



Texas Department of Family and Protective Services

Commissioner
H. L. Whitman, Jr.

A Review of Department of Family and Protective Services Involvement Child Fatality

On February 26, 2016, during an open Child Protective Services (CPS) investigation, Nivea Mack died as a result of physical abuse by her mother's paramour. Nivea Mack was the designated victim of physical abuse in a prior CPS investigation which resulted in her mother participating in Family Based Safety Services (FBSS).

The Office of Child Safety completed a review of all current and past CPS involvement concerning Nivea Mack. This report presents the Office of Child Safety's findings, summary of CPS involvement and actions taken, assessment of strengths in casework practice, and areas for improvement that merit further examination.

Family Composition

Region 3- Dallas County

Name or Relationship to Nivea Mack	Age at time of incident
Nivea Mack	2 years old
Mother	23 years old
Sibling	2 years old
Sibling	3 years old
Sibling	10 months old
Mother's paramour	24 years old

Summary of CPS History on Family of Nivea Mack

- On February 26, 2014, CPS received a report alleging physical abuse of Nivea Mack. The investigation was closed reason to believe for physical abuse of Nivea by an unknown perpetrator. The case was transferred to FBSS on May 27, 2014, to provide ongoing services to the family.
- The FBSS case was closed on December 1, 2014.
- On September 15, 2016, CPS received a report alleging abuse and neglect of Nivea Mack. During the open investigation, additional referrals were received on January 20, 2016 and February 3, 2016 alleging abuse and neglect again Nivea Mack and her siblings.
- On February 26, 2016, Nivea Mack died due to the physical abuse injuries sustained during the open investigation. The allegations in the investigation were found reason to believe for neglectful supervision of all of the children, reason to believe for medical neglect of Nivea and a sibling, and reason to believe for physical abuse of Nivea by her mother and her boyfriend. Physical abuse of Nivea was found to be the cause of her death and both the mother and her boyfriend were confirmed perpetrators.

Detailed Account of CPS History on Nivea Mack

On **February 26, 2014**, CPS received a report alleging physical abuse of Nivea Mack. The report alleged that the mother and her boyfriend picked Nivea up from a relative's care and found Nivea to have two abrasions on her right knee, redness under her armpits and white discharge under her neck. The mother and her boyfriend brought Nivea to the hospital for an examination. Nivea was one month old at the time of the referral. The mother and her boyfriend were residing in the same residence as the maternal grandmother, along with Nivea's twin sibling and older brother (age 1 year old). The mother disclosed serious abuse and neglect as a child and reported growing up in foster care. The mother admitted she was aware of the relative's history and current drug use and still allowed her to care for her newborn twins unsupervised. The mother admitted to domestic violence between her and her boyfriend and the police having to respond to her home regarding a physical altercation a month prior to the CPS referral. The mother's boyfriend was interviewed and admitted to mental health concerns and active substance abuse. The boyfriend reported that the relative did not treat the twin girls the same and often showed more affection towards Nivea's twin sister. The boyfriend disclosed the mother had talked about placing the twins up for adoption but changed her mind. The mother and boyfriend accused the relative of causing Nivea's injuries. The relative denied the allegations and felt the mother's boyfriend was responsible for Nivea's injuries because of his mental health conditions. The relative reported the mother's boyfriend uses synthetic marijuana. The relative also alleged four days prior to the referral the mother, her boyfriend and Nivea were in the bedroom and she heard a loud noise and Nivea started crying. The relative confirmed she was only at the mother's residence because the mother asked her to come and help care for the twins after a serious domestic violence incident between the mother and her boyfriend. All of the children were placed in a parental child safety placement (PCSP) on the date of the referral. Nivea's injuries were reviewed by a child abuse pediatrician who could not specify what caused the injuries but noted the injuries were suspicious for inflicted trauma due to Nivea's age and her lack of mobility to self-inflict the injuries.

During the course of this investigation, the children were moved three different times from parental child safety placements for various reasons. The mother began parenting classes and was supposed to submit to a psychological evaluation; however, the documentation does not reflect if this occurred. This investigation was closed as unable to determine if Nivea suffered physical abuse injuries by the relative and reason to believe Nivea suffered physical abuse by an unknown perpetrator. The case was transferred to Family Based Safety Services (FBSS) on May, 27, 2014.

