



**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  
Cayden Thomas  
Minor Child<sup>2</sup>

9-03-2006-00003

January 25, 2013

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<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 and 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, Cayden Thomas, was born in August 2005 to Jocelyn Smith and Carl Thomas. Cayden was born prematurely at 25 weeks gestation, weighing one pound and fourteen ounces. Following his birth, Cayden had an extensive stay at the hospital for approximately 14 weeks due to medical complications, which resulted in Cayden undergoing open heart surgery at 11 days of life.

In January 2006, the Division of Family Services (DFS), who was already active with the family due to a previous report, received a call from maternal grandmother advising that Cayden was unresponsive. Maternal grandmother was instructed to call 9-1-1 and have the child transported to the hospital via ambulance. Cayden was then transferred to a children's hospital, where further examination revealed that he had severe hypoxic brain injury, which required emergency surgery in order to drain blood from his brain which was causing pressure and respiratory distress. The treating physician, whom was also the Child Abuse Expert, advised DFS that Cayden's situation had been caused by a head injury in the past, and reported that it had to have occurred after November 2005, due to Cayden having an ultra sound completed on such date, that failed to reveal any evidence of hypoxic brain injury at that time.

## **Mother's History:**

Jocelyn Smith was born in August 1986. Jocelyn's parents were never legally married and separated when she was eight years of age.

Jocelyn attended school until tenth grade when she then dropped out. She returned to complete her high school diploma, but then became pregnant with Cayden and was unable to finish.

Jocelyn's criminal history included charges, such as, conspiracy and robbery in the first degree. She was also detained at a detention center for two months as a teenager and then sent to another facility in order to fulfill her sentence.

During Cayden's near death investigation, Jocelyn denied any history of substance abuse, although she tested positive for marijuana at the birth of Cayden's younger sibling. She has limited employment history and failing to maintain steady employment for any significant length of time. She also denies any history of domestic violence.

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

Carl Thomas was born in November 1983. It is unclear whether his parents were ever married, but it is known that Carl has not had contact with his biological father since the age of three.

Carl was never invested in his academics and therefore dropped out of school in tenth grade after being suspended from school due to a fight. Carl has maintained employment in the construction industry since the age of 16.

Carl denies any substance abuse difficulties, or legal difficulties, it is known that he was violated during his probation for positive urine screens. His criminal history includes charges such as criminal mischief, burglary third, theft, carrying a concealed deadly weapon, criminal trespassing, offensive touching, and disorderly conduct. It is also known that Carl had a history of domestic violence with Jocelyn Smith and had restricted visitation with Cayden Thomas.

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

DFS became involved with Jocelyn Smith and Carl Thomas in January 2006, after the Child Abuse Reportline received a referral alleging possible abuse and neglect. Reports indicated that the infant, Cayden, whom was five months of age, had been taken to the hospital because he was unable to eat or drink, and upon further examination, it was discovered that the child had two fractured ribs on his left side.

During the course of the investigation, it was also discovered that Cayden had been in the hospital in December 2005 (which DFS had not been alerted to) with complaints of scrotal bruising, swelling, and a 1<sup>st</sup> degree burn to his forehead. A linear area of petechia was also noted on Cayden's upper right, inner thigh and redness in his left eye. It was determined that the bruising to Cayden's scrotum was the result of a bilateral inguinal hernia repair and circumcision that had occurred two months prior. The burn to Cayden's forehead was a result of Cayden's father placing him two feet from an electric heater which exposed Cayden's face to heat consequently causing a severe burn. While investigating the broken ribs incident, it was learned that the ribs had been broken during surgery that Cayden had on his heart, and not by some form of abuse. However, hospital staff developed other concerns after observing the parent's care of their son. Hospital staff alleged that the parents were inappropriate and appeared to lack knowledge of basic parenting skills. The treating physician also had concerns that the parents were taking the child from hospital to hospital because they were unsatisfied with the follow

up instructions that were provided in order to care for Cayden. Additional concerns noted were the parent's non-compliance at following the care recommendations provided at discharge, which put Cayden at further risk.

