

Date: September 3, 2006

To: Pastor Sloan, Chairperson, Butler County Children Services Board  
Jann Heffner, Executive Director, Butler County Children Services Board  
From: William C. Morrison, Ombudsman, Butler County Children Services Board  
Re: Preliminary Report on Marcus Fiesel death investigation

As Ombudsman for the Butler County Children Services Board (BCCSB), I have been requested by the BCCSB Chairman of the Board and the Commissioners of Butler County to investigate the circumstances that led to the death of Marcus Fiesel. This report is a preliminary report, prepared for distribution at the Special BCCSB, Board of Directors meeting called for Tuesday September 5, 2006 at 5:00 p.m. The facts and observations included in this preliminary report may change as the ongoing investigation continues.

The information contained in this preliminary report is based on a review of case file information. As the investigation continues, interviews with BCCSB staff, Lifeway For Youth (LFY) staff, and other individuals associated with this case will be conducted. The Final Report will include a complete timeline of events leading to this most tragic event. The Final Report may also include recommendations for change in state and local program structure and policies.

This preliminary report is presented in two segments:

- BCCSB's compliance, or lack of compliance, with federal, state and local policies and regulations.
- The quality, or lack of quality, of the professional judgment associated with this Case.

## **Introduction**

BCCSB is in the business of risk assessment. As risk assessment involves predicting future behavior of human beings, it is at best an imperfect science. One gathers information, analyzes the information and then interprets what information means in relationship to risk of harm to the child. In most child welfare cases, there are multiple risk elements competing with each other. The challenge becomes identifying the appropriate actions to minimize the risk that has been identified.

BCCSB case workers had investigated allegations and determined that Marcus and his siblings were at risk in the home of their biological mother. Whenever possible, BCCSB works to keep families together and the agency had provided a multitude of services to the biological mother in an attempt to keep this family together. The risk of keeping the family together is always counter-balanced against the risk of removal and placement in foster care. One thing is clear, removing children from their parents always causes trauma to the family. Even in the very best imaginable foster home with loving stable foster parents, a bed of your own, good food to eat, and clothes to wear, the experience of being removed from your parent and placed in the home of strangers is difficult and

always causes pain and trauma. BCCSB has provided comprehensive services to the bio-mother in an effort to strengthen the family and allow them to stay together.

**Did BCCSB follow applicable federal, state and local regulations and policies in this case? The following policy describes the information considered prior to and after a placement occurs.**

## **4.2 PLACEMENT REQUESTS AND PROCEDURES**

- 4.2.1 When requesting a placement, complete the Individual Child Care Agreement (ICCA) with as much information as possible. Give the Agreement to foster care. The foster care specialist will provide verbally the information to the substitute caregiver or the network making placement. The foster care specialist will document date information given verbally on the ICCA. The foster care specialist will return the agreement to the caseworker. It is the caseworker's responsibility to ensure the school receives information as applicable to the procedures for out-of-county placements. (See procedures for out-of-county placements)
- 4.2.2 When placement is made, the Individual Child Care Agreement must be signed by all parties. A copy goes to the foster caregiver, the network if applicable, the foster care specialist if it is one of our homes, and one copy in the child's file. If there is information missing, you must document on the agreement steps to be taken to obtain the information. You must also document in your case plan that a copy has been given to the substitute caregiver. The ICCA must be executed prior to placement or no later than one week after placement.
- 4.2.3 If placement is outside of our county, see procedures for out-of-county placements.
- 4.2.4 The caseworker shall maintain a copy in the case record of all information provided to the substitute caregiver, including the date the information was provided and the substitute caregiver's receipt of the information (See ICCA, page 9).
- 4.2.5 The ICCA shall be reviewed and updated or a new agreement executed each time a child is placed in a substitute care setting or within 30 days of the date any of the information or services contained in the ICCA change. The agency shall document on the case plan that any updates have been provided to the substitute caregiver and shall maintain copies of all documentation in the child's record and the substitute caregiver's record.

Marcus had been removed from his bio-mother and placed with the W foster home on April 22, 2006. Within just a few days, the foster parents decided they could not handle Marcus' behavior and asked that he be removed from their home as soon as possible. It appears that the ICCA used for the placement in the W foster home was used for the placement in the Carroll foster home with a new face sheet and signature sheet attached.

As the BCCSB foster care staff had been just recently involved, it was assumed that their resources had been identified so they were not re-involved in the placement in the Carroll foster home. A team meeting was called to discuss the placement and service needs that Marcus required, and the Carroll foster home was identified. By not referring the ICCA back to the foster care unit, a violation of BCCSB policy occurred.

**The following policy describes the BCCSB requirements for contact with children in out-of-home placement.**

#### **4.10 AGENCY VISITS AND CONTACTS FOR CHILDREN IN CUSTODY**

4.10.1 The child's social worker is required to maintain contact with the child and substitute caregiver on a regular basis following placement of him/her into substitute care. For children placed in BCCSB foster homes, relative/non-relative homes, and group homes the minimal visits should be as follows:

(a) At least one visit shall occur in the substitute care setting during the first week of placement, not including the first day of placement.

