



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

CAPTA¹ REPORT

In the Matter of
Matthew Moore
Minor Child²

9-03-2012-00008

May 16, 2014

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.

The case information presented below is based off 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, Delaware State Police, and the Department of Justice.

Case Synopsis

The male child who is the subject of this review, Matthew Moore, was born in January 2008 to Angela Moore and Sean Edward.

Three and a half-year-old Matthew presented to the Emergency Department with a three-centimeter vertical laceration to the left frontal scalp area that appeared to have occurred “from the result of impact from direct trauma and not from a sharp instrument causing a break in the skin.” Six staples were used to close the laceration and a topical anesthetic was applied to the wound. Upon further examination, a computed tomography (CT) scan was concerning for a small linear lucency (clear spot) on one image possibly representing a non displaced fracture under the site of the laceration. The child was also noted to have a contusion on the right hand that appeared to be old and healing well. Matthew also had bruising to his ears, arms, legs and genitals.

During the criminal investigation, the mother’s paramour, Marcus Mitchell, initially confessed to kicking and hitting Matthew. However, after the forensic interview was conducted with Matthew, Marcus was interviewed a second time by law enforcement, and he admitted to a prior incident in which he dropped the child in the shower. The incident resulted in a fracture to the child’s arm and medical treatment was denied for four and a half weeks. He also admitted to hitting the child with a fly swatter causing swelling to the child’s hand. Marcus was charged with Assault by Abuse/Neglect, two counts of Endangering the Welfare of a Child, and two counts of Assault 2nd.

Angela was also arrested because she knowingly denied her son medical treatment after his arm was fractured. She remained in the residence when the child’s arm was fractured, then allowed her child to remain in the residence for two additional assaults. A safety plan was not initially completed by the Division of Family Services (DFS) as the child was admitted to the children’s hospital. However, as the investigation progressed, a No Contact Order was put in place between Matthew, Angela, and Marcus. In addition, DFS completed a safety plan while the children were residing with a relative.

DFS founded the case for Head Trauma and Medical Neglect and transferred the case to the treatment unit. Marcus Mitchell was substantiated for Head Trauma, Level IV. He pled guilty to

one count of Assault 2nd and was sentenced to eight years confinement suspended after two years, followed by one year of intensive supervision. The mother, Angela Moore, was substantiated for Other Medical Neglect, Level III. She received Probation Before Judgment for the charge of Endangering the Welfare of a Child.

Family History: Mother

In August 2010, DFS became active with Angela after receiving a referral alleging the physical abuse of Matthew by his mother's paramour, Marcus Mitchell. The caller reported observing bruising to the child's ear, arms, legs, chest and genitals; however, the caller did not witness the abuse and alleged the paramour watches the child while the mother is at work. The report was accepted and a response was due within ten days.

During the DFS investigation, Angela admitted to leaving the child home with her paramour while she worked but stated there were other adults present. The social worker observed bruising on the arms of the child to which the worker concluded could be due to normal interactions and play. The mother was aware of the mark on the child's penis but did not know how it occurred. She had been applying petroleum jelly to the mark.

Marcus was interviewed at his home in September 2010. He admitted to yelling at the child and stated that the mother, Angela, has slapped his hand for discipline but never caused injury. He believed the bruise to the child's ear was caused when he fell off his bike. He denied knowledge of any other marks on the child's body, to include the penis.

Relatives reported that Marcus does yell a lot but denied witnessing abuse. They suspected that the mark on the child's penis came from a fall over the baby gate, which occurred when Marcus was at work.

During the investigation, DFS discovered that Angela sent the child to live with his biological father and paternal grandmother in Florida. Further, maternal grandmother reported that Angela intentionally sent Matthew out of state, so that the DFS investigation would be closed. The maternal grandmother also alleged that Marcus was physically abusive with Angela and other relatives, but she denied abuse towards Matthew. The social worker confirmed that the child was living with the paternal grandmother by telephone. During the call, grandmother stated that she was concerned since maternal relatives told them that the child was abused by the mother's paramour, Marcus.

