Child Fatality Report Release of Information to the Public

Person ID: 101643857

County of Child's Residence: TOM GREEN

Gender: Male

Age: 3 Year(s) 9 Month(s)

Date of Death: 06/09/2022

On the date of the fatality, the child was not in DFPS conservatorship and was living with the child's parent, a managing conservator, a legal guardian or other person entititled to the child's possession.

Child's Name: Mercado,Rodolfo

Current Report(s) of Abuse/Neglect:

Intake Date(s): 06/09/2022

Summary of Allegation(s)/Investigation:

The Department received a report EMS had been called to an address for CPR assistance on a 3 year- old's drowning. Upon arrival it was stated the deceased child had been under water for three minutes. No information could be given or knowledge of who was with the child at the pool or who was present when EMS arrived. It was claimed the child had a lifejacket. However, according to EMS and police, there was no lifejacket in sight. The pool where the incident happened was at the deceased child's grandmother's apartment.

The Department's investigation determined through interviews with law enforcement that an adult cousin of the deceased child was at the pool and was responsible for the deceased child. It was found that the child had a lifejacket on but no one knew why the child didn't have his lifejacket on when pulled from the water. Even when speaking with the deceased child's adult cousin who was the deceased child's caregiver at that time, she could not provide information to how the child could of gone in the water by himself and without his lifejacket.

The Department received the surveillance footage of the pool. The cousin was present sitting by the pool. It showed the cousin to be alone with no other adults around. The deceased child is seen messing with his lifevest. After a small struggle, it looks like he asks his adult cousin to help him with the buckles on the lifevest. The cousin without hesitation, helps the child unbuckle his lifevest. A few seconds later, he runs into the 5 foot end of the pool, right in

front of the chair that his cousin was sitting in. In the video it appears the cousin is looking down at something during the time this incident is taking place. The child was struggling and is in the water for 4 to 5 minutes before the child's older sister sees him and then gets the cousin's attention.

The adult cousin was the caregiver and supervising at least six other children while at the pool. The deceased child's siblings and cousins remained in the care of the deceased child's mother who was not involved as the mother and father had divorced and the deceased child and his older sibling had been visiting their father when the drowning occurred. It was agreed the adult cousin will not be able to supervise any children who are in Child Protective Services care.

The medical examiner completed a preliminary autopsy of the deceased child. Preliminary cause of death is drowning.

Law Enforcement conducted and investigation; however, at the close of the Department's investigation it was unknown if any criminal charges would be filed.

Investigation Findings:

The Department confirmed that the deceased child's adult cousin committed neglectful supervision of the deceased child and this neglect led to the child's death. At the pool, where the drowning occurred, the cousin was the sole caregiver of the deceased child.

Safety and Risk Assessment Factors Identified:

Structured Decision Making Safety Assessments:
1.) 06/09/2022: Safety Assessment - Initial: Safe
2.) 06/10/2022: Safety Assessment - Initial: Safe
3.) 06/27/2022: Safety Assessment - Case Closure: Safe
4.) 06/27/2022: Safety Assessment - Case Closure: Safe

Risk Assessment Final Risk Level: High

Case Action:

Close

Services and Referrals Provided to the Family:

Counseling and Evaluation

Other Services:

Grief counseling referals were provided and accepted by the family.

Other Actions Taken to Mitigate Risk:

NA

If one or more children were previously removed from the home, for each conservatorship episode, summarize dates of conservatorship and type of placement at the end of conservatorship:

NA

Previous Report of Abuse/Neglect:

Intake Date(s): 06/22/2020, 06/22/2020

Summary of Previous Allegation(s)/Investigation:

The Department received two reports that were merged into one investigation. The reports stated that the deceased child's father and deceased child's teenage aunt are using marijuana and that the deceased child and his two older siblings, know what marijuana is. The deceased child who at this time was one-years-old was seen picking up a marijuana joint putting it in his mouth and picking up a lighter indicating he knows to light the joint. The father and aunt are smoking together and possibly using other drugs. They drink to the point of intoxication and throwing up. The children's mother and father are separated and the mother removed the one-year-old deceased child from the father.

The Department's investigation determined that the father and teenage aunt both agreed to take a drug test and both tested negative for any substances. The father is living with his mother, the children's paternal grandmother. The aunt also lives in the home. The father and aunt denied drinking alcohol or abusing any other substances. The oldest sibling was interviewed and she did not make an outcry of any abuse by her father or aunt. The sibling did not know of any drug use in the home. She stated she felt safe with her father. The deceased child's other sibling was not old enough to be interviewed. The siblings were observed and both appeared healthy, clean, and well groomed. There were no marks or visible bruises. The home was clean and organized with no safety hazards. The oldest sibling is attending school regularly.