OCS Assessment:

- This case was initiated timely according to policy.
- According to CPS handbook policy 2230, the caseworker failed to coordinate a Priority 1 physical abuse case with law enforcement in order to conduct a joint investigation.
- According to CPS handbook policy 2291, investigations should be completed within 45 days and closed within 60 days. This investigation was not closed within 60 days.
- Safety was immediately addressed by placing the children in a Parental Child Safety Placement on the date the case was initiated.
- The caseworker did not staff any of the parental child safety placements with a program director for approval as required by CPS handbook policy 3210.

- The concerns regarding the boyfriends use of synthetic marijuana was not addressed.
- Due to the mother admitting to domestic violence by the boyfriend and allowing her children to be left unsupervised with the grandmother when there were known concerns surrounding substance abuse, consideration could have been given to add the allegation of neglectful supervision with a disposition of reason to believe for failing to be protective of her children.

The Family Based Safety Services (FBSS) case was opened from **May 27, 2014 through December 1, 2014**. The initial Family Plan of Service was completed on June 13, 2014. The mother's tasks included individual and domestic violence counseling, a parenting education course and submit to random drug testing. During the initial attempted visit with the children at the parental child safety placement (PCSP), it was discovered the caregiver did not have sufficient food and was overwhelmed with the care of the children. The children were moved to a new placement with a caregiver who previously served as a PCSP during the investigation stage. A Family Group Conference was conducted on August 14, 2014, and a transition plan was created to start the process of returning the children home. During the conference, the mother expressed her desire to have the children remain in the PCSP because she was not ready for the children to return home. A plan for the mother to have weekly unsupervised contact was put into place in order for the children to be transitioned home in three weeks. The mother had unsupervised weekend visits with her children throughout the month of September and most of October 2014. The PCSP was ended on October 27, 2014; however, the mother reported she did not have the children fully transitioned home and was allowing them to stay with the PCSP caregiver. During the first unannounced home visit after the children were approved to return home, Nivea and her twin sister were with the PCSP caregiver and the mother was only caring for the oldest child.

The FBSS case was closed on December 1, 2014, after the mother successfully completed a parenting education course and domestic violence counseling. The agency determined risk within the family had been reduced by the mother's participation in services and having a positive support system from the PCSP caregivers. The caseworker coached the mother on safe sleep practices, safe home environment and the importance of not allowing inappropriate individuals around her children. Prior to case closure, the caseworker informed the mother she needed to ensure that the relative and the mother's boyfriend were not allowed unsupervised contact with the children due to concerns with their CPS and criminal history.

OCS Assessment

- There is no documentation to support a family assessment was completed as required.
- Per CPS handbook policy at the time of the FBSS case, initial contact with the family was not made timely.
- The children, mother and PCSP caregiver were seen timely each month and a monthly narrative was entered, per policy guidelines.
- Per CPS handbook policy 2530, the initial Family Plan of Service and the evaluation were completed timely; however, according to the documentation, the mother was never consulted or given the opportunity to participate in the creation of the plan.
- A family group conference was conducted, per policy guidelines.
- There was no attempt to locate any of the fathers.
- All factors were not taken into consideration when determining appropriate services for the family. The mother's social history of severe childhood abuse was not explored to determine if the mother could have benefited from additional counseling. The mother's mental health could have been evaluated to help determine her protective capacities taking into account her failure to show the ability to be protective in the investigation.

Additionally, the caseworker spoke with a therapist who reported the mother appears to have a "detachment disorder". This concern was never explored nor was the mother ever sent for any kind of psychological testing; even though there was a history of concerns regarding mother's lack of bond and attachment with her children.

- Documentation in the FBSS case lacks ongoing assessment of child safety and progress in services. While visits are documented, the interviews with the PCSP caregiver and the mother are mundane with no discussion on what the mother learned from the services she completed and how she was going to utilize her knowledge in her parenting practices.

On **July 31, 2014**, during the open FBSS case, CPS received a report alleging physical neglect of Nivea's older sibling. The report alleges the mother has twins who are staying with a friend but her oldest child is residing in her home, which is unsanitary. The report also alleges the mother is selling her food stamps and needs help. This investigation was closed administratively due to the FBSS worker stating the children were in a Parental Child Safety Placement.

