

CPS

Child Protective Agency

cleared by state

DA is still reviewing homeless baby's death

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SANTA CRUZ — County social workers appropriately handled the case of a homeless baby who died last month, according to state officials.

"I don't know why the baby died, I'm not sure that anyone knows. Was there something that could have been done differently? I don't know. The bottom line is that from what we have been able to see, the (Santa Cruz County Child Protective Services) acted appropriately," Bill Lamb, chief of state Child Welfare Services, said Thursday.

Lamb said the state did not review the Santa Cruz Police Department's report on the case, which has been submitted to the District Attorney's Office for possible prosecution of the mother, Lynn Rubin. That investigation showed that hospital personnel advised the baby not be returned to his mother.

The District Attorney's Office said Thursday it was still reviewing possible criminal charges against her.

The month-old baby boy died Sept. 29 at the Blackburn House Motel in Santa Cruz. The county forensic pathologist said malnutrition, prematurity and failure to thrive were factors in his death.

The baby died a few weeks after he and his mother had been released from Dominican Hospital, where the infant had been treated for hypothermia and low weight.

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Baby case

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He had been taken to the hospital by a local woman who found the mother and her newborn in a local park.

Before the baby left the hospital, nurses and doctors recommended he be released to foster care, not to his mother, because she was refusing to feed or adequately care for the infant, according to a police investigation.

In his final notes, the infant's physician, Dr. Joseph Herbert, scrawled that Rubin refused to be tested for HIV, would allow no one to give the baby vitamins and wasn't keeping him swaddled in blankets.

"Advise discharge to foster care," he concluded.

Lamb said state investigators didn't see Herbert's comments. He said they limited their review to interviews with social workers, county Human Resources Agency supervisors, and county documentation of the case.

According to the state review, the day before the baby was released the social worker talked to Herbert and wrote:

"Per Dr. Herbert: the baby is not in any danger now. The mother has not been cooperative in swaddling the baby, has not complied with a request for HIV test (for herself), and has not given him formula to supplement his diet as recommended by the doctor. ... She (Rubin) appears to be bonded to him, but Dr. Herbert questions her ability to put his needs above her own beliefs."

The social worker recommended that the baby be released to his mother, and a Juvenile Court referee approved this.

Lamb said the most convincing evidence to him that CPS did not err was that the baby was given a clean bill of health by Dr. Kristina Mutens at the Westside Community Clinic just two days before his death.

In addition, Lamb said the CPS social worker had eight face-to-face

visits — three in one day — with Rubin after she and the baby left the hospital. Lamb said state regulations require only three in-person visits each month.

"Maybe the state regulations are too lax, but I don't believe that," said Lamb. "I don't know that CPS could have done anything differently. The big thing that confronts us is we do not know what happened to the baby between the last time it was seen healthy and when it died. Maybe it was SIDS (Sudden Infant Death Syndrome). Maybe the mother wiggled out and did something really crazy. I don't know, but we do know that as far as we can tell, the social workers' actions were appropriate."

In recent years, the state has investigated the local CPS's role in the Ruby Pointer child neglect case and in the death of a baby in foster care.

The state review said investigators found no "patterns or trends" between handling of the Rubin baby case and previous Santa Cruz County that had been reviewed by the state.

County officials were conducting a review Thursday that Lamb said may answer more questions about the case.

Assistant District Attorney Kate Canlis said she had met earlier in the week with an attorney for Rubin, Greg Cohen.

"We are looking into some matters further," she said, "primarily connected with the cause of death of the baby and what the contributing factors to the cause of death might be."

Canlis said the additional investigation was required "because it's a very emotional and highly charged situation."

"When you're talking about criminal prosecution of a mother for the death of her own child, I think it's important to be careful and prudent about collecting all the information you can before you undertake such a thing."