The case was closed in October 2010 with no evidence to substantiate the physical abuse. There was no police involvement during this investigation.

Family History: Father

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

Sean had no criminal history as an adult. He had an extensive juvenile criminal history with drug/alcohol charges and criminal mischief.

Family History: Mother's Paramour

At the time of review of this case, there was no further history noted by DFS involving the mother's paramour, Marcus Mitchell, as an adult, except as described above. However, it was noted the paramour had an extensive history as a minor. Marcus was adjudicated delinquent on several misdemeanor charges. As an adult, in 2010 and 2011, he was found guilty of Carrying a Concealed Dangerous Instrument and various motor vehicle related charges.

Matthew's Near-Death Incident

In August 2011, the DFS Child Abuse and Neglect Report Line received an urgent referral alleging the physical abuse of Matthew. Reports indicated that three and a half-year-old Matthew presented to the Emergency Department with a three-centimeter vertical laceration to the left frontal scalp area that appeared to have occurred "from the result of impact from direct trauma and not from a sharp instrument causing a break in the skin." Six staples were used to close the laceration and a topical anesthetic was applied to the wound.

Upon further examination, a contusion was noted on the child's right hand that appeared to be old and healing well. A computed tomography (CT) scan of the head, facial bones and neck was completed. The CT scan of the head was concerning for a small linear lucency (clear spot) on one image possibly representing a non-displaced fracture under the site of the laceration. He was placed on a cardiac monitor pulse oximetry and transferred to the children's hospital for concerns of an open skull fracture. DFS responded to the children's hospital and contacted the police to request a joint response. DFS later confirmed that a detective would be assigned in the morning.

Upon initial interview by the DFS social worker, the mother stated she left for work at 4:45 PM and received a call from the paramour at 5:57 PM stating the child had fallen off the bed and was bleeding from his head. He wrapped a t-shirt around the child's head to control the bleeding. The mother left work and went straight home. She called her mother to tell her what had happened, and then she took the child to the emergency department. Although she did not witness the incident, mother reported that the child was jumping on and off the bed, which was later noted to be an air mattress, and hit his head on a car seat. There was no loss of consciousness or vomiting. Child reported to DFS that Marcus hurt his head and hand. A safety plan was not completed by DFS as the child was admitted to the children's hospital.

Hospital staff reported that numerous nurses overheard the child say the mother's paramour hurt him and threw him off the bed. Additionally, the child told multiple nurses that his mother told him to say he fell off the bed. No information was obtained by the medical personnel in regards to the height of the bed or where the mother was at the time of the incident.

The CT scan from the emergency department was reviewed by children's hospital staff and noted to be only limited imaging, not showing the full head, and no fracture was identified. That same evening, a CARE consult was completed and the physical exam noted deformity of the left upper extremity. Mother stated that swelling in the left arm had been present for over one and a half years but she did not seek medical attention, because it did not seem to bother the child. An x-ray of the left arm demonstrated a healing fracture of the left radius and ulna with fracture extending through already present callus, suggesting re-fracture. Due to this finding, a skeletal survey was completed and otherwise normal. The child's left arm was placed in a cast.

The children's hospital informed DFS that there was a newborn in the home that DFS had not yet seen. The DFS worker made arrangements with law enforcement to meet at the home the day after the child was admitted to the hospital. The social worker also obtained permission from Angela to have the maternal aunt care for the infant. A safety plan was completed by DFS.

Marcus told law enforcement that on the day of the injury, Matthew began jumping on the bed and was told to stop. He then landed on his knees and fell forward onto the car seat that was sitting on the floor. Later in the interview, Marcus stated that Matthew was jumping on the bed and may have tripped over his foot and fell. He said he told the child to stop jumping once then raised his voice. The detective confronted Marcus about the handle of the car seat being higher than the mattress. Marcus eventually confessed to kicking and hitting the child. He said that Matthew did a full flip head over heels off of the bed and landed on the side of the car seat causing the cut to his head. He wrapped a t-shirt around the child's head to control the bleeding and telephoned the mother. After the law enforcement interview, the scene was secured, evidence was collected, and Marcus was placed under arrest.