OCS Assessment:

- According to CPS handbook policy 2310, this investigation did not meet the criteria for an administrative closure. There were no attempts made to ensure the mother and caregiver were not violating the PCSP agreement by allowing the mother to have unsupervised contact with the oldest child, other than the FBSS caseworker making a telephone call to them and advising them of the allegations.
- A staffing should have been conducted between the FBSS and Investigation staff to discuss the new investigation.

On **September 15, 2015**, CPS received a report alleging physical abuse of Nivea Mack, who was one year old at the time of the report. The report alleged that Nivea was beaten by an unknown family friend with an extension cord and believed to have been hit in the abdominal area. The report stated Nivea had several long red scars across her back as well as some bruises. The report also indicates Nivea and her siblings had not gained weight in over four months and had developmental delays. The caseworker responded to the home and was able to make contact with the mother, her boyfriend and all three children within policy mandated timeframes. Nivea was observed to have severe and extensive markings on her back and abdomen indicative of physical abuse. The mother and her boyfriend reported Nivea receiving the injuries from a friend's boyfriend who is now incarcerated. The mother advised she allowed her friend to babysit Nivea and the friend left Nivea alone with her boyfriend, who had hit her and caused the injuries. The mother denied any domestic violence with her current boyfriend and reported being involved with him for over a year. During the initial interview with the mother admitted that the previous injuries to Nivea in were caused by her ex-boyfriend (she had previously accused the maternal grandmother of causing the injuries). The mother was not able to provide the caseworker with any locating information for the friend or the friend's boyfriend who allegedly caused the injuries. The friend who mother claimed was responsible for the injuries was a PCSP caregiver and safety monitor in the previous investigation and family based safety services; therefore, locating information was pulled from the previous case. One attempt was made to contact this friend on the date of the initial contact but the telephone number was not accurate. The mother's boyfriend was interviewed and he reported Nivea's injuries being observed after she returned home from a visit with one of the mother's friends. The boyfriend denied any domestic violence in the home, denied drug use and denied any recent criminal arrests. After the initial interview with the family, the caseworker discussed the case with the supervisor and determined that no safety plan would need to be put into place. The caseworker continued the investigation by contacting one of the children's speech therapist and the

children's pediatrician who had no concerns of abuse or neglect. The caseworker also spoke with a provider who had been working with the Nivea on her growth delay. There were no further questions asked regarding Nivea's growth delay or how extensive it may be.

The caseworker attempted to close the investigation in November, 2015; however, a Child Safety Specialist (CSS) was required to review the case prior to closure. The CSS rejected the case and returned the investigation to the caseworker for additional tasks to complete in order to ensure child safety. One of the tasks indicated the caseworker needed to request a copy of a police report from a family violence incident in July 2015. The CSS also requested the caseworker to confront the boyfriend and the mother since they denied any domestic violence. The CSS also instructed the caseworker to consider the allegation disposition and safety factors based on this being the second severe injury observed on Nivea and her only being a year old and the mother's history of failed protective capacities. The caseworker did not request the police report and did not reconsider the safety factors.

On December 7, 2015, the caseworker conducted a follow-up home visit with the family. The caseworker did not observe any marks or bruises on any of the children. The mother still denied having any contact information for her friend or anyone who can corroborate the mother's explanation of Nivea's injuries. The caseworker attempts several face to face visits with the friend at previous addresses but is unable to locate her. On December 29, 2015, the caseworker conducted another home visit with the mother and the children. During this visit, the caseworker observes Nivea to have a cut on her lip, bump on her head and a healing mark on her clavicle. The mother provided an explanation stating Nivea fell while taking a bath. The caseworker confronted the mother about her boyfriend's arrest back in July 2015 and the mother stated that law enforcement showed up at her residence and when her boyfriend answered the door he was uncooperative which resulted in him being arrested. In an effort to accommodate the CSS recommendations, the caseworker asked the mother to participate in FBSS and sign a safety plan stating that the mother will supervise her children at all times until further notice from CPS. The case was referred to Family Based Safety Services and a staffing was held on January 14, 2016. During this staffing, concerns are expressed for the safety of Nivea and a recommendation is made to staff the case with a program director. Also on January 14, 2016, the caseworker received a telephone call from the mother's friend, who was the alleged perpetrator. The mother's friend adamantly denied the allegations and reported the mother was lying; the friend denied caring for Nivea during the time frame she would have received the injuries. The caseworker did not discuss this information with a supervisor or program director.

