STATE OF DELAWARE
Child Death, Near Death and Stillbirth Commission
900 King Street
Wilmington, DE19801-3341

CAPTA[1] REPORT

In the Matter of
J.R.
Minor Child

9-03-2012-00003

February 20, 2015

[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).

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.

The case information presented below is based on documents reviewed and presented from the treating hospitals, the Department of Services for Children, Youth and Their Families, the Office of the Child Advocate, Family Court, Law Enforcement, and the Department of Justice.

Case Synopsis

The female child who is the subject of this review, J.R., was born in July 2008. In August 2010, the DFS Child Abuse and Neglect Report Line received an urgent referral alleging the physical abuse of J.R. The two year old presented to an emergency center with bruising to her head and body that MOC reported was as a result of her paramour's three-year-old son hitting J.R. with a plastic toy. Upon exam, J.R. was noted to be withdrawn, to have bruises to her left orbit, left cheek, right forehead, left and right wrist, left parietal scalp area and left auricular and post-auricular areas. The child was transferred via ambulance to the local Emergency Department (ED) for head imaging due to possible occult fracture. In addition to previously noted bruising, the ED Physician noted multiple contusions to bilateral forehead, maxillary and chin areas and whitish lesions noted to right lower lip, with various contusions noted on chest. The skeletal survey and computed tomography (CT) of the head revealed a buckle fracture of distal left radius. The CT of the head was normal. Child was then transferred to the children's hospital for additional evaluation. The child was examined by the child abuse physician at the children's hospital and the findings suggest the child had multiple impacts, possibly while child had her arms and hands up to protect her head and face from the impacts.

Family History: MOC of the child (MOC)

In February 1996, DFS became active with MOC as a child after receiving a referral alleging physical neglect by MOC's Mother. The caller reported observing MOC often appearing hungry and not being fed appropriately.

During the DFS interview, MOC's Mother appeared shocked by the report. She expressed that she was very familiar with DFS, and had a past case involving MOC being sexually assaulted by her father. She stated that MOC's father had not yet been to court for the allegations involving MOC. Based on the observation of the home as well as the food supply, the social worker feels that the home appeared appropriate. MOC began receiving counseling through the school and often talked about her Mother packing her lunch and feeding her breakfast in the mornings.

In March 1996, police contacted DFS via the Child Abuse and Neglect Report Line regarding allegations that MOC's Mother had been physically abusing her children and locking then in closets and that MOC was seen with her father, (who was accused of sexually assaulting her) having lunch with at her school.

After further investigation, the case was closed unfounded evidence with low risk.

In March 2004, an urgent referral is made to the DFS Child Abuse and Neglect Report Line alleging sexual abuse and inappropriate touching of MOC by her stepfather Doug. The caller reports that MOC disclosed to a friend at her tutoring program, that her stepfather gets drunk and instructs her to remove all of her clothes and begins touching her all over her body. MOC stated that when she revealed this to her Mother she told her to just stay away from her stepfather when he is drunk.

During the investigation, the DFS caseworker interviewed MOC at school and MOC confirms the allegations in the hotline. MOC's Mother does not believe the child's disclosure of the sexual abuse. Therefore, arrangements were made for MOC to stay elsewhere temporarily.
An interview was conducted with MOC's stepfather and he denied the allegations. During the course of the investigation, MOC's sibling confirms that MOC's Mother has allowed MOC to visit her biological father who sexually abused her in the past.

When interviewed at the Children's Advocacy Center, MOC recants stating that her initial disclosure had been misinterpreted and denies ever being inappropriately touched by her stepfather. MOC expresses that her Mother is worried about the stepfather getting in trouble and the family being torn apart.

The case is closed, unsubstantiated with concerns, and the risk assessment was abbreviated.

In February of 2009, MOC and the Father of J.R (J.R.'s biological father) are mentioned in a case as possible perpetrators of sexual abuse of a two year old unrelated child. MOC and the Father of J.R were asked to leave the residence. The child was interviewed and reported as not credible and the hospital exam showed no evidence of sexual abuse. The case was closed in April 2009 with no evidence to substantiate the sexual abuse. No prosecution was sought in this case.

Family History: Father of the child (FOC)

At the time of review of this case, there was no family history noted by DFS involving the child's biological father and/or his family, except the incident as noted above. FOC had no criminal history as an adult.

Family History: MOC's Paramour (Paramour)

At the time of incident, Paramour was on home confinement for driving under the influence and theft charges. No further history noted by DFS involving Paramour.

J.R.'s Near-Death Incident

In August 2010, the DFS Child Abuse and Neglect Report Line received an urgent referral alleging the physical abuse of J.R. The two year old child presented to an emergency center with bruising to her head and body that MOC reported was as a result of her paramour's three-year-old

son hitting J.R. with a plastic toy. Upon exam, J.R. was noted to be withdrawn, to have bruises to her left orbit, left cheek, right forehead, left and right wrist, left parietal scalp area and left auricular and post-auricular areas. The child was transferred via ambulance to the local ED. A skeletal survey, computed tomography (CT) of the head, and screening blood work were completed. In addition to previously noted bruising, the ED Physician noted multiple contusions to bilateral forehead, maxillary and chin areas and whitish lesions noted to right lower lip, with various contusions noted on chest. Of note, a buckle fracture of the distal radius was found and the arm was splinted. Liver enzymes were both elevated causing concern for possible injury to the liver. Additionally, the CPK (creatinine phosphate kinase) was significantly elevated which suggest muscle tissue injury. CT of the head was normal.