The children's hospital informed the social worker that the lump discovered on the child's arm (the reasoning for the cast) was determined to be an old fracture. As a result of this, an updated safety plan was completed so that mother had no contact with the infant as well.

Initially, Marcus was charged with Assault 1st and 2nd. During the CAC interview, Matthew's story was consistent with what was reported to DFS. Due to additional allegations of physical abuse disclosed by Matthew, law enforcement re-interviewed Marcus. During the second interview, Marcus admitted to dropping Matthew in the shower, causing the fracture to his arm, and denying medical treatment for four and a half weeks. He also admitted to hitting the child with a fly swatter causing swelling to the child's hand. Marcus would be charged with Assault by Abuse/Neglect, two counts of Endangering the Welfare of a Child, and two counts of Assault 2nd. Angela was also arrested, because she knowingly denied her son medical treatment after his arm was fractured. She remained in the residence when the child's arm was fractured, then allowed her child to remain in the residence for two additional assaults. There is a No Contact Order in place preventing Angela from having contact with her son.

A guardianship hearing for the maternal grandmother occurred and neither parent was present for the hearing. The petition was denied and the case was transferred to Kent County to be consolidated with the petition filed by the maternal aunt.

During the treatment case, the maternal grandmother began taking care of both children and again filed for guardianship. The mother obtained stable housing and employment, and she provided proof that she had completed a parenting class. The maternal grandmother withdrew her petition for guardianship. Both children were returned to mother's care in January 2012. Marcus Mitchell remained incarcerated until a release date of June 2013. He will continue probation until October 2014.

Criminal /Civil Disposition

In August 2011, Marcus Mitchell was substantiated for Head Trauma, Level IV and Angela Moore was substantiated for Other Medical Neglect, Level III. In February 2012, Marcus pled guilty to one count of Assault 2nd and was sentenced to eight years confinement suspended after two years, followed by one year of intensive supervision. The additional four charges of

Endangering the Welfare of a Child were Nolle Prossed. Angela received Probation Before Judgment for the charge of Endangering the Welfare of a Child.

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:

Delaware Hospital Emergency Departments

1. CDNDSC recommends that training and education be offered to all Emergency Department hospitals on the treatment of children who present with head trauma.
 - a. Rationale: In August 2011, the child was taken to the Emergency Department with the chief complaint that the child had fallen from a bed onto a car seat causing a laceration of the head. The injury required a computed tomography (CT) scan of the head which revealed a small linear lucency on one image possibly representing a non-displaced fracture under the site of the laceration. The child required six staples to close the laceration, and was transferred to the children's hospital for further evaluation and treatment. The Emergency Department did not report this incident to the Child Abuse and Neglect Report Line as it is believed that the treating physician did not think the child's injury rose to a level of abuse, and that such injury could have been sustained given the mother's initial explanation of events.
 - b. Anticipated Result: All Emergency Departments will receive education on treating children who present with head trauma.
 - c. Responsible Agency: All Delaware Hospital Emergency Departments

Division of Family Services (DFS)

1. CDNDSC recommends the Division of Family Services develop policy to address situations in which a victim is temporarily placed out of state for the purpose of impeding an active investigation, particularly in cases where physical or sexual abuse is alleged and the child is non-verbal. An immediate request must be made to the out of state child protective services agency to verify the child's whereabouts and to conduct a safety and home assessment.
 - a. Rationale: In the August 2010 investigation, the two-year-old child was immediately sent to Florida to impede an active investigation, and DFS did not contact the Child Protective Services in Florida to assess the child's safety
 - b. Anticipated Result: Child will continue to be monitored by a Child Protective Services Agency upon leaving the state.
 - c. Responsible Agency: Division of Family Services
2. CDNDSC recommends the Division of Family Services (DFS) contact the Department of Justice (DOJ) Child Protection Unit of the Family Division to discuss possible legal options when a victim is temporarily placed out of state for the purpose of impeding an active investigation.