Four days later, in January 2006, Cayden presented to the Emergency Department again for vomiting and diarrhea. Cayden was treated and then discharged the next day into the care of his maternal grandmother, whom had been identified as the safety person through DFS. The next day Cayden was taken via ambulance to the Emergency Department as he was lethargic and gasping for air. Cayden was placed on a ventilator due to a severe hypoxic brain injury and then transferred to the children's hospital where he was admitted for further examination and care management. Neither parent could describe a significant head injury event, which lead to the suspicion of an inflicted injury. Cayden was observed by Delaware's Child Abuse Expert, who reported that Cayden had a chronic bilateral subdural hematoma, approximately two weeks old or older, and that such injuries were a result of non-accidental trauma.

Given DFS's concern for Cayden's safety, an afterhours request for ex-parte custody of Cayden was petitioned for and granted. At that same time, a judge ordered that a guardian *ad litem* be assigned to the case in order to represent Cayden's best interests.

On the day of Cayden's near death incident, DFS alerted law enforcement of the concerns regarding Cayden and a detective was assigned to investigate the case. During law enforcement's initial interview of mother, Jocelyn Smith, she alleged that she questioned Cayden's father, Carl Thomas, about any possible incidents in which Cayden could have been injured. She claimed that Carl advised her that Cayden had fallen off the couch one time, and could have possibly hit his head. Jocelyn also stated that during a visit with Carl, Carl's oldest son had been running around the house with a piece of panel and had accidentally run into Cayden, hitting him in the head with the piece of panel.

Law enforcement executed a residential search warrant two days after Cayden's near death incident. Father was also interviewed at this time. Father stated that he had placed Cayden on a baby boppy on the couch. Father turned around and proceeded to walk into the kitchen when he heard a thump. Father turned around and Cayden was on the floor, upside down in front of the couch. Father stated that after the fall Cayden appeared normal and did not cry. Mother was not home at the time of this incident and such incident occurred prior to Cayden receiving the burn to his forehead, in December.

Polygraphs were scheduled for both parents; however, neither parent appeared for their scheduled polygraph. DFS was advised that the investigation into the possible abuse of Cayden would continue and a short time later revealed that Cayden's father, Carl Thomas, was suspected as the possible perpetrator.

At the end of January 2006, a meeting was held with Cayden's physicians, hospital staff and DFS. DFS learned that Cayden's condition would be permanent and irreversible. It was reported at that time that Cayden would always be dependent on

others for his care, and that his future would hold repeated episodes of pneumonia, hospitalization, muscle contractures, and spinal surgeries.

After both the preliminary protective and the adjudicatory hearings, the Court found that custody would continue with DFS and that case planning would commence in an effort to work toward reunification of Cayden with his parents. Separate case plans were entered into Court for both parents in March 2006.

Over the next several months, Jocelyn appeared to make minimal case progress on her case plan objectives. A psychological evaluation was completed which revealed serious concerns over Jocelyn's ability to parent a young child dependent on her care. Jocelyn was attending scheduled visits with Cayden; however, concerns were often noted over her inappropriate care of Cayden.

A no contact order was put into place between Carl Thomas, Jocelyn Smith, and Cayden. It was noted that the parents repeatedly violated the no contact order between themselves. In August 2006, Carl Thomas was arrested for the physical abuse of Cayden and charged with one count of Assault in the First Degree and one count of Assault by Abuse and/or Neglect.

In November 2006, given the parents' failure to achieve their case plan goals, DFS requested the approval of the permanency goal change from reunification to termination of parental rights and adoption. Such change in goal was accepted based upon the parents' failure to plan for their son's reunification.

In January 2007, the criminal charges against father, Carl Thomas, were nolle prossed as there was insufficient evidence to determine that father had inflicted the injuries to Cayden. Furthermore, the investigation conducted by DFS also resulted in the case being closed as unsubstantiated with risk and concern.

In June 2007, Jocelyn Smith and Carl Thomas voluntarily consented to the termination of parental rights of Cayden. In July 2007, the termination of parental rights petition was filed and granted. Four years later, in January 2011, at five years of age, Cayden was adopted.

