

AMENDED

**OKLAHOMA COMMISSION ON CHILDREN AND YOUTH
OFFICE OF JUVENILE SYSTEM OVERSIGHT**

Report Release Date: April 13, 2009

**Review of the Near Death of Zachary Phillip Sprick
of Tulsa County, Oklahoma**

Dates and Outcome of Investigations and Actions Taken by the Oklahoma Department of Human Services; Actions Taken by the District Attorney; and Dates and Summary of Judicial Proceedings and Rulings of the Court

General Information

On January 19, 2009, the Office of Juvenile System Oversight (OJSO) received an inquiry regarding the near death of Zachary Phillip Sprick, a two-year-old child who was taken in critical condition to a hospital by an emergency medical services unit. Zachary presented with bilateral retinal hemorrhages and subdural hematomas and was diagnosed with shaken baby syndrome. On December 17, 2008, a criminal felony charge of Child Abuse by Injury was filed against Sherry Yvonne Smith, the child care home provider of Zachary. Smith's child care home was licensed by the Oklahoma Child Care Services (OCCS) division of the Oklahoma Department of Human Services (OKDHS) at the time of Zachary's near-death incident.

The following is a summary of the actions taken by the OKDHS; the actions taken by the district attorney; judicial proceedings; and the rulings of the court, as authorized by 10 O.S., Section 7005-1.9, B, D, and E (below).

Authorization

Title 10, Section 7005-1.9, B, D and E, of the Oklahoma Statutes, states:

B. In cases involving the death or near death of a child when a person responsible for the child has been charged by information or indictment with committing a crime resulting in the death or near death of the child, there shall be disclosure of certain information concerning the circumstances of the investigation of the death or near death of the child and any other investigations within three (3) years of the death or near-death and one (1) year after the death or near-death concerning that child, or other children while living in the same household.

D. 1. At any time subsequent to seven (7) days after the date the person responsible for the child has been criminally charged, the Oklahoma Commission on Children and Youth shall, upon request, release certain information to the public within sixty (60) days of the request as follows:

a. a confirmation shall be provided by the Commission as to whether a report of suspected child abuse or neglect has been made concerning the alleged victim or other children while living in the same household and whether an investigation has begun,

b. confirmation shall be provided by the Commission as to whether previous reports of suspected child abuse or neglect have been made and the dates thereof, a summary of those previous reports, the dates and outcome of any investigations or actions taken by the Department [OKDHS] and the Commission in response to any previous report of child abuse or neglect, and the specific recommendation made to the district attorney and any subsequent action taken by the district attorney,

c. the dates of any judicial proceedings prior to the death or near death of the child,

d. recommendations submitted by the Department [DHS] and the Commission shall be provided in writing including recommendations made at the hearing as they relate to custody or placement of a child, and

e. the rulings of the court.

2. Specific recommendations made by the Commission described in any progress reports of a pending case submitted to the court may be disclosed by the Commission.

E. Any disclosure of information pursuant to this section shall not identify or provide an identifying description of any complainant or reporter of child abuse or neglect, and shall not identify the name of the child victim's siblings or other children living in the same household, the parent or other person responsible for the child or any other member of the household, other than the person criminally charged.

Identifiers:

Child's Name: Zachary Phillip Sprick

Age at time of incident: Two years old

Alleged Perpetrator: Sherry Yvonne Smith

The Oklahoma Commission on Children and Youth did not become aware of this case until after the near-death incident of Zachary Sprick.

Summary of Actions Taken by the Oklahoma Department of Human Services; Action Taken by the District Attorney; Judicial Proceedings; and the Rulings of the Court:

In accordance with state law, this public release only reflects the OKDHS records surrounding the near death incident of Zachary Sprick.

Licensing Services Supplemental Information (November 14, 2008, at 2:50 p.m.)

The OCCS documented that Smith had contacted the OCCS and reported that Zachary had a seizure during a diaper change. According to documentation, he became unresponsive and Smith physically shook him to try to get him to wake up or to respond. Smith also reported that she called 911 and Zachary's mother. Furthermore, she reported that Zachary's mother rode with Zachary when he was transported to the emergency room by ambulance.