Local police reports were requested and nothing indicated any incidents of drug or alcohol use. The reports did confirm that the mother and father are going through a separation.

The one-year-old deceased child remained in the care of his mother. The mother hired an attorney to obtain custody of all her children.

The teenage aunt was interviewed and she did not appear to be under the influence. The interview determined that the aunt was very smart, intelligent and responsible for her age. The aunt denied drug use and made no outcries of abuse or neglect. The aunt's mother stated she was willing to drug test her daughter to prove she was not using drugs. The aunt is attending school and will be a senior when school starts. The paternal grandmother and her home was assessed to be safe for all the children.

Investigation Findings:

The Department did not confirm that the deceased child's father or teenage aunt committed neglectful supervision of the deceased child and his youngest sibling. The father and aunt were negative for all drugs. A thorough investigation was completed and there was no indication that the father and aunt were using drug or that the children had been unsupervised.

06/23/2020 Safety - Initial Safe
09/10/2020 Safety - Case Closure Safe
08/27/2020 Risk Moderate

Safety and Risk Assessment Factors Identified:

Structured Decision Making Safety Assessments:
1.) 06/23/2020: Structured Decision Making Safety Assessment - Initial: Safe
2.) 09/10/2020: Safety Assessment - Case Closure: Safe

Risk Assessment Final Risk Level: Moderate

Case Action:

Close

Services and Referrals Provided to the Family:

Counseling and Evaluation

Other Services:

The Department provided drug testing for the father. Assessments were accepted and completed by the family.

Other Actions Taken to Mitigate Risk:

NA

Previous Report of Abuse/Neglect:

Intake Date(s): 04/02/2021, 04/12/2021

Summary of Previous Allegation(s)/Investigation:

The Department received two reports that were merged into one investigation. It was reported that the deceased child's mother lost her job due to a failed drug test. The mother uses methamphetamines and acts like she is in a panic and needs to get things done in a hurry when she is on meth. It is believed that mother uses methamphetamines while caring for the deceased child and his two older siblings. The mother is known to leave the children alone at night for hours the oldest is nine years old. The deceased child has a bruises that is, 1 and 1/2 inches wide, across his lower back, above his buttocks. The mother says the child might have fallen. The parents are exchanging custody of the children periodically.

The Department's investigation determined that the parents were exchanging the children each week at the police department. The father has the children on the weekends. The father was interviewed initially. He and other members of his family were leaving on a camping trip. The father showed the Department the child's lower back and the mark appeared to be a rash and not a bruise. It was not painful when touched. The Department observed the children and no other marks or bruises were on their persons. After the initial interviews the father was no longer cooperative with the Department.

The mother did cooperate with the Department. The mother's apartment was observed and the home was clean and free of clutter. The Department did not see any safety concerns. The children were observed to have no marks or bruises. The Department completed a thorough interview with the deceased child's two older siblings; they made no outcry of any abuse or neglect by either their mother or father. The mother agreed and completed a drug test, she was negative for all drugs/substances. The mother provided collateral contacts and they had no concerns of mother's care of the children.

Investigation Findings:

The Department did not confirm that anyone physically abused the deceased child. The mark on the child's lower back appeared to be from a diaper rash and not abuse.

The Department did not confirm that the deceased child's father neglectfully supervised the deceased child and his sibling. The children denied any abuse or neglect and after initial contact the father was not cooperative.

The Department did not confirm that the deceased child's mother neglectfully supervised the deceased child and his two siblings. The mother completed a drug test and tested negative for drugs. The children did not make any outcries of abuse or neglect.

Safety and Risk Assessment Factors Identified:

Structured Decision Making Safety Assessments:
1.) 04/03/2021: Safety Assessment - Initial: Safe
2.) 08/19/2021: Safety Assessment - Initial: Safe

Risk Assessment Final Risk Level: Moderate

Case Action:

Close

Services and Referrals Provided to the Family:

Other Services:

Drug testing and assessments were provided, which the mother accepted and completed.

Other Actions Taken to Mitigate Risk:

NA

Other Previous Report of Abuse/Neglect:

Intake Date(s):

Summary of Previous Allegation(s)/Investigation:

Investigation Findings:

Safety and Risk Assessment Factors Identified:

Case Action:

Services and Referrals Provided to the Family:

Other Services:

Other Actions Taken to Mitigate Risk:

Note: This report was prepared on 03/03/2023 and does not include corrections or updates, if any, that may be subsequently made to DFPS data on or after the date this report was prepared.