MOC reported to hospital staff that she was at work when the injury occurred to J.R. Mom said her paramour, who is on house arrest, was home with J.R. Also home was Paramour's 3-y-o son. Paramour claimed that his son jumped on J.R and pushed her head down in the toy box causing the injuries. The local hospital nurse told DFS that approximately two months ago, MOC brought J.R. to the emergency center for bruises on her forehead and left eye. Nursing notes also documented comments overheard while MOC was on her cell phone saying "Mom, I know my boyfriend has been aggressive toward her but I love him and did not want to get his Mother in trouble for not raising him right- she just wanted him to take classes."

J.R. was then transferred to the children's hospital for additional evaluation. DFS and law enforcement responded to the children's hospital. Further evaluation at the Children's Hospital revealed that J.R.'s stool was noted to be heme (blood)- positive, a CT of the abdomen and pelvis was completed. Nutrition therapy was also consulted at the Children's Hospital as her weight was less than the 5th percentile. A CARE consult was completed after careful evaluation and interpretation of the physical and laboratory findings, it was determined that the findings were consistent with multiple impacts to J.R., possibly while she had her arms and hands up to protect her head and face. J.R. was discharged into the care of her maternal Aunt. Maternal Aunt agreed to the safety plan that was put in place and agreed upon by DFS and MOC. The safety plan stated that MOC was not to have unsupervised visits with J.R. unless otherwise determined by DFS.

During initial questioning by law enforcement, MOC's paramour stated that he was watching J.R. and his son. Paramour left the room to get "sippy" cups. Paramour heard a scream and went back into the room where he found his son on top of J.R. Paramour denies that he saw any bruising on J.R. He also stated he brushed J.R.'s hair a few days prior to the emergency center visit and did not notice any bruising at the time. MOC stated that no one brushed J.R.'s hair because she does not like it brushed. The bruising was not noticed until the child presented at the emergency center.

Paramour's son underwent a forensic interview at the Children's Advocacy Center. The child did admit hurting J.R. on the eye with a block. A short time later, he stated, "my dad hurt her in the head." MOC told the DFS caseworker that J.R was jumping off the bed a few days prior to the injury and fell off but appeared fine after that. It was noted that the bed sits directly on the floor. MOC's statements were often inconsistent throughout the investigation and she admits that she noticed the bruising the morning of the incident. Paramour refused to take a polygraph by law enforcement. MOC completed a polygraph and passed.

Medical records were received and reviewed by the Detective and the Deputy Attorney General in October 2010. J.R. had six visits to the ED prior to the near death incident. Moreover, when J.R. was three months of age she was taken to the ED by ambulance because she stopped

breathing. There was concern that she may have been possibly suffocated. Upon interview, MOC told the Detective that this incident was as a result of a respiratory infection and subconjuctival hemorrhage.

J.R.'s biological father was contacted by the MOC and informed of the situation, and DFS made him aware of the investigation. Prior to this incident, FOC had not been active in providing care for J.R. Caseworker informed FOC that a home assessment and background check would need to occur in order to be approved for visitation or consideration for possible placement. FOC is employed and resides with his Mother.

J.R. is appointed a guardian *ad litem* attorney. At this time MOC and FOC were still continuing case plan with DFS. In January 2011, MOC gave birth to J.R.'s sibling and DFS does not take custody, but a safety plan is put in place for the newborn. At this time, MOC was living with her stepfather. MOC eventually moved to Maryland where she received services from both Delaware and Maryland that helped her with completing her parenting classes. Case plans were completed and MOC was reunited with J.R. FOC never received custody of J.R. as FOC's paramour had mental health issues, questionable history, and suitable housing was not found.

Criminal /Civil Disposition

In November 2010, Paramour was substantiated for Physical Abuse, Level III and MOC is substantiated for Physical Abuse, Level III.

In July 2011, Paramour was found guilty of Endangering the Welfare of a Child, misdemeanor and he was sentenced to Level V for one year; suspended for time served; and Level III for one year suspended for time served; one year probation. The charge of Assault was Nolle Prossed. In February 2011, MOC pled guilty to two counts of Endangering the Welfare of a Child but received Probation before judgment. The charge of Assault was Nolle Prossed.

System Recommendations

After review of the facts and findings of this case, the Commission determined that all systems did not meet the current standards of practice and therefore the following system recommendations were put forth:

Recommendations:

1) CDNDSC recommends that a child who presents to any medical care facility with a traumatic injury, where history of how the injury was sustained is not consistent with the type of injury, or where other trauma is likely to have occurred, that a physical examination be completed such that the child is disrobed in order to observe the child's entire body, so that other injuries and/or abuse can be ruled out.
    a. Rationale: In May 2010 child presented to the Emergency Center with the chief complaint that the child was "hit by a McDonald's plastic toy in the forehead". Soft tissue swelling of the forehead is noted. There is no exam of the chest, back, extremities, abdomen, genitalia, mouth or other skin surfaces. Child is diagnosed with scalp hematoma.
    b. Anticipated Result: To ensure the safety and well being of a child through proper medical examination in order to rule out the suspicion of abuse/neglect, when child injuries are not consistent with history of event.
    c. Responsible Agency: All emergency departments and urgent care centers