

**Oklahoma Commission on Children and Youth
Office of Juvenile Oversight
Systemic Review Report
Substance Use/Child Death/Near Death**

Issue Date: June 10, 2010

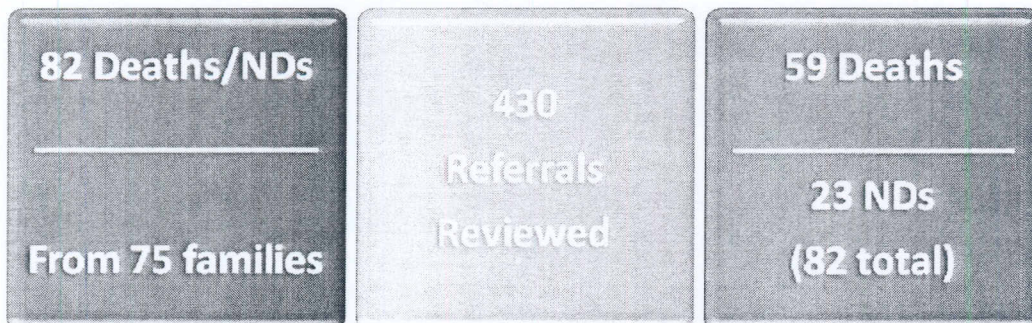
**Review conducted by Penny Hill-Malone, Team Leader, Tina Pendergraft, Jenifer Cooks, and Raegan Qualls, Oversight Specialists, and Maria King, Intern.
Report written by Penny Hill-Malone, Tina Pendergraft, Oversight Specialists, and Joanne L. Verity, Programs Manager.**

Introduction and Methodology

As approved by the Commission on Children and Youth, the Office of Juvenile System Oversight (OJSO) reviewed the OKDHS records regarding child deaths/near deaths to discover if the family child welfare history prior to the child's death or near death noted substance use. The OJSO reviewed those death or near death reports that were received by the OJSO between the dates of November 1, 2008, through November 1, 2009, from the OKDHS. The purpose of this report is to state the findings of the review; the report does not purport to scientifically analyze information that may indicate causation of death or near death.

Any reports received during this time frame that pertained to child(ren) whose death(s) occurred prior to January 1, 2008, were not included in the data analysis. Reports received regarding deaths or near deaths which occurred in residential facilities, foster homes, day care facilities, or day care homes also were not included even if the death or near death occurred during the reviewed time frame.

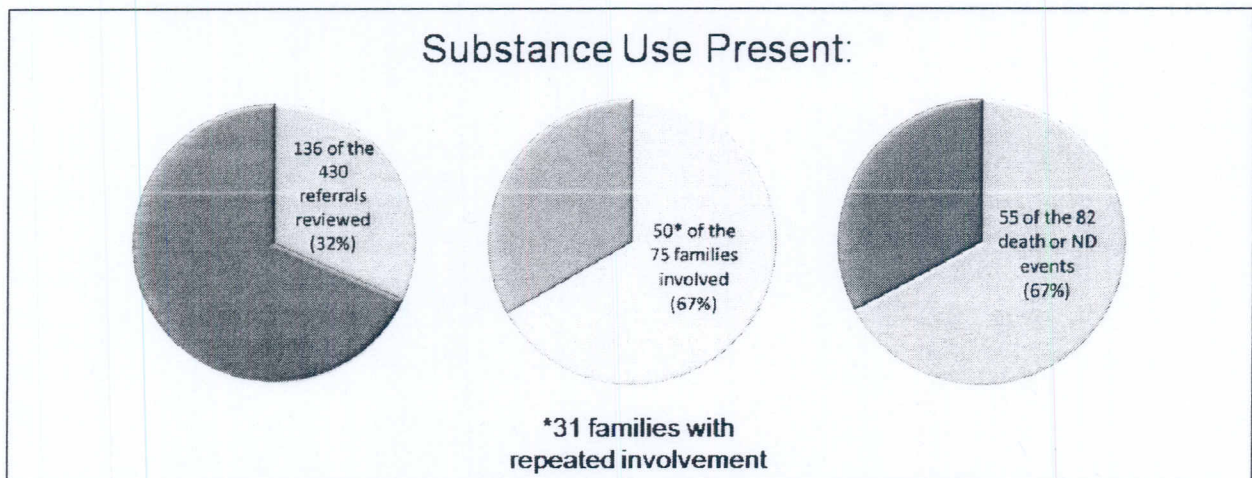
During the time frame selected for review, the team reviewed 82 deaths/near deaths that involved 75 families. The child welfare history for these 75 families totaled 430 referrals. Of the 82 children, 59 of the children died, and 23 of the children experienced a near death between January 1, 2008, and November 1, 2009.



