation/Sprains	C/T/S-Choking/Twisting/Shaking	B/S-Burns/Scalding
P/Nx-Poisoning/ Noxious Substance	XCP-Excessive Corporal Punishment	PD/AM-Parent's Drug Alcohol Misuse
CD/A-Child's Drug/Alcohol Use	LMC-Lack of Medical Care	EdN-Educational Neglect
EN-Emotional Neglect	SA-Sexual Abuse	M/FTTH-Malnutrition/Failure-to-thrive
IF/C/S-Inadequate Food/ Clothing/ Shelter	IG-Inadequate Guardianship	LS-Lack of Supervision
Ab-Abandonment	OTH/COI-Others	

### Miscellaneous

IND-Indicated	UNF-Unfounded	SO-Sexual Offender
Sub-Substantiated	Unsub-Unsubstantiated	DV-Domestic Violence
LDSS-Local Department of Social Service	ACS-Administration for Children's Services	NYPD-New York City Police Department
PPRS-Purchased Preventive Rehabilitative Services	TANF-Temporary Assistance to Needy Families	FC-Foster Care
MH-Mental Health	ER-Emergency Room	



## Case Information

**Report Type:** Child Deceased  
**Age:** 11 month(s)

**Jurisdiction:** Bronx  
**Gender:** Male

**Date of Death:** 01/22/2016  
**Initial Date OCFS Notified:** 05/06/2016

## Presenting Information

The infant was born in January 2015 with various medical problems. Since birth the infant was admitted and remained in the hospital until death. The date of death was listed as 1/22/16. The cause of death was related to the infant's medical conditions.

## Executive Summary

This medically fragile male infant died on 1/22/16. According to the ACS case record the infant's death was related to his pre-existing medical condition. There was no autopsy performed and there was no autopsy report for the infant. NYCRO verified the infant's case was referred to the ME for cremation approval only.

The ACS case record showed the family had an extensive child welfare history. The BM admittedly began using marijuana and crack cocaine at the age of 16 years. At the time of death, the infant had 4-year-old and 5-year-old female siblings, 7-year-old female, and 11-year-old and adult male half siblings. The two siblings and one half sibling were born with positive toxicology for crack cocaine and marijuana. The two female siblings had been remanded to the care and custody of the Commissioner of ACS under an Article Ten Neglect petition filed in the Kings County Family Court (KCFC). The minor half siblings were in the care of their respective paternal relatives due to the BM's history of substance abuse. The Family Services Stage (FSS) of the case had been open since 6/9/06 to provide foster care services to the BM's children.

Following the infant's birth in January 2015, he was admitted to the hospital for medical treatment. ACS staff observed the infant in the hospital. The infant was in an incubator with a feeding tube and ventilator. ACS added the infant to the existing Article Ten Neglect petition naming the BM as the respondent on the basis that the BM had stopped engaging in therapeutic services. The BF was non-compliant with the previous Family Court order and he did not make himself available for services. The judge ordered Court Ordered Services with ACS supervision on 2/20/15, stipulating the infant must not be released from the hospital until further Family Court order. The infant remained hospitalized until he was pronounced dead.

The Child Care Review Services records reflect the siblings were completely freed for adoption on the basis of conditional surrender executed by the birth parents in December 2015. ACS withdrew the petition concerning the infant on 4/8/16.

ACS notified NYCRO of the infant's death in May 2016. Subsequently, ACS submitted to NYCRO 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 did not include the information in the open FSS for further exploration. ACS did not notify NYCRO of the infant's death within the required timeframe.

The HeartShare St. Vincent's Services agency maintained case planning responsibility and the staff made monthly



visits to the foster home.

## 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?
- Was the determination made by the district to unfound or indicate appropriate?

N/  
A  
N/  
A

### Explain:

N/A

Was the decision to close the case appropriate?

N/  
A

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

Yes

Was there sufficient documentation of supervisory consultation?