- a. Rationale: In the August 2010 investigation, the two-year-old child was immediately sent to Florida to impede an active investigation, and DOJ was not consulted to discuss potential legal remedies.
 - b. Anticipated Result: To ensure that all civil remedies have been explored to protect children.
 - c. Responsible Agency: Division of Family Services

3. CDNDSC recommends the Division of Family Services (DFS) follow policy A-24 in the DFS Policy Manual as it relates to corroborating information obtained from the family through appropriate collateral contacts. In cases where physical abuse is alleged, a medical professional is the appropriate collateral contact.
 - a. Rationale: In the August 2010 investigation, a collateral contact was not done with a professional even after a relative reported concern of abuse to the caseworker.
 - b. Anticipated Result: The information obtained from professionals will assist the case worker in the decision making process.
 - c. Responsible Agency: Division of Family Services

4. CDNDSC recommends the Division of Family Services (DFS) review its policy as it relates to the response time assigned to cases involving alleged physical abuse of a non-verbal child with visible bruising.
 - a. Rationale: In the August 2010 investigation, the case was assigned a ten-day response to the investigation despite the allegations of physical abuse to a two-year-old child. The alleged perpetrator also had caretaking responsibilities for the child.
 - b. Anticipated Result: DFS will respond within 24 hours to reports involving non-verbal children with bruising.
 - c. Responsible Agency: Division of Family Services

5. CDNDSC recommends the Division of Family Services (DFS) follow Policy A-14 in the DFS Policy Manual as it relates to obtaining medical examinations for children under age 9 who are alleged victims of physical abuse.
 - a. Rationale: In the August 2010 investigation, the two-year-old victim was alleged to have bruising to his ear, arms, legs, chest and genitals, and no medical examination was sought.
 - b. Anticipated Result: Alleged victims of physical abuse will receive medical examinations to determine and document current and/or previous injuries and the child's immediate medical needs.
 - c. Responsible Agency: Division of Family Services

6. CDNDSC recommends the Division of Family Services (DFS) follow Policy B-9 in the DFS Policy Manual as it pertains to assessing a child's safety in an alternate living arrangement when it has been determined that the child's safety is jeopardized in his/her own home.
 - a. Rationale: In the August 2011 investigation, the child was placed with the maternal aunt and a home assessment was not completed until eleven days later. Although a time frame is not specified in policy, a home assessment should have been conducted at the time of placement with the maternal aunt.

- b. Anticipated Result: A child's safety will be assessed in alternate living arrangements when a child cannot remain safe in his/her own home.
 - c. Responsible Agency: Division of Family Services
- 7. CDNDSC recommends the Division of Family Services (DFS) follow Policy A-16 in the DFS Policy Manual as it pertains to contacting the appropriate law enforcement agency for all reports, which if were true, would constitute a criminal violation against a child.
 - a. Rationale: In the August 2010 investigation, the two-year-old victim was alleged to have inflicted injuries to his ear, arms, legs, chest and genitals, and the police were not contacted.
 - b. Anticipated Result: The agencies will work collaboratively to ensure the safety of children.
 - c. Responsible Agency: Division of Family Services
- 8. CDNDSC recommends the Division of Family Services (DFS) follow the Memorandum of Understanding (MOU) between DSCYF, the Children's Advocacy Center, Department of Justice and Delaware Law Enforcement Agencies as it pertains to conducting a joint investigation with the police. The child was hospitalized for a skull fracture, and DFS interviewed the child without a law enforcement representative present.
 - a. Rationale: During the August 2011 investigation, the child sustained a serious physical injury. Given that the injuries would likely constitute a violent felony against a child, DFS should not have interviewed the child without the approval of the appropriate law enforcement agency.
 - b. Anticipated Result: The agencies will work collaboratively to ensure the safety of children.
 - c. Responsible Agency: Division of Family Services