



STATE OF DELAWARE
Child Death, Near Death and Stillbirth Commission
900 King Street
Wilmington, DE 19801-3341

CAPTA¹ REPORT

In the Matter of
Anna Robertson
Minor Child²

9-03-2010-00013

December 2, 2011

¹ The federal Child Abuse Prevention and Treatment Act requires the disclosure of facts and circumstances related to a child's near death or death. 42 U.S.C § 5106 a(b)(2)(A)(x). See also, 31 Del.C. § 323 (a).

² To protect the confidentiality of the family, case workers, and other child protection professionals, pseudonyms have been assigned.

Background and Acknowledgements

The Child Death, Near Death and Stillbirth Commission (“CDNDSC”) was statutorily created in 1995 after a pilot project showed the effectiveness of such a review process for preventing future child deaths. The mission of CDNDSC is to safeguard the health and safety of all Delaware children as set forth in 31 Del.C., Ch., 3.

Multi-disciplinary Review Panels meet monthly and conduct a retrospective review of the history and circumstances surrounding each child’s death or near death and determine whether system recommendations are necessary to prevent future deaths or near deaths. The process brings professionals and experts from a variety of disciplines together to conduct in-depth case reviews, create multi-faceted recommendations to improve systems and encourage interagency collaboration to end the mortality of children in Delaware.

Summary of Incident

The case regarding Anna Robertson is considered a near death incident due to physical abuse perpetrated by the child’s alleged father. At the time of the near death incident, child was three months and nineteen days of age.

On 1/25/09 at about 1500 hours, Anna was brought to the Emergency Room by her mother and alleged father for “not acting right.” According to parents, Anna had been previously well and placed down to sleep around 2300 hours on the evening of 1/24/09. The following morning, on 1/25/09, mother woke Anna at 0900 hours to feed her a bottle. After feeding, Anna fell back to sleep for approximately three hours. During that time, mother had gone to work and Anna was under the supervision of her alleged father. At 1200 hours, Anna awoke and was fed again by her alleged father. Sometime thereafter, Anna was placed in a baby swing due to her continued crying. The alleged father stated that it was not unusual for Anna to cry as she was a fussy baby and the swing helped soothe her. While Anna was in the swing, it was reported by the alleged father that she suddenly screamed, stopped crying, was limp, gazing to the right, and unresponsive. Although Anna seemed to return to normal behavior with stimulation, Anna’s maternal grandmother thought that this was an unusual event and called the mother to return home. Mother and alleged father then transported Anna to the Emergency Room.

Upon arrival at the Emergency Room, Anna was noted to be staring off to the right, having a high pitched cry, and not following sounds or visual cues. It was noted that Anna had back arching and left arm stiffening with labored respirations and bradycardia. Anna was intubated but due to vomiting the tube was removed. Immediately following the first attempt at intubation, Anna was medicated with anti-convulsants, paralytics for agitation, and re-intubated successfully. A CT scan of the head was performed and showed extra-axial bleeding (bleeding within the skull but outside the brain). Upon the findings of the CT exam, Anna was transported via helicopter to a children’s hospital for further evaluation and treatment. Prior to transfer, nurses

documented a small circular area to the left lower mandible of green/yellow bruising (before cervical collar placed by transport team and before intubation). Nurses also noted a lump in left parietal area.

On arrival at the children's hospital, Anna was admitted into the Emergency Room as a Trauma Code where she was evaluated by the trauma team and transferred into the Pediatric Intensive Care Unit (PICU). Anna was noted to have no spontaneous movement of the left extremities and to have a bulging fontanelle. Vital signs were stable. Another CT scan of Anna's head and neck was performed. It demonstrated an acute right subdural hematoma extending along the interhemispheric fissure (deep groove which separates the two hemispheres of the brain) and over the tentorium (the fold of the dura mater supporting the occipital lobes and covering the cerebellum) with an apparent subarachnoid hematoma over the high parietal area (part of the brain positioned above the occipital lobe and behind the frontal lobe). There was also edema over the right parietal area of the brain. An Ophthalmologic exam demonstrated both vitreal and retinal hemorrhages bilaterally, too numerous to count. A skeletal survey was completed which was suspicious but non-specific. Normal liver and pancreas studies were completed, as were bleeding studies, and all were found to be within normal limits. Magnetic resonance imaging (MRI) was done on 1/26/09 and demonstrated an increase in the size of the right subdural hematoma, and lateral ventricles, as well as effacement of the cerebral sulci (depression on brain surface). The MRI also showed areas of subdural hemorrhage over the cerebellum and left occipital subdural hematoma. After the MRI the neurosurgeon performed a percutaneous drainage of the subdural hematoma. At the same time, Anna remained intubated in the PICU for approximately three days. On the third day, Anna was extubated to room air and transferred to the rehabilitation service. An electroencephalogram (EEG) was performed on 1/27/09 and demonstrated several abnormal brain waves consistent with seizure activity that was observed clinically. A follow-up skeletal survey demonstrated no abnormalities.

Inpatient rehabilitation consisted of intense occupational therapy, physical therapy, and speech therapy. Anna was being treated with seizure prophylaxis medications. On 1/30/09, the barium swallow confirmed that Anna has gastroesophageal reflux, possibly due to her traumatic brain injury. Later, Anna was discharged into the care of a foster mother on 2/10/09 and prescribed on medications for gastroesophageal reflux, seizure disorder, and constipation.

Prior to this near death event, there was no previous history for the child or family with the Department of Services for Children, Youth and Their Families (DSCYF). The family became active with DSCYF after the near death incident. DSCYF received emergency custody of Anna and her sibling two days following the near death incident. Approximately one month and four days later, custody of Anna was rescinded to the mother and the child was returned home.

Anna's alleged father was initially suspected to be the perpetrator of Anna's abuse. He was initially charged by law enforcement with Assault by Abuse or Neglect, and felony Endangering the Welfare of a Child. However, less than nine months after the

near death incident it was determined that there was insufficient evidence, including multiple variations in testimony regarding how Anna received her injuries. Therefore, the criminal case was nolle prossed and there was no civil substantiation.

System Recommendations

After review of the facts and findings of this case, the Panel determined that all systems did meet the current standards of practice and therefore no system recommendations were put forth.

Ancillary Factors³

The following ancillary factors were identified and will be evaluated by CDNDSC for possible action:

- (1) CDNDSC recommended that the Department of Services for Children, Youth and Their Families (DSCYF) reconsider the ability to substantiate a case for physical abuse and/or neglect with perpetrator unknown. In this particular case, the child was returned home to the care of her mother and father where potential risk of future abuse and/or neglect was present because a perpetrator was unable to be substantiated and/or prosecuted, due to insufficient evidence and multiple variations of testimony pertaining to how Anna received her injuries.
- (2) Criminal and civil proceedings were dropped as the burden of proof was unable to be met due to insufficient evidence and failure to corroborate testimony and the facts of how Anna received her injuries within a timely manner.
- (3) DSCYF shall establish policy that states prior to closing any case as unsubstantiated, where a death or near-death occurs; the case must be signed off by a senior Deputy Attorney General.

³ In some cases there may be no system practice or conditions that impacted the death or near death of the child; however, if the Panel determines that there are ancillary factors which impact the safety or mortality of children, those factors are compiled by CDNDSC staff and presented at least annually to the Commission for possible action.