(b) At least one visit shall occur in the substitute care setting during the first four weeks of placement, other than during the first week of placement.

(c) Face-to-face visits with the caregiver and child shall occur at least monthly either in the office or in the substitute care setting.

(c) At least one visit in each two-month period shall be in the substitute care setting.

4.10.2 In addition: When a substitute caregiver is receiving an intensive needs difficulty of care payment the foster care specialist shall contact the substitute caregiver at least weekly to monitor the child's progress and conduct face-to-face visits with the caregiver and child once every two weeks. The foster care specialist's contact does not replace the child's social workers responsibility to maintain the required contact stated in 4.11.1.

4.10.3 The above contacts are also required for children placed in **network foster homes**. The BCCSB worker must ensure the Network worker is meeting these requirements. Visits by the BCCSB caseworker regardless of the network contact should be as follows:

(a) Once every three months in the substitute care setting.

It appears in this case the policy requirements regarding contact with the child after placement were met. These policies (as with all BCCSB policies) are designed to mirror or exceed state and federal regulations. The policy places the responsibility for monitoring the placement on the private substitute care provider agency, in this case,

LFY. There is also a requirement that BCCSB staff meet face-to-face in the caregiver's home quarterly. This requirement was met by the May 8, 2006, home visit to the Carroll home. LFY staff did provide the weekly face-to-face contact requirement in its contract with BCCSB. The exception being the August 10, 2008, visit where the LFY case worker was told that Marcus was sick in bed and the LFY case worker left without seeing him. A review of the file reveals 23 occasions between May 5, 2006 and August 8, 2006 when professional staff had face to face contact with Marcus. On six on those occasions the BCCSB case worker was present. This level of contact greatly exceeds all requirements.

**Did BCCSB demonstrate good professional judgment in the placement and monitoring of Marcus?**

Professional judgment in a risk assessment business involves the analysis of the information you do have and then making decisions designed to eliminate as much risk as possible. It is easy to conclude, based on what we know now, that this was a bad placement for Marcus, but the test of professional judgment has to be based on what BCCSB knew on May 5, 2006, the day Marcus was placed with the Carrolls.

When looking for a new placement for Marcus, BCCSB provided information to LFY regarding known behavior characteristics that Marcus displayed. LFY was aware that Marcus had been aggressive with smaller children, and had wandered off from caregivers. In a letter from a LFY social worker, the BCCSB case worker assurance was given that Marcus would have 24/7 supervision, the home was completely child-proofed to eliminate all potential hazards and that special care would be taken to make sure Marcus could not injure the younger children. Marcus was to stay in the bedroom next to Mr. and Mrs. Carroll. The Carrolls also agreed to provide any other safety measures that may be identified in the future. The willingness to accept Marcus in their home and the Carroll's indication they would consider adopting Marcus if the bio-mother went through with the voluntary relinquishment of Marcus were also factors in the Carroll home's favor.

When placing a child in an out-of-home placement, it is BCCSB's responsibility to develop service plans designed to minimize any risk to the child and to ensure the child's needs are met. The following efforts were made by BCCSB in order to minimize any risk for Marcus:

- Requiring LFY to conduct weekly face-to-face supervision of Marcus.
- Authorizing the provision of speech, occupational and physical therapy services for Marcus. These services bring other outside professionals into the home to witness if problems are developing.
- Marcus was to be enrolled the Therapeutic Intervention Program (TIP) and educational services. Again, these services bring other outside professionals into the home to witness if problems are developing.
- The BCCSB case worker supervised the visitation between the bio-mother and Marcus, creating another opportunity to know if problems are developing.

Based on the information provided to BCCSB by LFY, combined with the monitoring and service delivery plan, there was no reason to believe the Carroll foster home, and eventually adoptive home placement would be inappropriate or dangerous for Marcus. I also found no information received by BCCSB that would indicate that problems were developing in Marcus' placement.

There has been significant information that has become available regarding the Carroll foster home since this tragedy occurred. The Carrolls were required to notify LFY and then BCCSB of any new people who live in the home and of any arrests that occurred. As this investigation continues, it will be important to discover what LFY knew in this regard and why BCCSB did not know. Had BCCSB known this information, most likely this tragedy would have been avoided.

This tragedy raises some serious questions regarding the relationships between the State Office of Job and Family Services, who license foster homes; county children services boards who have custody of abused and neglected children; contract foster care agencies who recruit, train and monitor foster homes and foster parents. I am hopeful this tragedy will result in a full review of the use of contract foster homes. In the meanwhile, BCCSB should be even more vigilant in monitoring these placements and developing systems that will ensure it has the information it needs to protect children.