No

### Explain:

N/A

## Required Actions Related to the Fatality

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

<b>Issue:</b>	Adequacy of services following the fatality
<b>Summary:</b>	The documentation did not include information to determine whether ACS offered the parents bereavement or other services following the fatality.
<b>Legal Reference:</b>	18 NYCRR 432.2(b)(4);428.6
<b>Action:</b>	ACS must submit a corrective action plan 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.
<b>Issue:</b>	Required data and official documents
<b>Summary:</b>	According to the progress notes, ACS became aware of the infant's death on 2/24/16. ACS did not provide to NYCRO the official notification until May 2016. ACS did not review official documents to verify the cause and manner and time of death.
<b>Legal Reference:</b>	428.3(b)(2)(i)
<b>Action:</b>	ACS must submit a corrective action plan 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:** 01/22/2016

**Time of Death:** 09:40 AM

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

**County where fatality incident occurred:** New York

**Was 911 or local emergency number called?** No

**Did EMS to respond to the scene?** No

**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

**Is the caretaker listed in the Household Composition?** No

**At time of incident supervisor was:** Not impaired.

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

**Children ages 0-18:** 1

### Household Composition at time of Fatality

Household	Relationship	Role	Gender	Age
Deceased Child's Household	Deceased Child	No Role	Male	11 Month(s)
Deceased Child's Household	Mother	No Role	Female	42 Year(s)
Other Household 1	Father	No Role	Male	55 Year(s)
Other Household 2	Sibling	No Role	Female	3 Year(s)
Other Household 2	Sibling	No Role	Female	4 Year(s)

### LDSS Response



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The Family Services Progress Note (FSPN) reflected ACS did not attempt to contact the birth parents or family relatives following the infant's death. ACS did engage the HeartShare St. Vincent's Services agency to determine whether the family needed burial, bereavement or other services to address the infant's death. ACS submitted to NYCRO the completed OCFS-7065 in May 2016. ACS included supplemented information indicating the infant had serious medical complications, he was on respiratory support in the intensive neonatal care unit until he died on 1/22/16. The form noted the ACS Specialist learned about the infant's death on 1/27/16.

The FSPN showed ACS received written information stating the infant died in the New York Presbyterian Hospital on 1/22/16. ACS staff requested the death certificate for the infant on 2/25/16. The progress notes did not indicate whether ACS actually obtained and reviewed the death certificate to verify the official cause and manner and time of death.

According to the HeartShare St. Vincent's Services agency case record, the Family Court case was heard and the Neglect Petition was withdrawn for the infant on 4/8/16. The Family Court case remained open for planning and filing of the adoption petition on behalf of the two surviving siblings. The permanency planning goal for the two siblings was adoption. The FSPN did not include the scheduled adoption date.

The HeartShare St. Vincent Services agency completed the required number of foster care contacts and monitored the siblings health and well being. The documentation showed the birth parents had a visit with the siblings on 9/20/16. There were no details regarding the family visit. The case planner (CP) visited the two surviving sibling in the pre adoptive home. The CP observed the siblings did not have marks or bruises indicative of abuse/maltreatment, the sleeping arrangements were satisfactory and there was sufficient food and supplies in the home. The siblings continued to receive therapeutic services and counseling. They were enrolled in education programs to meet their individual needs.

## 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:** Hospital physician

## 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 the New York City Region.

## 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"/>



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When appropriate, children were interviewed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Contact with source?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Coordination of investigation with law enforcement?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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:

Following his birth the infant was admitted to the hospital. The infant remained hospitalized until the time of his death.

### 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"/>
<b>Was there an adequate safety assessment of impending or immediate danger to surviving siblings/other children in the household named in the report:</b>				
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 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 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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**Explain:**  
 The infant died on 1/22/16 and following the infant's death, the case planner did not observe the surviving siblings until 2/3/16.

### 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"/>



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

## 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were there surviving siblings/other children in the household removed as a result of this fatality report/investigation?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, court ordered?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Explain as necessary:</b> Following the infant's death, there were no other children in the birth parents care.				

## 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	Needed but 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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Funeral arrangements	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Housing assistance	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mental health services	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Foster care	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Health care	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Legal services	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



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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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Intensive case management	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Family or others as safety resources	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other	<input 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:**

As of 11/29/16, the case remained open for foster care services.

**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? Yes**

**Explain:**

The two siblings received foster care services.

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

**Explain:**

The birth parents had supervised family visits with the surviving siblings. According to the Family Assessment and Service Plan, the parents positively interacted with the siblings. However, they refused drug counseling/treatment and casework counseling services.

