



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

## **CAPTA<sup>1</sup> REPORT**

In the Matter of  
Eric Stewart  
Minor Child<sup>2</sup>

9-03-2009-00014

January 25, 2013

---

<sup>1</sup> 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).

<sup>2</sup> 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.

## **Case Summary**

The child who is the subject of this review, Eric Stewart, was born in December 2008 to Tamara Johnson. Eric was born at 39 weeks gestation, weighing seven pounds and ten ounces. Eric was discharged home to the care of his mother, Tamara, on day three of life.

In March 2009, the Division of Family Services' (DFS) Child Abuse Reportline received an urgent referral alleging the physical abuse of Eric Stewart. Reports indicate that Eric, whom at the time was three months of age, presented to the Emergency Department in poor physical condition with swelling in his left arm. Upon further examination, it was noted that Eric had a spiral fracture to his left arm, healing rib fractures and bruises and scratches to his face.

### **Mother's History:**

In 1997, DFS became active with Tamara after receiving an urgent referral alleging the sexual abuse of Tamara by her mother's paramour. DFS notified law enforcement of the sexual abuse allegation and closed the case as unsubstantiated as arrangements by mother had been made for Tamara to stay with a non-relative. DFS approved the non relative placement and guardianship of Tamara was petitioned for and granted by Family Court.

DFS received another referral, in June 1998, alleging the physical neglect of Tamara's newborn child. Tamara had mental health issues and was prone to violent behavior. At the time of this referral Tamara's guardian was being disruptive and counterproductive to the relationship that Tamara needed to establish with her child. One month prior to this referral, Tamara, whom was 15 years of age, was brought to the Emergency Department with genital bleeding believed to be self inflicted. Tamara was treated and then admitted to a center for behavioral health where she was diagnosed with adjustment disorder and psychotic symptoms. Tamara was at this facility for approximately five days before being discharged to her guardian. The case was transferred to treatment for further case management and eventually closed once it was determined that the family had stabilized.

Another investigation alleging physical neglect was reported to the Child Abuse Reportline in August 2002. The report alleged that Tamara had not been receiving any mental health treatment and was pregnant for the third time. Concern was raised regarding Tamara's ability to care for her children. Contact was made with Tamara and children by the DFS caseworker. Tamara denied any thoughts of suicide or threatening to hurt her children. Additional contact was made with Tamara's counselor who noted that Tamara had mood swings and

appeared overwhelmed at times; however, there were no safety concerns as it pertained to the care of her children. The case was closed as unfounded for physical neglect.

In June 2004, DFS received another allegation of neglect. Tamara had left her 16 month old son alone with two adolescents who let him wander to the playground unsupervised. Tamara's mental health issues were noted again, but did not seem to impact her care of children. The case was closed as unfounded with concern due to lack of supervision by Tamara.

Another report of physical abuse was received by DFS in February 2006. Law enforcement had responded to Tamara's residence after receiving a report that a child may have been injured. Officers observed the child and no marks or bruises were indicative of abuse. The case was closed as unfounded due to lack of evidence.

### **Father's History:**

Isaac's natural mother was deceased and Isaac had no contact with his natural father since he was approximately four years of age.

In February 1996, DFS was contacted regarding Isaac, whom at the time was ten year of age, and reported to be home alone. Law enforcement responded and supervised the child until an adult returned. Isaac's step-mother was arrested for Endangering the Welfare of a Child. During the previous 90 days, his step-mother had been homeless and moving from shelter to shelter with her five children. The case was founded for maltreatment and closed.

In November 1998, DFS was contacted due to reports of inappropriate discipline of Isaac and his sister by biological father and step-mother. The case was closed as unfounded as DFS determined that father had used inappropriate discipline.

Two months later, law enforcement contacted DFS stating that Isaac and siblings were left under the supervision of a neighbor while his parents had gone to Florida. DFS assessed the situation and put a safety plan in place with neighbor. The case was closed as unfounded.

In December 2003, Isaac's step-mother called reporting inappropriate sexual activity between father and the children. The alleged victims were interviewed but no abuse was disclosed. The police were present for the interview and stated that they could not bring charges against the father. There was concern that there may have been something that happened, but without a disclosure, there was no further action to be taken. The case was closed as unfounded with concern and risk.