On **January 20, 2016**, an additional referral is received alleging medical neglect and neglectful supervision of Nivea Mack. The referral indicates the mother was pregnant and due in April 2016. The referral also indicates Nivea and her sibling were developmentally delayed. The referral alleged that Nivea had become withdrawn over the past three weeks and was not interacting or babbling as normal. The reporter stated the mother disclosed to an incident of Nivea falling in the bath tub and becoming unconscious so the mother put Nivea on a tub of ice cold water to revive her. The mother did not seek any kind of medical attention after this incident. The reporter also indicated Nivea wrenched in pain when she was touched on the shoulder and when the mother was asked about any injuries, she reported Nivea falling. The mother reported Nivea's shoulder had been really swollen. The mother admitted to the reporter that she has not bonded with Nivea or her sister. This was a Priority 1 referral, which requires an immediate response to the residence (within 24 hours of the intake). A supervisor reviewed the referral and decided to downgrade it to a Priority 2 (requiring response within 72 hours of the intake). The caseworker followed up with the family regarding the new allegations on January

22, 2016. The caseworker did not observe any marks or bruises on the children and the mother denied telling anyone Nivea was ever unconscious. The mother did admit to being pregnant. The reporter was not contacted.

On February 3, 2016, another referral was received alleging physical abuse and neglectful supervision of Nivea Mack and her siblings. The referral alleged that Nivea's oldest sibling was observed with a half dollar size bruise on his lower back and a healed scar on his buttocks. The reporter alleged that the mother stated her boyfriend had caused the injuries. The report indicated that the mother did not want her children and wanted to place them up for adoption. The report also alleged that the mother's boyfriend was abusing synthetic marijuana and would get violent when under the influence. A supervisor reviewed the referral and decided to downgrade it from a Priority 1 to a Priority 2, giving the caseworker additional time to make contact with the family. The caseworker followed-up with the family on February 8, 2016, and does not observe any marks or bruises on the children. The mother denied the allegations. A new safety plan was implemented stating that the mother agreed to move in with the paternal grandmother of the youngest child, and all her contact with her children would be supervised. On February 21, 2016, the mother notified the caseworker that she left the caregiver's home because she was being treated badly. There was no action taken by the caseworker to implement a new safety plan or make other safety arrangements.

On February 26, 2016, a new referral was received during the open investigation regarding the death of Nivea Mack. Nivea Mack died as a result of physical abuse by the mother's boyfriend. An autopsy revealed Nivea suffered a subdural hematoma and several linear abrasions. Nivea was found to have bi-lateral subdural fluid, a healing fracture to both of her shoulders, a left humerus fracture, a healing fracture to her right tibia, contusions to a lung and a traumatic brain injury. Nivea's twin sister was medically examined and also found to have healing fractures to the clavicle bone and humerus. The mother initially denied her or her boyfriend had any involvement with Nivea's death but later admitted to her boyfriend causing the injuries. The mother continued to minimize his involvement even after the disclosure. The boyfriend was interviewed and denied causing the death of Nivea. The boyfriend reported he was not in the house at the time of the incident. The boyfriend did admit to regular use of synthetic marijuana and reported being addicted to the drug. He also admitted to several domestic violence altercations. The boyfriend reported the mother was often frustrated with Nivea and her sister and talked about giving the twins away. The caseworker of the fatality investigation requested the police reports pertaining to the boyfriend's arrest in July 2015, and it was discovered he was arrested after stabbing the mother in the face and chest with a key. The mother refused to cooperate with law enforcement and would not provide a statement.

OCS Assessment:

- According to CPS handbook policy 2241, all alleged victims must be seen within the established guidelines depending on the intake priority. The children were seen timely for the first two intakes, but were not seen timely for the last intake.
- According to CPS handbook policy 2230, the caseworker failed to coordinate a Priority 1 physical abuse case with law enforcement in order to conduct a joint investigation.
- According to best case practice, the children should have been seen every 30 days to ensure their safety. The investigator did not see the children in the months of October or November 2015.
- According to CPS handbook policy 2230, the caseworker should have conducted criminal history checks on all principles prior to initiating the case or within 10 days of the intake. Criminal history was not requested on the boyfriend until nearly 60 days after the intake.

