

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

Report Release Date: October 10, 2007

**Review of the Death of Luke O'Daniel
of Custer County, Oklahoma**

**Dates and Outcome of Investigations and Actions Taken
by the Custer County Department of Human Services
(DHS), District Attorney's Office, District Court, and DHS
Division of Child Care**

General Information

On September 7, 2007, the Office of Juvenile System Oversight (OJSO) received a request for a public report on the death of a child, Luke O'Daniel. The death occurred on September 5, 2007, at a Family Child Care Home that was in application status for DHS approval. A Criminal Felony First Degree Murder charge was filed against the Family Child Care Home operator, Lindsay Pope, on September 7, 2007. The following is a summary of the actions taken by the DHS; the actions taken by the district attorney; judicial proceedings; and the rulings of the court, as authorized by 10 O.S., Chapter 70, Section 7005-1.9, D and E (below).

Authorization

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

D. 1. At any time subsequent to seven (7) days, but no more than thirty (30) days, of 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 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 [DHS] 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: Luke O'Daniel
Date of Birth: November 14, 2006

Person
Responsible
for the Child: Lindsay Pope, owner and operator of Sweet Peas Child Care, Family
Child Care Home

The Oklahoma Commission on Children and Youth did not become aware of the case until after the child's death.

All of the DHS Family Child Care Home Monitoring Reports are included in this Review of Death Report.

Summary of Actions Taken by Custer County DHS Child Welfare Services, DHS Division of Child Care, District Attorney's Office, and District Court:

August 9, 2007

Application

Mrs. Pope completed a DHS Application For License to operate a Family Child Care Home and Large Child Care Home.

August 10, 2007

DHS Family Child Care Home Monitoring Report

Licensing Services Supplemental Information, dated August 16, 2007

Family Child Care Home Checklist

A DHS Family Child Care Home Licensing staff member conducted an initial family child care home visit. The DHS Family Child Care Home Monitoring Report documented that Mrs. Pope needed to submit a weekly food menu, a copy of her Social Security card, and a copy of her driver's license. This documentation was received by the licensing unit on August 16, 2007. The report further documented there were two children enrolled in the child care home, but that no children were in care on that date. The OJSO reviewed the licensing file on September 14, 2007. The Family Child Care Home Checklist, dated August 10, 2007, documented a licensing representative's review on June 21, 2007, of Mrs. Pope's criminal record background check conducted through the Oklahoma State Bureau of Investigation (OSBI); however, a copy of the background check was not in the licensing file reviewed by the OJSO. The file documented that three personal reference request letters were mailed by the DHS on August 15, 2007; however, only one reference letter was contained in the file that documented the request was completed and returned to the DHS office on August 23, 2007.

September 5, 2007

Summary of the Licensing Services Supplemental Information

The licensing information sheet documented four children in care at the child care home. Child 1 was nine months old and was identified as Luke O'Daniel (the subject of this report); Child 2 was ten months old; Child 3 was thirteen months old; and Child 4 was six months old.

September 6, 2007

Summary of the Child Welfare interview with Lindsay Pope

The child welfare investigator made contact with Lindsay Pope. Mrs. Pope described Luke as "pretty active." She had laid Luke down for his nap at 2:00 p.m. This was later than usual, because Luke had slept in that morning. His usual naptime was 12:30 p.m. He would usually sleep for approximately an hour-and-a-half to two hours. Mrs. Pope denied observing any abnormal behavior from Luke and stated that he had played in the living room for about an hour-and-a-half. Prior to his nap, Mrs. Pope reportedly rocked

him and fed him a bottle. He only ate a few bites at lunch. According to the child welfare investigator, Mrs. Pope was cooperative with the worker and did not appear to be emotionally upset during the interview.

September 7, 2007

Summary of INFORMATION filed by the Custer County District Attorney

Summary of the Affidavit of Probable Cause filed by the Custer County District Attorney

Summary of the interviews of the parents of Child 3 and Child 4 documented in the DHS KIDS System

The Custer County District Attorney's office filed one count of First Degree Murder against Lindsay Pope. The Information alleged the defendant used unreasonable force by throwing a child into a playpen, causing a skull fracture and inflicting a mortal wound.

On the same date, the Custer County District Attorney's office filed an Affidavit of Probable Cause. The affidavit documented the defendant's initial denial of involvement in the cause of the child's death on September 5, 2007, as well as, the defendant's statement on September 6, 2007, during an interview at the police department that resulted in the defendant's arrest for the charge of Murder in the First Degree. The statement documented that the defendant was stressed and could not get the child to go to sleep. She became nauseous from morning sickness, due to her being pregnant, and she started to feel vomit in her throat so she threw the child into the playpen and went into the bathroom. The motion of throwing the child was described as "violently forcing" the child into the playpen with a "rapid throwing motion." The defendant did not return to check on the child for one hour, twenty minutes. When the defendant checked on the child, she realized that he was limp and his fingers were blue. She then called 911 and started CPR. She stated at that time she knew the injury was her fault. While the police were in her home, the defendant took the playpen that the child had been in and hid it behind a dresser in her bedroom. She then lied to the police by identifying the playpen in her daughter's room as the playpen that had held the child. She denied any intentional harm to the child and denied causing harm to any of the other children in her care.

The DHS KIDS system documented the child welfare investigator's interview with the parents of Child 3 on September 7, 2007. During the interview, the mother reported the child had been examined by a physician on September 4, 2007. The child had marks on his cheeks that looked like welts and marks behind each ear that looked like "strawberries." According to the mother, Mrs. Pope was acting "weird" when she was questioned about the marks and stated that she did not know why the child had marks on the cheeks or behind the ears.

The mother also reported on September 5, 2007, that she contacted Mrs. Pope and asked if her child was cranky. Mrs. Pope told her that her child was not cranky, but that she did care for a child who was really fussy all of the time.

The DHS KIDS system documented the child welfare investigator's interview with the parents of Child 4 on September 7, 2007. During the interview, the mother reported the child had been examined by a physician after she observed a bruise in one of the child's ears. The mother also reported she had been taking her child to the child care home two days a week since April 24, 2007.

The DHS was unable to locate the parents of Child 2.

The DHS did not interview the parents of Luke O'Daniel.

Licensing Complaint Summary

The Licensing Complaint Summary documented the date of the complaint as September 5, 2007, and "substantiated"¹ the following allegations:

1. child died while in care;
2. caregiver did not check on the child for one hour and twenty minutes;
3. caregiver had a soft, fluffy, fleece blanket in two playpens with infants;
4. caregiver placed the child on his stomach to sleep;
5. caregiver's behavior caused the death of a child;
6. caregiver failed to demonstrate realistic expectations for the safety of a child; and
7. caregiver did not comply with minimum licensing requirements to meet the needs of the child.

¹DHS policy OAC 340:110-1-9.2, Complaint investigations, (j), Findings, states, "After the investigation is completed, the licensing staff, in consultation with the licensing supervisor, as appropriate, makes a finding as to whether the complaint is substantiated, unsubstantiated, or ruled." Subparagraph (1), Substantiated, further states, "A finding of substantiated is made when a weighing of the information obtained during the investigation clearly indicates the facility violated any licensing requirement or the Act [the Child Care Facilities Licensing Act]."