Of the 75 families involved, one family had two children die in separate incidents that occurred during the reviewed time frame; two families had more than one child die in

the same incident during the reviewed time frame; and one family had more than one child experience a near death in the same incident during the reviewed time frame.¹

In the 430 referrals reviewed by the OJSO, 136 referrals noted substance use of some kind in the child welfare records for those 136 referrals. Those 136 referrals that noted substance use concerned 50 of the 75 reviewed families, and 55 of the 82 children who either died or experienced a near death. Concerning those 136 referrals that noted substance use, 31 of the 50 families had repeat notations of substance use in different child welfare referrals.



Original Theories

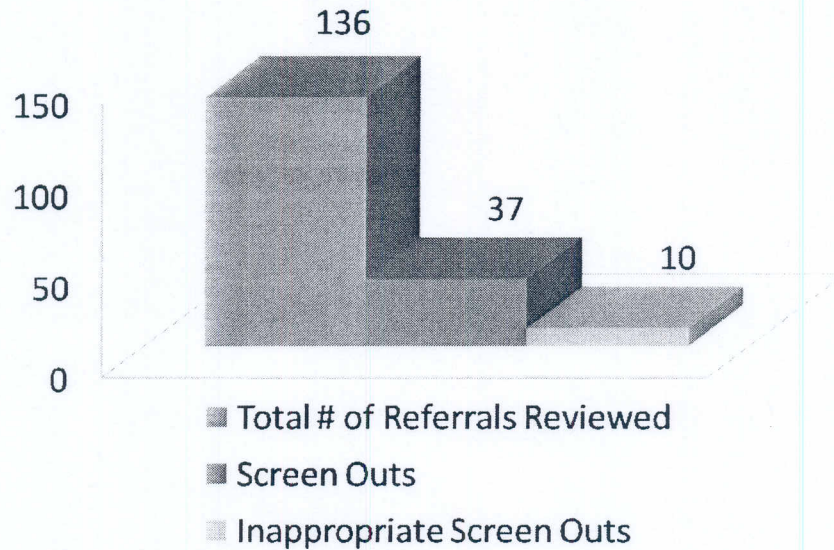
After preliminary research, the OJSO noted the following original theories and requested that the Commission on Children and Youth approve a systemic review:

- The county workers and supervisors inappropriately screened out referrals where substance use had been indicated.
- The county workers and supervisors failed to follow-up on referrals where the OKDHS finding was Services Recommended.
- The county workers and supervisors failed to follow OKDHS policies when referrals mentioned substance use.

Each of these original theories will be addressed separately in relation to the 136 referrals that noted substance use of some kind in the OKDHS records.

¹ The facts surrounding the incidents in three of the four multi-child death or near death incidents mentioned drugs or alcohol; and three families involved in these multi-child death or near death incidents had other child welfare history that noted substance use.

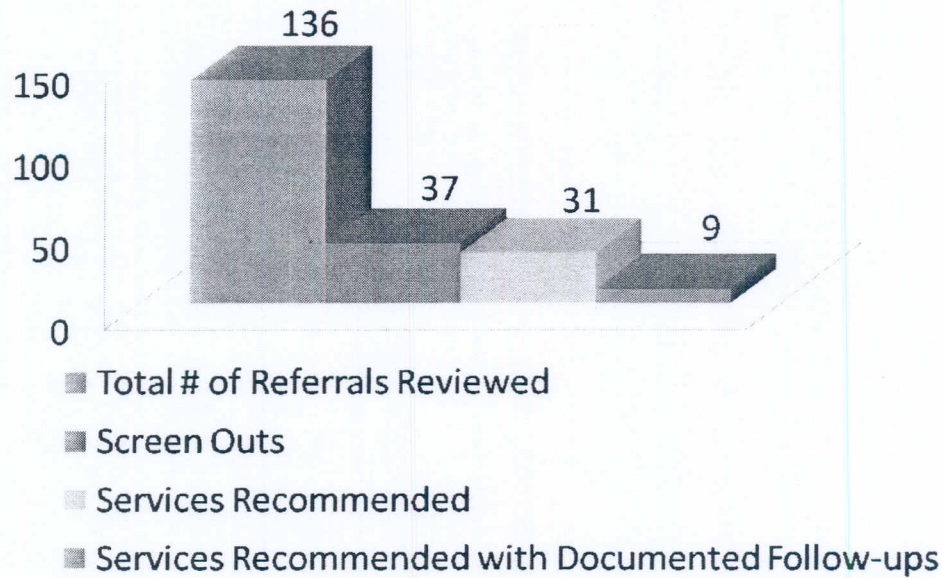
Original theory I: The county workers and supervisors inappropriately screened out referrals where substance use had been indicated.