- According to CPS handbook policy 2230, the caseworker is required to contact the reporter. The caseworker did not speak with the reporter within 10 days of the intake. There was one attempt to contact the reporter of the first intake but there were no attempts to contact the reporters after the second and third intake.
- According to CPS handbook policy 2241 and 2242, each parent must be contacted and notified of the allegations. The caseworker did not make any attempts to locate three of the children's fathers.
- According to CPS handbook policy 2271, the caseworker did not document the safety assessment timely.
- According to CPS handbook policy 2292, the case was submitted for closure and rejected by a Child Safety Specialists. The caseworker did not follow all the recommendations made by the Child Safety Specialists.
- On January 14, 2016, the investigative caseworker conducted a joint staffing with a FBSS caseworker and supervisor. The decision was made to have the case staffed with a program director due to safety concerns regarding Nivea Mack. Additionally on this same date, the investigative caseworker spoke with the person who the mother alleged abused her daughter and that person, who was also a former trusted PCSP caregiver, adamantly denied the allegation and reported she has not babysat Nivea or her sister. Per CPS handbook policy 3200, the caseworker did not take any actions to keep Nivea safe despite having information from multiple collateral sources that Nivea may be in danger.
- Multiple injuries on vital body parts were observed on Nivea during several home visits, however the caseworker never requested Nivea to be seen by a child abuse pediatrician for further examinations.

Overall Case Review Findings and Recommendations

Child Protective Services (CPS) has been involved with this family through a total of two investigations and a Family Based Safety Services case. Throughout the family's involvement with CPS, Nivea has consistently been the targeted child found to have injuries, while the other children were observed without any marks or bruises. There has also been a concern of domestic violence, drug use and reports of the mother wanting to place her children up for adoption, during both investigations. The mother admitted she struggled in having an appropriate bond with the twins. The mother failed to demonstrate protective capacities and would often lie to protect the person she was involved with. The mother was a victim of severe abuse as a child and spent most of her childhood in different foster homes. The caseworker in the open investigation, prior to Nivea's death, found Nivea to have multiple injuries but because the mother provided a plausible explanation, no action was taken by CPS.

After reviewing all of the case history involving Nivea's family, there were several trends and patterns that stood out when referencing the common casework practices. Neither of the investigations was jointly investigated with law enforcement. Even though Nivea's injuries were severe in both cases, law enforcement was not consulted in an effort to provide assistance in determining who caused the injuries. During the Family Based Safety Services case, when the mother expressed her concerns of the children returning home, reunification was quickly pushed even though the mother was not prepared to care for all of the children. Additionally, in the investigation open at the time of the fatality, there was no consideration given to the thought that the mother may have been the cause of the injuries. The mother has been the only consistent factor in every case, wherein boyfriends have changed. With the child having so many bruises and injuries, there should have been some careful thought about ensuring the future safety of Nivea. The caseworker did not utilize all the resources CPS has to offer in order to assist in determining the root of an injury, such as utilizing a child abuse pediatrician or the Forensic

Assessment Center Network to provide medical review and consultation on the injuries. There were multiple professional service providers and reporters that were not contacted to address the concerns.

During the review of a child fatality, certain areas of improvement may be identified including individual training needs, statewide trainings, policy revisions, updates to best practice guidance, and/or revisions to state statutes. Since the death of Nivea Mack, several practice and policy changes have been implemented.

Child Protective Services has implemented a full practice model with specific practice guides on how to best engage and assess parents and caregivers. Part of this work includes having parents identify and discuss specific changes and actions needed to address child safety and the parent's ability to meet the needs of the child. Examples of this include staff asking parents or caregivers during their visits to discuss specific things they are learning as a result of any services they are receiving, changes they are or will be making as a result of learning these new skills, and how have they plan ensure the safety and well-being of their children in the future.

Training has been provided on how to appropriately engage collateral contacts in discussion about child safety and the parent's ability to be protective. This includes additional training for all investigations staff on utilizing internal and external resources such as law enforcement, child abuse pediatricians, Child Advocacy Centers and the Forensic Assessment Center Network.