Eight months later, in August 2004, Isaac's step-mother and law enforcement notified DFS that Isaac was kicked out of the house by his father. Law enforcement informed DFS that Isaac had been hit in the face by his father and that charges were going to be pressed. The case was founded for physical abuse, level III. Isaac's father pled guilty to offensive touching and was ordered into a first offenders program.

In May 2005, Isaac's step-mother called the hotline to state that she could no longer care for Isaac. The case was founded for dependency. Step-mother could no longer care for Isaac due to his destructive and disruptive behaviors to other people and things. DFS completed the investigation and due to dependency, was granted custody of Isaac in July 2005. Isaac remained in foster care until he turned eighteen.

In June 2007, law enforcement responded to the residence of Tamara Johnson in reference to a domestic incident. Upon arrival, officers spoke to Tamara and immediately observed injuries to her face, neck and stomach. Emergency Medical Services were contacted and Tamara was transported to the hospital. Tamara and Isaac, Eric's father, had been married for approximately three weeks and Tamara was eleven weeks pregnant with Eric. Tamara and Isaac had gotten into a verbal argument where Isaac grabbed a kitchen steak knife and threatened to kill Tamara. Isaac proceeded to punch Tamara in the face three times and smack her stomach. He then proceeded to hold a pillow over her face and "chop block" Tamara's throat, so that Tamara could not breath. Isaac was arrested and charged with simple assault, unlawful imprisonment, criminal mischief, terroristic threatening, and possession of a deadly weapon during the commission of a felony. A no contact order was also put in place between Isaac and Tamara.

### **Eric's Near Death Event:**

Shortly after Tamara gave birth to her son Eric, Tamara self reported Post-Partum Depression. Tamara stated that she was experiencing auditory and visual hallucinations, she admitted to on and off suicidal ideations, lack of appetite, and isolating herself from others. In the past, Tamara had made various attempts at taking her own life. Such attempts included drinking bleach, placing a bag over her head, cutting herself, shooting herself, and overdosing on pills. During that time, Tamara had six or seven admissions to a center for behavioral health. Tamara was referred to another behavioral facility for a partial hospitalization program where medication and therapy sessions were to begin.

Approximately one month and seven days later, DFS received an urgent referral alleging the physical abuse of Eric Stewart. Eric was transferred to a children's hospital where a skeletal survey was preformed and revealed multiple healing rib fractures. These fractures were to the left lateral 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, and 7<sup>th</sup> ribs. There was also an associated fracture of the left humerus at the mid diaphysis and corner fractures to the femur and tibia bones in both legs. Eric also suffered from a spiral fracture to his right arm. The humerus fracture appeared to be acute, whereas, the rib fractures appeared to be between 14 and 21 days old. The fracture to the humerus and associated soft tissue swelling suggested that the fracture occurred either just before or no more than five days prior to the skeletal survey. The fracture to Eric's arm and the bruising to his face was noted to have occurred within the last 24 to 48 hours. Mother, Tamara, was advised of Eric's injuries and her affect was noted to remain consistently flat. Mother appeared to be distant and disconnected. According to Delaware's Child Abuse Expert, the distribution and appearance of the fracture findings as well as the inconsistencies with mother's explanation were consistent with inflicted, non-accidental trauma.

DFS notified law enforcement who also responded to the hospital in order to observe the child's injuries and talk with medical personnel. Law enforcement took photographs of the child's visible injuries as well as initial statements from mother.

Tamara recalled two occasions were Eric was hurt. The first occurred on the day of Eric's near death incident when a friend's daughter had been twisting Eric's arm. The second incident occurred about three weeks ago when Eric's older sibling was hitting him in the face with a sippy cup. Tamara informed law enforcement that Eric was often cared for by Tamara's 17 year old sister, maternal grandmother, and her paramour and that on the day of the incident all were present, at some point in time, at Tamara's residence.

Within days of Eric's near death incident, DFS petitioned for and was granted custody of Eric. Shortly thereafter, a guardian *ad litem* was appointed to represent Eric's best interests.

