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| Summary Report | Fatality | 3/30/2020 |
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1. Victim: Emilio Smith – 2-year-old male

2. Was the child residing in the child's home or in an out-of-home placement at the time of the fatality?

The child was residing in his home when the following incident occurred:

On January 5, 2020, the Department of Child Safety received a report regarding 2-year-old Emilio Smith who was taken to the hospital after being found unresponsive at home. Emilio was observed to have indications of physical trauma with multiple bruises in various stages of healing. Emilio was pronounced brain dead on January 7, 2020 and was kept on life support until his passing on January 11, 2020. Emilio had been in the care of his mother's significant other, Mario Toscano Jr. who was indicted on charges of child abuse, aggravated assault and second degree murder on January 9, 2020.

3. If the victim in the Preliminary Report involved a child residing in the child's home, the following information will be provided:

a. Services being provided to the child, a member of the child's family or the person suspected of the abuse or neglect at the time of the incident and the date of the last contact before the incident between the entity providing services and the person receiving services:

No services were being provided to the family by the Department of Child Safety at the time of the incident.

b. Was the child, a member of the child's family or the person suspected of the abuse or neglect the subject of a report for investigation at the time of the incident?

No.

c. All involvement of the child's parents and of the person suspected of the abuse or neglect in a situation for which a report for investigation was made or in services provided pursuant to this chapter in the five years preceding the incident:

The child's mother was involved in the following prior reports:

On October 3, 2015, a report was received alleging neglect by the mother to a sibling. The Department made multiple attempts to locate the family. The family was unable to be located and the case was closed.

On June 29, 2018, a report was received alleging neglect to Emilio Smith by his mother. The allegation was substantiated. The investigation assessed Emilio as safe in the care of the other parent and the case was closed.

Mario Toscano Jr. was involved in the following prior report:



On August 18, 2018, a report was received alleging neglect by Mario Toscano Jr. to his minor siblings. The investigation assessed the children as safe and the allegations were unsubstantiated. The family was provided with information on community resources and the case was closed.

d. Any investigation pursuant to a report for investigation concerning the child, a member of the child's family or the person suspected of the abuse or neglect or services provided to the child or the child's family since the date of the incident involving the fatality:

The investigation of the fatality report resulted in the indictment of Mario Toscano Jr. on charges of child abuse, aggravated assault and second degree murder. Following an assessment of child safety, a sibling in the home was placed in a licensed foster home. The Department filed a dependency petition with the Cochise County Superior Court and services are being provided. No subsequent reports of abuse or neglect have been received.

4. If the victim in the Preliminary Report involved a child residing in an out-of-home placement, the following information will be provided:

a. Licensing Agency:

N/A

b. Licensing history of the out-of-home placement, including the type of license held by the operator of the placement and the period for which the placement has been licensed:

N/A

c. Summary of all violations by the licensee:

N/A

d. Any other actions by the licensee or an employee of the licensee that constitute a substantial failure to protect and promote the health, safety and welfare of a child.

N/A

5. Actions taken by the Department in response to the case including any changes to policy or practice and/or recommendations for further changes in policies, practices, rules or statutes:

The Department is conducting a joint investigation with the Cochise County Sheriff's Department. The criminal investigation of the fatality report resulted in the indictment of Mario Toscano Jr. on charges of child abuse, aggravated assault and second degree murder. Following an assessment of child safety, a sibling in the home was placed in a licensed foster home. The Department filed a dependency petition with the Cochise County Superior Court and services are being provided. No subsequent reports of abuse or neglect have been received.

Additionally, in accordance with the DCS Strategic Plan for State Fiscal Year 2016 (FY16), multidisciplinary team (MDT) reviews of fatality and near fatality cases were implemented during the first quarter of FY16. The MDT reviews of fatality and near fatality cases, especially those with prior DCS involvement, are a key feature of the Strategic Plan and support the objective of increasing the accuracy of safety and risk assessments in investigations.



ARIZONA
DEPARTMENT
of CHILD SAFETY

Mike Faust, Director
Douglas A. Ducey, Governor

Cases are reviewed by the MDT in order to identify any systemic factors, both internal and external to the Department that may have had an impact. The Department uses the aggregate data gathered through all of the MDT reviews to assess and guide future changes and/or recommendations to policies, practices, rules or statutes. Findings from these reviews are compiled into an annual report to be shared on the DCS website. The target date for release of the next report is December 1, 2020.

For more information regarding the Department of Child Safety's Strategic Plan for State Fiscal Year 2016, please visit the DCS website.