- In the 136 referrals reviewed that noted substance use of some kind, 37 referrals concerning 27 of the 50 families had been screened out.²
- Of the 37 screen out **reasons**, only 5 noted substance use, and all of these 5 reasons stated that the substance(s) use in the referral did not require OKDHS to open an investigation or assessment; 2 of these 5 screen outs were inappropriate.
- Of the remaining 32 referrals, no screen out reasons addressed substance use; 8 of those screen outs were inappropriate.
- All 27 families eventually returned with a referral that concerned the death or near death of a child.

² A confidential attachment was prepared that lists the referral numbers for the 37 screen outs. **Attachment A** is available to individuals entitled to the confidential information.

Original theory II: The county workers and supervisors failed to follow-up on referrals where the OKDHS finding in an investigation was Services Recommended.



Of the 136 referrals reviewed that noted substance use of some kind and were NOT screened out.³

- 31 referrals had findings of “Services Recommended” or “Confirmed – Services Recommended”.⁴
- Workers documented follow-up in 9 of the 31 services recommended instances, and in 1 of those 9 instances, the services documented related to substance use or abuse.⁵

³ After deducting the screen outs, 99 referrals of the 136 referrals that noted substance use of some kind remained.

⁴ A confidential attachment was prepared that lists the referral numbers for the 31 referrals that had findings of “Services Recommended” or “Confirmed – Services Recommended”. **Attachment B** is available to individuals entitled to the confidential information.

⁵ In addition to “Services Recommended” or “Confirmed – Services Recommended”, there were 13 “Confirmed – Court Intervention Requested” findings in the 136 referrals reviewed. The documentation in those referrals did not note substance use services. A confidential attachment was prepared that lists the referral numbers for these 13 referrals. **Attachment C** is available to individuals entitled to the confidential information. **Attachment D**, available to individuals entitled to the confidential information, is a list of referrals in which some type of substance use was noted, an investigation or an assessment was opened and conducted, and the finding was something other than Services Recommended, Confirmed – Services Recommended, or Confirmed – Court Intervention Requested. There are 55 referrals on Attachment D.

Original theory III: The county workers and supervisors failed to follow OKDHS policies when referrals mentioned substance use.

The OJSO research did not support this original theory. The workers and supervisors did follow OKDHS policies relating to “substance abuse” when referrals mentioned substance use or abuse. Please refer to the policy discussion below.

Policy Discussion

The “Intake/Screen Out” Process

The OJSO found inappropriate screen outs in 27% of the referrals that had been screened out. Under former OKDHS policy, the county CPS intake workers were required to make diligent efforts to obtain and document any unsafe conditions in the home including the use of illegal substances prior to determining whether a report met the criteria for an investigation or an assessment. Under current OKDHS policy, the new Statewide Centralized Hotline workers perform these duties and document household and background information that may be relevant in the screening process.⁶

Both the former as well as the current policies require the workers to screen out reports if the circumstances fall outside the definitions of abuse or neglect as defined in policy.⁷ Only rarely do workers conclude that the use of substance(s) as noted in a referral amounts either to “harm or threatened harm to a child’s health, safety, or welfare” (abuse) or to “[deliberate] or [exceptional] lack of attention to the child’s basic needs” (neglect) sufficient to investigate or to assess.

Although “substance use” is not defined in the OKDHS policy, “substance abuse” is defined in OAC 340:75-3-2 as “the illegal or inappropriate use of any drug, or alcohol, that incapacitates or severely limits the PRFC in performing minimal basic care for the child and results in serious neglect of the child or creates the risk of grave physical danger or significant emotional consequences to the child.” This definition of “substance abuse” requires a significant level of information be available to the worker for the worker to open an assessment or an investigation based on substance use alone.

