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TO: Members, Government Oversight Committee
FROM: Peter Schleck, Director
DATE: July 20, 2022
RE: Child Protective Confidential File Contents

As the GOC considers whether or not to request confidential child protective records, several factors will need to be considered: the process to obtain such records, potential court involvement, prosecutorial concerns, the timing and public availability of case information, and the volume and types of information contained in various records. For the latter, we have provided the following summaries of the types of material contained in the confidential DHHS Office of Child and Family Services (OCFS) Child Protective Services Briefing Memos and Case Files, and the Reports of the Maine Child Welfare Ombudsman, regarding four specific child deaths that occurred in 2021.

Overview, Child Protective Confidential Files

The GOC had previously expressed interest in understanding what types of information is contained in certain confidential DHHS and Maine Child Welfare Ombudsman files, memos and reports. Following the established protocol for obtaining confidential information, which includes a formal written request and the signing of a confidentiality agreement between the parties, OPEGA obtained OCFS Briefing Memos and the Reports of the Ombudsman regarding four child deaths that occurred in the summer of 2021. OPEGA had previously obtained the DHHS case files for two child deaths that occurred in 2017 and 2018 by the same process.

The following is a description of the types of information contained in these documents.

OCFS Briefing Memos

The OCFS briefing memos are internal OCFS documents summarizing DHHS involvement in a case, and identifies strengths and challenges, and an assessment of practice. The memos range from 3 to 15 pages in length, and contain some or all of the following information depending on the extent of CPS involvement in the case:

Circumstances of the death:

- Date, time and location of death

Family background:

- Family members associated with the case, including parents, caregivers, siblings
- Brief description of relationships, mental health diagnoses

Child protective history/timeline:

- Year that family initially became involved with DHHS and brief description of involvement
- Brief description of subsequent involvement with DHHS

Summary of substantiations/court involvement:

- Summaries of each report to DHHS, including a description of the allegation, court actions taken, parent/caregivers' progress during time of open case, mental health diagnoses of parent/caregivers, concerns of the court, findings of abuse and/or neglect made, guardian ad litem's recommendation

Current child protective/DHHS involvement:

- Summary of most recent involvement, including a description of report/allegation, caseworker investigation activities (interviews conducted, experts consulted, information obtained from law enforcement, attempts to contact parents, findings of abuse and/or neglect made, Structured Decision Making (SDM) tool results, outcome (whether case opened or not))

Review of monthly caseworker contacts with children:

- For each investigation, contacts made in person and via Zoom, by month and by child. Brief notes on physical observations of children

Child death report:

- Detailed description of child death, physical injuries to child, cause of death
- Details on report to DHHS of child death, CPS staff involved in response, information obtained by CPS staff at first contact, interview summary with parents/caregivers—including explanations for injuries; background checks completed; follow up activities planned
- Follow up report from supervisor: information obtained from hospital and law enforcement investigation
- Follow up report from caseworkers: immediate law enforcement and court actions taken, coordination with Spurwink¹ child abuse and neglect clinic and medical providers, emergency placements for siblings

¹ Spurwink's Center for Safe and Healthy Families provides forensic medical exams for children who may have been abused or neglected.

- Subsequent follow up reports: coordination activities with Office of the Attorney General, additional Maine State Police investigation findings, interviews with family, medical visits, placement details

Preliminary assessment of district practice:

- Strengths, challenges, and potential solutions identified by Department
- Next Steps for Department/OCFS/CPS

DHHS Case Files

In order to assist the GOC in understanding what types of information may be contained in the DHHS case files of the children whose deaths occurred in 2021, OPEGA used two sources: 1) a review of the types of records we had obtained in 2019 for two child deaths, and 2) a description from OCFS on what is typically included in a case file. Please note that the types of information described below would not necessarily be included in all case file requests. The case files for the two 2018/2019 deaths consisted of hundreds of pages of some or most of the following information, depending on the case.

Court Documents

- Prior and Pending Protective Custody Case
 - i. Pleadings, motions, orders, GAL reports
- Prior Criminal Matters
 - i. Docket Records
 - ii. Complaints
 - iii. Judgment and Commitments
- Prior Family Matters
 - i. Complaints (sometimes), orders, GAL reports
- Protection From Harassment/Protection From Abuse
 - i. Complaints and orders
- Forced Entry and Detainer
 - i. Complaints and orders
- Out of State Records in all of the above categories

Investigative Records and Criminal History Information

- Prior incident and police reports
- SBI and out of state records
- Investigative Records and Criminal Pleadings/Orders pertaining to child death would only be available if disseminated during discovery process in a related Protective Custody matter or if authorized by the Office of the Attorney General Homicide Division

Department Records

- MACWIS and Katahdin Material related to
 - i. Reports
 - ii. Assessments
 - iii. Findings

- iv. Case activity
- v. Out of home investigations
- vi. Kinship assessments
- vii. Foster home placements
- viii. Interviews
- ix. Visitation
- x. Rehabilitation & Reunification Plans

Records Collected in the Course of Involvement

- Medical Records for all critical case members
 - i. Primary Care Provider
 - ii. Acute Care
 - iii. Pediatric
 - iv. Evaluations
- Educational Records for children
 - i. Attendance
 - ii. Disciplinary/Behavioral Reports
 - iii. Individualized Education Plan/504 Plan
- Substance Use Testing and Treatment Records
- Mental Health/Psychiatric Records for all critical case members
 - i. Diagnostic Examinations, Evaluations, Assessments
 - ii. Treatment Records
- Other Service Records
 - i. Case Management/Behavioral Health
 - ii. Children's Developmental Services
 - iii. Housing Records
 - iv. Transportation Logs

Reports of the Maine Child Welfare Ombudsman

The Maine Child Welfare Ombudsman contacted the GOC and OPEGA and offered to provide copies of reports completed by that Office regarding the four 2021 child deaths. The case specific Ombudsman reports contain a summary of the events of the case as well as analysis. The reports range from 14 to 51 pages long, depending on the nature of the case, and contain some or all of the following information:

Demographic information

- Child's name
- DHHS District
- CPS Program Administrator name

Reason and the nature of the complaint to Ombudsman, and the complainants name

Materials reviewed by Ombudsman for report

- hospital records

- social work notes/report
- DHHS intake reports and narrative log
- Court orders

DHHS response to Ombudsman report and Ombudsman response to DHHS response

Current status of case

Ombudsman review

- summary of case with areas in which there were opportunities for more involvement by DHHS
- examples of limitations of policy and of resources

For each investigation

- reason for report
- summary of investigation (interviews conducted, collaterals contacted, visits made, SDM tool score)
- case outcome (closed, opened, referred to another service, inappropriate/screened out)

Death

- details of event
- summary of law enforcement information to DHHS
- DHHS observations
- medical report
- arrest information
- DHHS findings of child abuse and/or neglect

Additional findings

- example: policy issues

Positive findings

- example: caseworker practice