### **System Recommendations**

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

## **MEDICAL**

1. CDNDSC will send a letter to the Delaware hospital involved in the care and treatment of this child who failed to report the suspected child abuse and neglect of the child.
  - a. Rationale: In December 2005, child presented to the Emergency Department with a 1<sup>st</sup> degree burn to the forehead, scrotal bruising, and petechia. Child was treated and discharged; however, DFS was never contacted regarding this event until the child presented later that same month with two fractured ribs.
  - b. Anticipated Result: Compliance with Delaware law when abuse and/or neglect is suspected.
  - c. Responsible Agency: Delaware Hospital
  
2. CDNDSC recommends that all Delaware hospitals follow the standard of care as depicted by the American Academy of Pediatrics on how to properly examine a child for child abuse using skeletal surveys.
  - a. Rationale: The Hospital did a baby gram on the child upon presentation to the Emergency Department. Injuries were not noted as the child did not receive a skeletal survey.
  - b. Anticipated Result: Compliance with best practice
  - c. Responsible Agency: Delaware Hospitals
  
3. CDNDSC will send a letter to the hospital involved with this child asking them to review their policies and assessment regarding computed tomography (CT) scans.
  - a. Rationale: In this particular case, the child's CT scan was improperly read.
  - b. Anticipate Result: Proper assessment of CT scans by professionals.
  - c. Responsible Agency: Delaware Hospitals

## **DIVISION OF FAMILY SERVICES**

4. CDNDSC recommends that DFS better utilize the legal option of compelling cooperation during an investigation and the legal ability to include judicial enforcement.
  - a. Rationale: The initial safety plan was violated by the family. Despite this violation, a less restrictive safety plan, which allowed the parents increased access to the child, was put in place. Lack of multi-disciplinary collaboration and communication between DFS and, private providers, and the medical community reduced the ability of the case worker to enforce the safety plan.
  - b. Anticipated Result: To ensure the protection and well being of the child
  - c. Responsible Agency: Department of Services for Children, Youth and their Families

5. CDNDSC recommends that DFS reconsider the ability to substantiate a case with the perpetrator unknown.
  - a. Rationale: Grave concern was raised by members of the Panel about the closure of cases. Specifically, cases that are unsubstantiated because the perpetrator is unknown, but it is clear that abuse is occurring within the home.
  - b. Anticipated Result: Protection of child who are victims of abuse and neglect and the better use of history within the DFS.
  - c. Responsible Agency: Department of Services for Children, Youth and their Families

### **STATEMENTS OF SUPPORT**

6. CDNDSC supports the training for Child Abuse Identification and Reporting Guidelines for Delaware Medical Providers.
  - a. Rationale: Medical personnel did not contact DFS' Child Abuse Report line when child first presented to the Emergency Room in December 2005, days prior to the child's near death incident.
  - b. Anticipated Result: Continued training on the identification and reporting of child abuse and/or neglect for medical personnel.
  - c. Responsible Agency: Medical, Child Protection Accountability Commission
7. CDNDSC supports home visiting services that replicate successful national models such as the Nurse Family Partnership founded by David Olds.
  - a. Rationale: There was a lack of coordinated services and communication among the social services support agencies that provided services to the family and child.
  - b. Anticipated Result: Empower first-time mothers living in poverty to successfully change their lives and the lives of their children through evidence-based nurse home visiting.
  - c. Responsible Agency: Children and Families First was awarded the Nurse Family Partnership Grant.
8. CDNDSC supports the implementation of a comprehensive and holistic Family Practice Team Model that provides continuous comprehensive case management services to pregnant women and their infants up to two years post partum.
  - a. Rationale: There was a lack of coordinated services and communication among the social services support agencies that provided services to the family and child. The Family Practice Team Model (Reducing Infant Mortality in Delaware – Task Force Report, May 2005) suggests that services include comprehensive case management, trained resources mothers, outreach workers, nurse, social workers, and nutritionists.
  - b. Anticipated Result: Continuous comprehensive case management services to pregnant women and their infants up to two years post partum
  - c. Responsible Agency: Delaware Healthy Mother and Infant Consortium

9. CDNDSC supports the use of history in decision making process by DFS.
  - a. Rationale: The referral to the Child Abuse and Neglect Report Line was accepted but downgraded from an urgent to a routine despite risk factors within the family that were not assessed properly to minimize risk to the child.
  - b. Anticipated Result: A thorough assessment of risk that may be presented or posed to the child as a result of history that is taken into consideration.
  - c. Responsible Department: Department of Services for Children, Youth and their Families