



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

CAPTA¹ REPORT

In the Matter of
David Graff
Minor Child²

9-03-2009-00021

March 11, 2011

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.

Summary of Incident

The case regarding David Graff is considered a near death incident due to severe physical abuse/neglect perpetrated by the mother’s paramour. At the time of this near death incident, the child was one year and seven months of age and residing in the home of his mother.

Approximately one month prior to the near death incident, David’s mother left him under the supervision and care of her paramour. When she returned that same day, she found David to be extremely irritable while holding him; however, there were no physical signs that David had been hurt. David’s mother suspected that there was something wrong with David, and she immediately took him to see his primary care physician. Upon examination of David no foul play was noted, and David was deemed to be in good health.

On the day of the near death incident, David’s mother had left for work and left David under the supervision and care of her 14 year old daughter. While mother was at work she called home to check on the children. At that time, mother learned that her paramour had come over and was looking after David. Mother warned her daughter to keep an eye on David and paramour until she returned home. Mother had concern about the appropriateness of paramour’s interaction with David. Previously, Mother had observed that David seemed uncomfortable in the presence of the paramour and constantly cried when left in his care. Mother’s paramour was a known registered sex offender with prior criminal history. Mother was aware of this history.

Upon mother’s return home from work, she checked on David and found him asleep in his bed. Further observation by mother revealed that David was breathing abnormally and lethargic. In addition, bruising was evident on his eyes, left ear, head, neck, and left side of his ribs. David was immediately taken to the emergency room by his mother. A CT scan of the head demonstrated a non-depressed left temporal-occipital fracture associated with a scalp hematoma (scalp bruise). A CT scan of the abdomen and pelvis demonstrated a small left anterior medial pneumothorax (air in the chest cavity that is compressing the lung). David was transferred and admitted to the Pediatric Intensive Care Unit (PICU). Further examination revealed bilateral healing skull fracture, healing fractures to the left side of the 6th and 11th ribs with two fracture sites on the 9th rib, and

healing fractures to the right side of the 6th and 10th ribs with associated pleural effusion (fluid in the lung). A left temporal-parietal skull fracture and abdominal trauma was also discovered. David was discharged approximately three days after his admittance into the care of his mother.

The Division of Family Services' Child Abuse and Neglect Report Line received an urgent referral alleging physical abuse- bruises, cuts, and lacerations requiring intervention by a medical professional, with secondary allegations of head trauma and blunt force trauma to the child by mother's paramour. Upon assessment of the circumstances surrounding David's injuries by the Division of Family Services, a safety plan was implemented with David's mother upon discharge.

The investigation conducted by law enforcement and the Division of Family Services led to mother's paramour being charged with Assault in the 1st Degree, Reckless Endangering in the 1st Degree, and Endangering the Welfare of a Child with Serious Injury. Criminal prosecution resulted in mother's paramour pleading to Assault in the 2nd Degree where he was sentenced to eight years. Paramour also pled guilty to Endangering the Welfare of a Child charge and was sentenced to one year Level V, suspended for one year Level IV, followed by six months Level III. The Division of Family Services for substantiated mother's paramour for physical abuse, level IV.

System Recommendations

Following the expedited and final review of the near death incident of David, it was determined that all systems met reasonable standards of practice and therefore no system recommendations were put forth.

Ancillary Factors³

The following ancillary factors were identified and will be evaluated by CDNDSC for possible action:

- (1) Law enforcement shall adhere to 16 Del. C. § 903, 904, and 905, DSCYF policy, and 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 child abuse and neglect via the report line.
 - a. *Rationale:* Prior domestic violence incidents involving mother and her children were not called into DFS and were not processed into FACTS.
 - b. *Anticipated Result:* For law enforcement agencies to be in compliance with law and policy and to reemphasize the role of DFS and police when reporting child abuse and/or neglect.
 - c. *Responsible Agency:* Delaware Police Departments

³ In some cases there may be no system practices or conditions that impacted the death or near death of the child; however, if the Panel determines that there are ancillary factors which impact the safety or mortality of children, those factors are compiled by CDNDSC staff and presented at least annually to the Commission for possible action.