First Referral (November 14, 2008, at 6:00 p.m.)

The OKDHS received the first referral on November 14, 2008. The caller alleged that Smith had reported to the caller that she (Smith) would lay Zachary down for five to ten minutes after she fed him a bottle. The caller also reported that on that day (November 14, 2008), Zachary had started shaking when Smith laid him down after he drank his bottle. Reportedly, Smith picked Zachary up and shook him but he did not respond. The caller further reported that Smith contacted 911. Reportedly, Zachary was rushed to the hospital by an emergency medical services unit, where it was discovered that Zachary had internal bleeding.

The OKDHS accepted the referral for investigation and assigned it as a Priority One. According to documentation, the OKDHS investigative findings were Failure to Protect and Possible Abuse to Zachary by his biological parents. The OKDHS worker documented that on November 14, 2008, she observed Zachary in the hospital. She also documented that on November 14, 2008, she made contact with the biological parents, the doctor who physically examined Zachary at the hospital, the doctor from the Justice Center who spoke to Smith by phone, and the detective from the local police department assigned to the investigation.

The OKDHS worker documented that she observed Zachary in the hospital and that he was awake, alert, and appeared fussy. She noted that Zachary cried throughout her visit. According to the OKDHS documentation, the parents reported that Zachary had been attending Smith's child care home for approximately six weeks. It was also reported that they had been in the process of locating a new daycare when the near-death incident occurred. The parents expressed concern regarding the care that Smith provided Zachary. This included an incident where allegedly Zachary was placed on a

king-size bed in an upstairs bedroom of Smith's day care home and left unattended by Smith. When Zachary's father requested that Smith not leave Zachary unattended, Smith reportedly stated that she had been providing child care for twenty-one years and that she knew what she was doing. Other alleged incidents included that Zachary had suffered an unexplained black eye and a "pinch/bite" mark on his hip. Also, he had received a belt mark on his face after a three-year-old child swung a belt around that hit Zachary. Another incident of concern was that Smith allegedly had transported Zachary in a vehicle after the parents signed a statement documenting that they did not want Zachary to be transported by Smith. The parents had described Zachary as a fussy baby, due to his severe reflux and that he had become a "really fussy" baby while in the care of Smith. Both parents had admitted that they were suspicious of Zachary's injuries and the explanations provided by Smith but felt that the child care home was safe since it was licensed by OKDHS. When asked about the day of the near-death incident, Zachary's mother reported that her husband took Zachary to Smith's child care home, arriving at the day care home at approximately 6:30 a.m.

Zachary's mother had added that she had planned to pick up Zachary from the home at approximately 2:30 p.m., and that the drop-off and pick-up times were Zachary's typical child care schedule. According to the documented interview, Zachary's mother stated that at approximately 2:10 p.m., she received a phone call from Smith informing her that Zachary had suffered a seizure and that 911 had been called. Reportedly, when Zachary's mother arrived at the home, Zachary was in the ambulance and she accompanied him to the hospital. While being transported to the hospital, Zachary had to be revived because he stopped breathing. Zachary's mother reported that she was told by the emergency room doctors that Zachary had suffered from a "few bleeds" in his brain and might require surgery. She was also told that Zachary might not "make it".

The OKDHS worker documented her contact with the doctor who had physically examined Zachary at the hospital. According to the documentation, the doctor reported that there was "no way" that Zachary's injuries were accidental. The OKDHS documented that the doctor also reported that Zachary had a left frontal brain injury and retinal hemorrhages in his right eye.

The OKDHS worker documented her contact with the doctor from the Justice Center who had spoken to Smith by phone. According to the documentation, the doctor reported that Smith admitted to shaking Zachary five to six times because she thought that he had suffered a seizure. The doctor believed Zachary's injuries were consistent with Smith's account of the near-death incident.