After further questioning by law enforcement, it was later revealed, that Tamara had sat on Eric's arm with enough force to have caused the spiral fracture. At the time of the incident Eric was not in a crib, but lying on Tamara's full size bed between the wall and two pillows. Tamara admitted to recklessly squeezing Eric, on more than one occasion, while she rocked him in order to stop Eric from crying. Tamara knew that squeezing Eric as hard as she did would cause injury; however, she continued to do so causing the fractured ribs on Eric's left side. Tamara also admitted to causing Eric's other injuries due to being frustrated and overwhelmed with the care of her children. Tamara was arrested and initially charged with four counts of Assault 3<sup>rd</sup>, nine counts of Assault by Abuse/Neglect, and one count of Assault 2<sup>nd</sup>. A no contact order was put in place, which stated that Tamara was to have no unsupervised contact with children under the age of eighteen.

In July of 2009, custody of Eric was continued with DFS. The permanency goal for Eric was reunification with his parents. Case plans were developed to reflect such goals. Mother's progress on her case plan was reviewed and it was noted that she remained unemployed, was noncompliant with her mental health components, and was not taking her prescribed medication. Tamara received a psychological evaluation which determined that she suffered from Post-traumatic Stress Disorder and Recurrent Major Depressive Disorder as a result of her early-age victimization, which included extensive sexual abuse by her mother's paramours. Tamara acknowledged that she suffered from severe psychiatric symptoms, including command hallucinations, flashbacks of sexual abuse experiences, and a high degree of anger, paranoid ideation and anxiety, as well as having attempted suicides on at least three occasions. It was determined that Tamara's symptoms would not go away without appropriate treatment, thus creating an inability for Tamara to safely parent her children.

At this time, Eric's father remained incarcerated for other criminal offenses and was unable to meet the components of his case plan as well. In October 2009, DFS was relieved, by the Court, from making reasonable efforts at reunification with father. Furthermore, five months later, in March 2010, the permanency goal was changed from reunification to termination of parental right and adoption.

Maternal grandmother had filed for guardianship of Eric; however, it was decided that due to maternal grandmother's extensive history with DFS, alcohol and drug use, domestic violence, and sexual abuse, maternal grandmother would not be able to adequately protect Eric from his mother or others.

In January 2010, Tamara Johnson pled guilty to Assault 2nd, and was sentenced to 8 years level V, suspended for 3 years at level III probation. Additionally, Tamara is not permitted to have unsupervised contact with any her children.

Parental rights to Eric were legally terminated in late 2010. Eric was placed for adoption and successfully adopted in October 2011.

### **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:

#### **DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH & THEIR FAMILIES**

1. CDNDSC recommends that the Division of Family Services (DFS) consider implementing policy as it relates to evaluating whether a parent's mental health issue impacts the care of a child. If the parent or caretaker is receiving treatment, then the caseworker should contact the mental health professional. However, if no treatment is in place, then DFS should recommend an immediate mental health evaluation.
  - a. Rationale: Mother received a psychological evaluation in February 2009, approximately one month before the child's near death incident, which indicated Post Partum Depression. As a result of this evaluation, a higher level of intervention should have been sought instead of the recommended treatment of partial hospitalization program.
  - b. Anticipated Result: DFS will properly assess the mental health of caregivers and refer to treatment as appropriate for prior investigations in which mental health issues were identified and not addressed.
  - c. Responsible Agency: Department of Services for Children, Youth and Their Families

#### **MEDICAL**

2. CDNDSC shall continue to support the Delaware Healthy Mother and Infant Consortium (DHMIC) in their work surrounding mothers and post partum depression.
  - a. Rationale: Child's mother had continued mental health issues in which treatment was not sought or recommended, especially following the birth of her children. The goal of this recommendation is to create more awareness and understanding as to the effects and symptoms of Post Partum Depression and what is needed in order for mothers to be properly diagnosed.
  - b. Anticipated Result: To properly diagnose mothers and refer them to the appropriate resources, so that treatment can be sought.
  - c. Responsible Agency: DHMIC
3. CDNDSC encourages Delaware Hospitals, under the guidance of the Delaware Healthy Mother and Infant Consortium (DHMIC), to explore and assess patients who present with Post Partum Depression through techniques such as screening tools, referrals, and additional resources and services.
  - a. Rationale: To give medical and mental health facilities the proper resources and tools to appropriately screen for and provide services for patients who present with Post Partum Depression.
  - b. Anticipated Result: To better assess patients who present with Post Partum Depression.
  - c. Responsible Agency: Delaware Hospitals and DHMIC