## 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? 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? Yes

### Infants Under One Year Old

**During pregnancy, mother:**



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

- Had heavy alcohol use
- Smoked tobacco
- Used illicit drugs

**Infant was born:**

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

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

Date of SCR Report	Alleged Victim(s)	Alleged Perpetrator(s)	Allegation(s)	Status/Outcome	Compliance Issue(s)
02/02/2015	11910 - Deceased Child, Male, 3 Days	11911 - Mother, Female, 41 Years	Inadequate Guardianship	Indicated	Yes

**Report Summary:**

The 2/2/15 SCR report alleged the BM delivered a male infant in January 2015. The report also alleged the BM had two other children in foster care due to her drug use. The infant had a scheduled medical procedure on 2/3/15 due to pre-existing medical condition.

**Determination:** Indicated**Date of Determination:** 03/27/2015**Basis for Determination:**

ACS substantiated the allegation of IG of the infant by the BM on the basis that the infant's two surviving siblings were in foster care. ACS noted the case was filed at the Kings County Family Court and the judge ordered the infant to be released to the BM with ACS supervision: infant not to be released from the hospital until further court order. ACS referenced evidence of the BM's neglect of her diagnosed condition as the BM had stopped using prescribed medication without discussion with her physician. Following ACS intervention, the mother received updated evaluation and was referred to professional service provider for treatment on 3/3/15.

**OCFS Review Results:**

ACS staff assessed the case history, observed the infant in the hospital, engaged the BM, assisted with obtaining supplies for the infant, obtained medical consultation, sought Family Court intervention and referred the family for PPRS. The BM and BF received drug/substance testing and the results were negative. They participated in the 2/20/15 safety conference and 3/12/15 meeting.

ACS did not enter Investigation Progress Notes dated 2/3/15 and 2/17/15 within the required 30-day timeframe. In the 2/6/15 and 3/21/15 safety assessments, ACS did not select the appropriate safety decision to establish the infant's siblings would remain with the substitute caregiver of foster parent.

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

Pre-Determination/Assessment of Current Safety/Risk

**Summary:**

The infant's siblings were in foster care placement status and were not scheduled to be discharged to the birth parent's care. However, in the 3/21/15 Investigation Determination safety assessment, ACS selected the safety decision that stated there was no safety plan/controlling intervention necessary.



**Legal Reference:**

18 NYCRR 432.2 (b)(3)(iii)(b)

**Action:**

ACS must submit a corrective action plan 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:**

Timely/Adequate Seven Day Assessment

**Summary:**

The documentation showed the siblings would remain in foster care placement due to Family Court order. In the 2/9/15 safety assessment, ACS did not select the safety decision to reflect the infant had two siblings in the care of foster parents as a result of protective removal and Family Court order.

**Legal Reference:**

SSL 424(3);18 NYCRR432.2(b)(3)(ii)(c)

**Action:**

ACS must submit a corrective action plan 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:**

Timely/Adequate Case Recording/Progress Notes

**Summary:**

The ACS Investigation Progress Notes showed events occurred on 2/3/15 and 2/17/15 were not entered within the required 30-day timeframe.

**Legal Reference:**

18 NYCRR 428.5(a) and (c)

**Action:**

ACS must submit a corrective action plan 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:**

Failure to Provide Notice of Indication

**Summary:**

ACS did not provided a Notice of Indication to the BM who was the subject of the 2/2/15 report.

**Legal Reference:**

18 NYCRR 432.2(f)(3)(xi)

**Action:**

ACS must submit a corrective action plan 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 family was known to the SCR and ACS in 12 reports dated 7/19/04, 11/9/04, 3/28/06 (two reports), 4/27/06, 7/25/07,



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02/08/08, 4/25/11, 4/27/11, 3/17/12 and 12/7/12.

The BM was listed as a Confirmed Subject in 10 of the total of 12 reports. These reports were dated 7/19/04, 11/9/04, 12/7/12, 3/28/06 (two reports), 4/27/06, 02/08/08, 4/25/11, 4/27/11 and 3/17/12. The BF was listed as a Confirmed Subject in the 3/17/12 report. The ten reports included the allegations of EdN, IF/CS, IG, PD/AM pertaining to the BM's children. The allegations of EdN, IG, PD/AM and IF/CS were substantiated. ACS indicated the reports, closed the investigation stages of the reports and referred the family for services. In 2004, the family refused the ACS offer for services. Subsequently, the family began to receive services on 6/9/06.