The OKDHS worker documented that she requested assistance from the local police department regarding the investigation of the injuries to Zachary. The detective assigned to the investigation met the OKDHS worker at the hospital. According to the documentation, the detective conducted interviews with everyone associated with the case and determined that it was possible that Smith could have inflicted the injuries to Zachary. The detective then went to the home of Smith to assess the safety and/or risk of Smith's biological children. The detective allowed Smith's biological children to

remain in the home for the weekend with a safety plan agreed to by Smith and her husband. The conditions of the plan were that the husband would ensure that Smith would not be left alone with the children and that the husband would supervise all of the interactions between Smith and the children. The conditions also included that Smith, her husband, and their children would be available on Monday, November 17, 2008, to participate in formal interviews with the OKDHS and the local police department.

The OKDHS worker documented that on November 17, 2008, she was contacted by the OCCS worker assigned to Smith's case. According to the documentation, the OCCS worker and the local police department detective had just returned from the Smith home. The OCCS worker reported that Smith admitted to shaking Zachary and demonstrated with a doll how she had physically shaken him. During the demonstration, the doll's head "snapped back and forth" due to the amount of force used by Smith while she shook the doll.

The OKDHS child welfare finding of this investigation was Services Recommended as to Zachary's parents. The OKDHS recommended that Zachary's parents pay close attention to any future unexplained injuries to Zachary while not in their care. It was also recommended that the parents follow up with any additional medical care Zachary might need. Furthermore, it was recommended that the parents participate in counseling services due to the trauma of Zachary's near-death incident.

Second Referral (November 14, 2008, at 6:00 p.m.)

The OKDHS received the second referral on November 14, 2008. The caller stated that Smith had reported to the caller that after she (Smith) would feed Zachary a bottle, she would lay him down for five to ten minutes. The caller also stated that on that day (November 14, 2008) Zachary had started shaking when Smith laid him down after he finished drinking his bottle. Allegedly, Smith picked Zachary up and shook him but he did not respond. The caller reported that Smith contacted 911. Reportedly, Zachary was rushed to the hospital by an emergency medical services unit, where it was discovered that Zachary had internal bleeding.

The OKDHS accepted the referral for investigation and assigned it as a Priority Two. According to the documentation, the OKDHS would investigate the allegation of neglect/failure to protect by Smith and her husband of the children who attended the child care home.

This investigation was consistent with the previous investigation and noted the same information regarding the near-death incident and the injuries to Zachary.

The OKDHS worker verified that Smith's CPR certification was current. The worker documented a review of Zachary's medical records, which indicated that he did not have a history of seizures. According to the documentation, Smith had reported to the OKDHS worker that Zachary had vomited several times while in her care and that she

had kept him elevated. Smith also admitted that Zachary was hit in the face with a belt by a three-year-old child.

The OKDHS worker documented an interview with the doctor at the Justice Center who determined that Zachary had not suffered brain damage prior to his arrival at the child care home and that his injuries were consistent with "classic shaken baby".

According to documentation, the doctor stated that Zachary's injuries were the result of forceful and repetitive shakes that could have caused him to have a seizure. Also, the doctor identified a concern that Smith provided care to another infant who had a shunt put in place during the time Smith provided child care to the infant. This allegation was addressed in the OKDHS child welfare referral dated December 31, 2008.

The OKDHS child welfare finding of this investigation was Confirmed-Court Intervention Requested as to Smith and her husband.

Child Abuse Charge (December 17, 2008)

Sherry Yvonne Smith, a child care home provider of Zachary Phillip Sprick, was charged with Criminal Felony Child Abuse by Injury.

OKDHS OCCS Correspondence

The OCCS notified Smith by a letter dated December 17, 2008, that the licensing complaint allegation that Zachary was physically shaken by Smith was substantiated. Also, the allegations that Zachary was struck on the face with a belt by another child and that Zachary was left unattended in an upstairs bedroom were substantiated.

The other allegations that Zachary was provided care by Smith on a floor of the home that was above-ground level, that he was not placed in an appropriate place to rest, and that he had been transported by Smith without his parents' permission were also substantiated.

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