⁶ Not all counties have initiated the use of the statewide hotline for screening referrals. All Counties should be utilizing the statewide hotline by the end of 2010.

⁷ “**Abuse**” was formerly defined as “harm or threatened harm to a child’s health, safety, or welfare by a person responsible for the child’s health, safety, or welfare, per 10 O.S. Section (§) 7102.”

“**Abuse**” is currently defined as “harm or threatened harm or failure to protect from harm or threatened harm to a child’s health, safety, or welfare by a person responsible for the child’s health, safety, or welfare, including, nonaccidental physical or mental injury; or sexual abuse or sexual exploitation; however, nothing prohibits a parent from using ordinary force as a means of discipline including, but not limited to, spanking, switching, or paddling.”

“**Neglect**” was formerly and is currently defined as “a situation in which a PRFC either deliberately or through exceptional lack of attention to the child’s basic needs causes the child to suffer emotionally or physically. Neglect involves either a chronic, long-standing problem that impacts several aspects of a child’s life or is so severe that it is life threatening.” The definition of “neglect” was not amended in the recent policy changes.

Under this existing definition of substance abuse, the OJSO review team concluded that OKDHS workers did follow policy directives in 73% of the referrals that had been screened out. It is noted that although both the former as well as the current OKDHS policies allow for services to be recommended even though a referral is screened out,⁸ once a report is screened out, generally services for substance use are not recommended or sought for a family after a screen out.

“Services Recommended” Issues

According to OAC 340:75-3-10.2, Findings for Child Protective Services Investigations, “after completing the Child Protective Services (CPS) investigation, a finding is made regarding whether the child was or is at risk of abuse, neglect, or both, per Section 7102 of Title 10 of the Oklahoma Statutes and OAC 340:75.”⁹ “Services recommended” and “Confirmed report – services recommended” were two possible findings at the time the findings were made in the cases reviewed.¹⁰ When a finding recommends services, these “services may be provided either by [OKDHS] or other community resource providers.”¹¹ In the past, OKDHS policy and procedure allowed for the CW case to close after the finding had been made, and monitoring for the services recommended was provided by the service contractor who was providing the services. This practice usually resulted in no or negligible documentation of substance abuse services provided even though substance abuse services had been recommended. The OJSO review team found that follow-up was documented in 29% of the referrals reviewed where services were recommended.

OKDHS policy which became effective March 26, 2010, OAC 340:75-4-12.1, Voluntary Family-Centered Services procedures, was amended, and the CW cases are to remain open with the workers monitoring and documenting that services are provided. The policy provides in Instruction to Staff 5 that “CW is required to retain case management of voluntary cases with full responsibility for service provision, regardless of whether the family is referred for [Comprehensive Home-Based Services].”

Summary and Conclusion

- Both former and current OKDHS policy require a referral to be screened out unless a CW worker and a supervisor determine that the circumstances in the referral, including the presence or use of a substance, amount to abuse or

⁸ OAC 340:75-3-7, Screening of reports, formerly (d), currently (c), Disposition of the screened out report, states, “When a report is received that is not appropriate for CPS and services are needed, the Child Welfare (CW) worker may make a referral within Oklahoma Department of Human Services (OKDHS), to outside resources, or both, for emergency food, shelter, medical services, or counseling. In situations that indicate the child and family are in need of services, referrals to community agencies or OKDHS contract providers may be offered to the family.”

⁹ The current policy states, “After completing the Child Protective Services (CPS) investigation, a finding is made regarding whether the child was or is at risk of abuse, neglect, or both, per Section 1-1-105 of Title 10A of the Oklahoma Statutes and OAC 340:75.”

¹⁰ Current policy provides for the following findings: “Unsubstantiated – Services recommended” and “Substantiated – Services recommended”.

¹¹ OAC 340:75-3-10.2(2)(B) and (C).

neglect. Very few referrals are accepted as an investigation or as an assessment based upon the use or abuse of a substance alone.

- Both former and current OKDHS policy provide that CW workers may recommend services to families even in instances where referrals are screened out. Although the presence or use of the substance may not meet the criteria for an investigation or an assessment, the behaviors in the home could nevertheless be threats to child safety, and a referral for substance abuse services would be both helpful and preventive for the family.
- Now that current OKDHS policy requires that services recommended cases remain open and be monitored by CW workers during such time the services are provided, perhaps substance use will be assessed with other family dynamics and documentation will reflect the services that are offered to address these issues if necessary.