The minor half siblings' father was listed as the subject in two of the total of 12 reports. The two reports were dated 7/25/07 and 12/7/12. The 7/25/07 report included the allegations of IG and PD/AM of the half sibling. On 9/21/07, ACS unsubstantiated the allegations of the 7/25/07 report on the basis of lack of credible evidence. The 12/07/12 report included the allegation of EdN of the half sibling. On 1/16/13, ACS substantiated the allegation of EdN of the half sibling by his father. ACS indicated the 12/7/12 report and the half sibling's paternal family received PPRS to address educational, health and family support needs.

### 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 preventive services case at the time of the fatality? Yes

Date the preventive services case was opened: 06/09/2006

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: 06/09/2006

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

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

### Family Assessment and Service Plan (FASP)

	Yes	No	N/A	Unable to Determine
Was the most recent FASP approved on time?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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"/>



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Was the FASP consistent with the case circumstances?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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## Closing

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

## Provider

	Yes	No	N/A	Unable to Determine
Were Services provided by a provider other than the Local Department of Social Services?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Additional information, if necessary:  
N/A

## Required Action(s)

Are there Required Actions related to compliance issues for provisions of CPS or Preventive services ?

Yes No

<b>Issue:</b>	Adequacy of case recording in FASP
<b>Summary:</b>	In the FASP dated 6/29/16, the HeartShare St. Vincent's Services foster care agency did not select the safety factor to reflect the continued placement in foster care was necessary to protect the siblings.
<b>Legal Reference:</b>	18 NYCRR 428.6(a)
<b>Action:</b>	The HeartShare St. Vincent's Services foster care agency must submit a corrective action plan within 45 days that identifies the action the agency has taken or will take to address the citations identified in the fatality report. The agency must meet with the staff involved and inform NYCRO of the date of the meeting, who attended and what was discussed.

## Preventive Services History

The 12/18/12 investigation showed the family needed services to address the now 11-year-old half sibling's educational needs. This half sibling was in the custody of his father. ACS filed an Article Ten Neglect petition on behalf of the half sibling, naming the father as the respondent. The family received Court Ordered Services (COS) beginning 12/12/12. On 12/12/13, ACS closed the case after the half sibling's school attendance improved. Subsequently, the half sibling and his father relocated to reside out of New York State.

The family received services after ACS added the infant (deceased) to the existing Article Ten Neglect petition on 2/20/15.



The judge ordered the infant to be returned to the BM: infant not to be released from the hospital until further order from Family Court, and COS to monitor the family functioning. Between January and December 2015, ACS and the foster care agency completed the quantity of casework contacts to meet the program requirement. The BM and BF participated in supervised family meetings at the HeartShare St. Vincent's Services foster care agency. The BM and BF submitted to random screenings and with the exception of the BM testing positive for cocaine on 5/13/15, the BM and BF had negative test results for illicit substances. The BF did not comply with the Family Court orders as he refused to register for treatment.

### Required Action(s)

**Are there Required Actions related to the compliance issues for provision of Foster Care Services?**

Yes  No

### Foster Care Placement History

The BM's family began to receive foster care services in June 2006 after ACS filed an Article Ten Neglect petition in Family Court on behalf of the half siblings. ACS found the BM had a history of marijuana and crack/cocaine misuse, she did not comply with drug treatment plans, refused to seek prescribed treatment for her diagnosed condition and did not have a plan to provide care of the half siblings. The oldest half sibling was discharged from foster care on 3/26/10. The 7-year-old female half sibling resided in kinship foster care with the MGM from 2/14/08 to 9/4/12 when she discharged to resource relatives.

The siblings (who are now three years old and four years old) were remanded to the care and custody of the Commissioner of ACS on 4/28/11 and 3/27/12, respectively. These siblings resided in a certified foster care home under the supervision of the HeartShare St. Vincent's Services agency. The BM and BF expressed their desire for the foster parents to adopt the two siblings. The BM and BF executed a conditional surrender on behalf of the two siblings in Kings County Family Court in December 2015. The siblings were completely freed for adoption and they remained in the pre-adoptive parents' home. The family received Early Intervention, health services, case management and supervised birth parent visitation.

### 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:
02/20/2015	There was not a fact finding	Withdrawn
<b>Respondent:</b>	032382 Mother Female 42 Year(s)	
<b>Comments:</b>	ACS filed an Article Ten Neglect petition the Kings County Family Court on behalf of the infant, naming the birth parents as the respondents. The infant was released to the mother's care with Court Ordered Supervision. However, the infant remained in the hospital and was not released to the parents care. The infant died on 1/22/06. ACS withdrew the petition concerning the infant on 4/8/16.	



**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