



REPORT ON THE FATALITY OF:

Benjamin Smith

Date of Birth: 04/15/2014

Date of Death: 09/12/2016

Date of Report to Child Line: 09/12/2016

CWIS Referral ID: [REDACTED]

**FAMILY NOT KNOWN TO COUNTY CHILDREN AND YOUTH AGENCY AT TIME
OF INCIDENT OR WITHIN THE PRECEDING 16 MONTHS:**

Bucks County Children & Youth Services

REPORT FINALIZED ON:

03/16/2017

Unredacted reports are confidential under the provisions of the Child Protective Services Law and cannot be released to the public.
(23 Pa. C.S. Section 6340)

Unauthorized release is prohibited under penalty of law.
(23 Pa. C.S. Section 6349 (b))

Reason for Review:

Pursuant to the Child Protective Services Law, the Department, through OCYF, must conduct a review and provide a written report of all cases of suspected child abuse that result in a fatality or near fatality. This written report must be completed as soon as possible but no later than six months after the date the report was registered with ChildLine for investigation.

The Child Protective Services Law also requires that county children and youth agencies convene a review when a report of child abuse involving a fatality or near fatality is substantiated or when a status determination has not been made regarding the report within 30 days of the report to ChildLine.

Bucks County convened a review team in accordance with the Child Protective Services Law related to this report. The county review team was convened on 10/05/2016.

Family Constellation:

| <u>First and Last Name:</u> | <u>Relationship:</u> | <u>Date of Birth</u> |
|-----------------------------|----------------------------|----------------------|
| Benjamin Smith | Victim Child | 04/15/2014 |
| * [REDACTED] | Mother | [REDACTED] 1994 |
| [REDACTED] | Father | [REDACTED] 1990 |
| [REDACTED] | Paternal Great Grandmother | [REDACTED] 1933 |
| [REDACTED] | Paternal Great Grandfather | [REDACTED] 1937 |

*Not members of the household, or did not live in the home at the time of the incident.

Summary of OCYF Child (Near) Fatality Review Activities:

The Southeast Regional Office of Children, Youth and Families obtained and reviewed all current investigation notes and gathered pertinent information from the Bucks county Act 33 teaming. Interviews with [REDACTED] [REDACTED] were facilitated by the county agency. Additionally, statements obtained by law enforcement were used to obtain additional information surrounding details of the incident. The Bucks County District Attorney's office [REDACTED]

Children and Youth Involvement prior to Incident:

No prior involvement with Bucks County Children Youth Agency.

Circumstances of Child Fatality and Related Case Activity:

On 09/12/2016, Bucks County Children and Youth Agency received a [REDACTED] report regarding a 2-year-old male child, Benjamin Smith who sustained injuries from a gunshot wound.

At the time of the incident, victim child was residing with his father's paternal great grandparents. Benjamin's mother was residing in Iowa. [REDACTED] were going through a court conciliation process in Bucks County, and a hearing had been set for 09/15/2016. No other children resided in the [REDACTED] home. [REDACTED] had enlisted in the U. S. Army, and was discharged in May 2016. Prior to May 2016, [REDACTED] had no contact with his son, and Benjamin lived full-time his mother.

On the date of the incident, [REDACTED] reported that in the morning, he and Benjamin were watching television in the living room. Benjamin wanted to watch Winnie the Pooh in his bedroom where he just had to push a button to start the video. [REDACTED] reported that within three to five minutes of Benjamin walking out of the living room, he heard the gunshot. [REDACTED] called 911 immediately. Benjamin was transported to St. Luke's Hospital where he was pronounced dead. The paternal great grandparents were camping in Lancaster at the time of the incident.

On 09/13/2016, an autopsy was performed by Dr. [REDACTED] Dr. [REDACTED] described Benjamin as being a robust, well-nourished, 2½ year old male child. The cause of death was determined to be a gunshot wound through the thorax.

[REDACTED] reported to law enforcement officials that he owns a 45 caliber gun which was kept in his nightstand drawer and his son must have taken the gun out of the drawer. Law enforcement officials expressed concern that it was not believable that Benjamin accessed the gun from the nightstand drawer but that the gun was sitting on the nightstand where there were also live rounds of ammunition found. According to law enforcement officials, the 45 caliber gun had a safety lock.

It was reported that there were also two other guns located in the home that were stored out of the child's reach on the top shelf of a closet. Those guns were not loaded. There was also ammunition found on top of Benjamin's dresser. It was further reported that Benjamin was apparently enamored with guns, noting that there were pictures of Benjamin holding "nerf" guns in a shooting position and walking around with a holster and fake gun. [REDACTED] told law enforcement that it was not unusual for Benjamin to be with him when they would shoot groundhogs in the back of the home.

There is no information to suggest concerns of substance abuse or mental/behavioral health issues. There is no information to suggest that the family was receiving any assistance through any community action agencies in Bucks County.

On 09/28/2016, [REDACTED] was charged with involuntary manslaughter, recklessly endangering another person, and endangering the welfare of a child. [REDACTED] was arrested and released on bail. As of the writing of this report, a trial date has not been scheduled.

The outcome on this report is [REDACTED] as of the 10/24/2016 determination date.

Summary of County Strengths, Deficiencies and Recommendations for Change as Identified by the County's Child (Near) Fatality Report:

Strengths in compliance with statutes, regulations and services to children and families:

- Cooperation amongst State Police, County Detectives, District Attorney's Office, and father's defense attorneys allowed for open dialogue and communication.
- Coroner's Office was accommodating and supportive to the family.
- [REDACTED] were provided to mother and maternal grandmother as well as father.

Deficiencies in compliance with statutes, regulations and services to children and families:

- Concern discussed regarding what State Police told mother about her rights to her son when State Police were called to an incident in 07/2016 where father blocked mother from taking Benjamin and leaving his and paternal grandparents home. Review team discussed that, without a court order specifying custodial rights, mother could have left the parental grandparents' home with Benjamin.

Recommendations for changes at the state and local levels on reducing the likelihood of future child fatalities and near fatalities directly related to abuse:

- Increase education/information on gun safety/care around children.
- Obtain and distribute trigger locks for distribution to agency clients who own guns.
- Brief servicemen/women on gun safety/care when returning to civilian life.
- Distribute brochures on gun safety to child-serving agencies.
- Educate law enforcement on parental rights in regard to child custody; reach out specifically to local State Police.

Recommendations for changes at the state and local levels on monitoring and inspection of county agencies:

- None noted

Recommendations for changes at the state and local levels on collaboration of community agencies and service providers to prevent child abuse:

- Overall, collaboration in this case was a strength.

Department Review of County Internal Report:

The department attended the Act 33 meeting on 10/05/2016. The Bucks County Review Team submitted a timely report on 12/01/2016 and the Department concurs with the findings of the report as written by the Act 33 review team.

Department of Human Services Findings:

County Strengths:

- The County agency was responsive in its approach to the investigation
- The County agency collaborated well with key players including law enforcement officials, family supports, and social service agencies to ensure that the family was referred to the necessary [REDACTED] services.

County Weaknesses:

- None noted

Statutory and Regulatory Areas of Non-Compliance by the County Agency:

- None noted

Department of Human Services Recommendations:

The Department of Human Services concurs with the recommendations of the county Act 33 team.