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

CAPTA[1] REPORT

In the Matter of
J.D.C
Minor Child[2]

9-03-2011-00017

May13, 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.D.C, was born in January 2010.

In February 2011, the DFS Child Abuse and Neglect Report Line received an urgent referral alleging lack of supervision of the child. Reports indicated that Mother of J.D.C (MOB), at the age of 18, was living in a foster care home on a board extension with the foster care family and her daughter, J.D.C According to MOB, she left her twelve month old child alone in her room while she went downstairs to use the bathroom. The child was taken to the Emergency Department and admitted with a partial strangulation/suffocation type injury and petichiae. Further medical examination showed child suffered an abrasion on the right side of her cheek as well as petichiae. Ophthalmology was clear and skeletal scans revealed no fractures.

Family History: Mother (MOB)

MOB was born in Guayama, Puerto Rico, where she lived with her mother and four siblings until she was seven years old. At that time, the family moved to the United States. She was placed in foster care for the first time in 2006, while her mother received psychiatric treatment. Although her mother regained custody shortly after, it was soon revoked and DFS retained custody. Around this same time, MOB was sentenced to time in a detention center for Violation of Probation and Truancy. After her release, she was placed in foster care.

While in foster care, she became pregnant and gave birth to her first child in 2009. This child was placed in another foster care home because it was determined that she was not able to provide appropriate parenting. In 2010, at the age of 17 years, she gave birth to her second child. They resided together with her foster care family.

MOB has a history of alcohol and marijuana use. She had no significant criminal history until this incident. At the time of the incident, MOB was residing in foster care on a board extension. In addition to J.D.C, MOB had a two year old son, who was in DFS custody and placed in foster care away from MOB.

Family History: Father (FOB)

Child's father had been identified and was not involved in this incident.

J.D.C's Near-Death Incident

In February 2011, the DFS Child Abuse and Neglect Report Line received an urgent referral alleging lack of supervision of the child. Reports indicated that MOB, at the age of 18, was living in a foster care home on a board extension with the foster care family and her daughter, J.D.C. According to MOB, she left her twelve month old child alone in her room while she went downstairs to use the bathroom. When she returned, the foster mother observed the child and it appeared the child was lifeless, not moving and not breathing. MOB was observed by foster mother to be calm and walking around holding the child. MOB kept saying something about the child being really pink. Foster mom started screaming, which seemed to startle the baby and she started breathing again. The child was taken to the Emergency Department and admitted with a partial strangulation/suffocation type injury and petichiae. Further medical examination showed child suffered an abrasion on the right side of her cheek as well as petichiae. Ophthalmology was clear and skeletal scans revealed no fractures.

DFS responded to the Emergency Department and interviewed MOB's foster care family as well as MOB. They explained that MOB had an argument over the phone with FOB earlier that day. During the argument, the foster care family explained that they heard MOB say to FOB, "you'll be sorry". Later that evening, everyone in the home was watching a movie on the first floor of the home. MOB took child and said they were going to her bedroom downstairs. About 15-20 minutes later, MOB came back upstairs and said something about the child being pink. A few minutes later, foster care family noticed that the baby looked limp, like a rag doll. This caused the foster care mother to start screaming which she thinks startled the baby and it seemed the baby then started breathing again. At that point, they took child to the Emergency Department for medical evaluation.

During the DFS interview with the MOB, she reported that she had put the child on the bedroom floor for approximately ten minutes while she went to use the bathroom. When she came out of the bathroom, she explained that she saw her child's head caught between the bed and the crib. MOB described her child's body as being limp and stated that her lips and nose were blue in color. MOB explained she moved the bed and picked the child up and went upstairs. She continued to say that she made a mistake when she said the child was pink and that she was scared and did not know how to react. MOB's account of the events was questionable to both DFS and Law Enforcement. A safety plan was created and signed by all involved for supervised contact between J.D.C and MOB by the foster care family. When J.D.C was initially discharged from the hospital she was placed back into the care of MOB, who was still residing in the same foster home.

During the criminal investigation, MOB admitted to law enforcement that she caused the injuries to her child. MOB explained that she kicked and attempted to strangle the child in order to stop the child from crying. That same day an Emergency Ex Parte Order was granted by Family Court.

Criminal /Civil Disposition

MOB was charged with Assault 2nd, Reckless Endangering 2nd and Endangering the Welfare of a Child (EWC, misdemeanor). In August 2011, MOB pled Guilty to Assault 3rd and Reckless Endangering 2nd and was sentence to one year Level V suspended to one year Level II for each charge, Level II to be served concurrent. The EWC was Nolle Prossed. There was a No Contact Order in place between MOB and J.D.C

In addition, MOB was substantiated for suffocation and lack of supervision and was placed on the Child Protection Registry Level IV. Mother and Father's parental rights were terminated on 11/14/12.

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 by the panel:

Recommendations:

1. CDNDSC recommends that the investigating police agency revise policy and procedure as it pertains to the investigation of child abuse and neglect cases, with specific focus on securing and maintaining a crime scene, interviews of key witnesses, and communication among lead detectives and subordinates.
    a. Rationale: Law Enforcement waited until three days after admission to the hospital to begin an investigation, waiting for the Child Abuse expert's evaluation.
    b. Anticipated Result: Best practice as it pertains to the investigation of child abuse and neglect cases.
    c. Responsible Agency: Law Enforcement

2. Law enforcement shall adhere to the Memorandum of Understanding between the Department of Services for Children, Youth, and Their Families, the Children's Advocacy Center, the Department of Justice and Delaware Police Departments when reporting and/or investigating cases of child abuse and neglect.
    a. Rationale: Law Enforcement did not respond jointly with the Division of Family Services (DFS) to conduct a joint investigation, they let DFS "handle the case" until the Child Abuse Expert was consulted.
    b. Anticipated Result: Best practice as it pertains to a Multi-disciplinary response for child abuse/neglect.
    c. Responsible Agency: Law enforcement

3. CDNDSC shall send a letter to the Division of Family Services (DFS) and OCA/CASA requesting an explanation as to why there are times when a minor parent can be in DFS custody and residing in a foster care home; however, the minor parent's child is not in DFS custody. The question should be asked "Is placement of minor parent's child in the foster care home appropriate if DFS does not pursue custody of minor parent's child and minor parent is in DFS custody due to dependency, abuse/neglect, and presents with

borderline mental health issues; therefore, questioning the minor parent's ability to appropriately care for said child".

a. Rationale: In this particular case, the minor parent was residing in a foster home on a board extension.
b. Anticipated Result: A clear answer to custodial issues regarding minors and their children when in the care of the Division of Family Services (DFS)
c. Responsible Agency: DFS, OCA and CASA

4. CDNDSC recommends that further education; such as, the development of a bench book pertaining to the psychological, developmental, and/or physical impacts of abuse and neglect on nonverbal children who sustain serious, life threatening injuries, be provided to judicial officers in Superior Court, so that sentencing will not only reflect the statutorily established sentencing guidelines, but take into consideration the effects that such abuse will have on a child.
    a. Rationale: In this particular case, Mother was charged with Assault 2nd, Reckless Endangering 2nd and Endangering the Welfare of a Child (EWC, misdemeanor). In August 2011, Mother pled Guilty to Assault 3rd and Reckless Endangering 2nd and was sentenced to one year Level V suspended to one year Level II for each charge, Level II to be served concurrent. The EWC was Nolle Prossed.
    b. Anticipated Result: Longer time served for perpetrators of child abuse and neglect
    c. Responsible Agency: Superior Court and CPAC