

Hospital warned of baby's danger

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SANTA CRUZ — Dried blood was caked around the infant's blue nose and mouth when police arrived at the Blackburn House Motel for a "baby not breathing" call last month.

Paramedics arrived a few seconds later and told the officers the baby, born three weeks earlier to a homeless mother, had been dead for hours.

Baby Rubin's death on Sept. 30, 1993,

Child died after returning to homeless mother

was what doctors and nurses at Dominican Santa Cruz Hospital had feared would happen when they first saw him three weeks earlier.

He was brought in by women who found the mother and her infant in a park. He was less than a week old. His bones juttied out. He was cold and fragile.

Six days later, the baby was released by

the county's Child Protective Services to his 25-year-old homeless mother, Lynn Marie Rubin.

But according to medical charts and police reports, hospital staff warned CPS not to give the infant back to his mother.

A Santa Cruz police investigation, turned over to the District Attorney's Office on Monday, shows there were numer-

ous warnings that Rubin was not providing the infant the necessary food, clothes or care to keep him alive.

Dr. Richard Mason, the county's forensic pathologist, said Thursday the baby died of pulmonary hemorrhage "with contributing causes of prematurity, malnutrition and failure to thrive."

A state investigation into CPS's han-

dling of the baby's life and death was requested last week by county Human Resources Director Will Lightbourne.

In an interview Thursday, before police records were available, Lightbourne said based on preliminary reports, his agency handled the case thoroughly, checking in with the mother daily, and following advice of hospital staff.

"It was coverage by the book," said Lightbourne.

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Death of baby

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The baby and his mother were brought to the hospital the day after Margaret Brown found them in a Westside park. Emergency room doctor John Fust said the baby's temperature was just above 94 degrees, a dangerous four degrees too low. Born prematurely, he was hypothermic, his umbilical cord was infected and he tipped the scales at four pounds.

"I don't trust Western medical care," Rubin reportedly told the doctor, and walked out of the emergency room with the baby.

Nurse Lorraine McKie found Rubin and the infant sitting in a car in the parking lot. The baby had a soiled handkerchief wrapped around his waist. His feces smeared his mother's shirt.

Sheriff's deputies were called, and CPS was given legal custody of the baby based on Rubin's unwillingness to provide adequate care.

Thus began what records show to be a six-day struggle at the hospital between medical staff who were trying to care for the baby, and Lynn Rubin, who didn't want her infant fed formula, held under warming lamps or given vitamins.

Nurses say mother uncooperative

Rubin was "completely non-compliant" and "verbally abusive," nurse Sue Eastman told police.

Eastman, who has been a nurse for 22 years, said she tried to educate Rubin and explained that her infant would die if she didn't cooperate. In response, Eastman said, Rubin yelled and screamed at her and other nurses.

Eastman said almost every time she checked on the infant, Rubin had unwrapped him or removed him from the lighted isolette.

"Once, Eastman was completely appalled to find Rubin with the infant completely naked at the sink in the room. She was holding the infant under the water giving it a bath of sorts," say police reports.

Bonnie Di Salvo, who has been a nurse for seven years, also worried that Rubin didn't understand the care her son was receiving. Di Salvo told police she "went out of her way to be as informative as possible," but Rubin continued to refuse to allow nurses to

give her underweight baby formula, medicine or warm clothes.

Di Salvo went to her supervisor and asked, "At what point do we do something? This baby is going to die."

"CPS dropped the ball," she told police. "They bent over backwards to protect Lynn's rights, and didn't even worry about the baby."

Foster care recommended

"It would be a travesty if (the baby) was released to Lynn. There is no way she should get the babe," pediatric nurse Dianne De Rose says she told a county social worker earlier in the month.

By Sept. 13, the baby had gained a few ounces and appeared ready for release from the hospital.

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.

"Advised discharge to foster care," he concluded.

CPS head Lightbourne said last week social workers were getting differing opinions from people at the hospital.

"For everyone who said one thing, I can find someone who said something else," he said.

The baby's medical chart does not reflect any contrasting opinions, and police investigators said they were unable to speak with anyone at Dominican who thought the baby should be released to its mother.

Baby's last days

Rubin and her baby left Dominican six days after their arrival. Their CPS worker sent them to Blackburn House Motel on Cedar Street in Santa Cruz with vouchers to pay their rent.

Searching her room after the baby's death, police found "clothes strewn about the room, garbage on the floor and dirty dishes all over the kitchen area."

During their stay at the motel, neighbor John Locastro said he was regularly kept awake by the child crying for up to five hours a night.

Police reports say Dr. Herbert called Rubin at the motel after she missed two appointments, and she fired him over the telephone.

In the ensuing week, CPS spokeswoman Gail Groves said, social workers, public health nurses and other authorities had daily contact with Rubin. Some

of this contact was by telephone, according to Groves, in addition to in-person visits.

Days before the baby's death, Rubin and her social worker showed up at the Dominican emergency room asking for a check-up.

They were referred to the Westside Community Clinic, where Dr. Kristina Mutens saw the baby Sept. 27. Dr. Mutens had no medical history at the time, but she examined the baby, who weighed five pounds, and reported he had gained ample weight and was well hydrated. Mutens also said Rubin's mothering skills were "very appropriate."

On Sept. 30, Rubin told police she woke up about 8:15 a.m., reached over and realized her son was cold. She said she pulled him onto her chest and discovered he wasn't breathing. Then she wrapped him in a blanket and ran outside to call police.

Santa Cruz Police Det. Loran Baker interviewed her a few hours later.

"Prior to entering the office, I expected to encounter a very upset or hysterical mother. I was surprised to find Rubin seated on a chair, smoking a cigarette," he said.

"... She seemed somewhat emotionless during a majority of the interview," he said.

Who is to blame?

Assistant District Attorney Kate Canlis is reviewing the police investigation to decide whether to press charges against Rubin.

"It's really complicated. I'm certainly not going to let it age, but it might take me more than a day or two to review it," she said Monday.

Rubin, who is from Washington, D.C., has told police she moved to Santa Cruz recently to live in the woods. She told hospital staff she had the baby in "the woods," and initially said his name was Cricket.

Doctors, nurses and police describe her as an intelligent, lucid woman.

After her baby's death, she would not tell police his name.

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"She said it is a secret and no one knows exactly what it is and she wanted to keep it that way," said Baker.

The baby has been buried in an unmarked grave at a local cemetery.

Rubin, who attended the funeral, has not returned telephone messages left with attorney Stewart Rich, whom she retained last week. Rich says he has advised Rubin to not comment on the case.

Last week Lightbourne, who heads CPS, invited investigators from the state Department of Social Services to review how his department handled the case. He says he will have a better idea of what happened once that review is complete.

CPS spokeswoman Groves said Monday that Dominican staff's responsibility ended when they decided the baby was healthy enough to leave the hospital.

"The medical people gave a medical release on the child," she said.

Hospital spokeswoman Penny Jacobi said Monday it is not Dominican's responsibility to "second guess" CPS.

"It's not our role. It's a very sad case. Everyone feels badly about it," she said.

It was the job of the CPS social worker and a juvenile court referee to decide whether the baby should go with his mother or to a foster parent, Groves said.

Groves said that on Sept. 14, the court referee gave social workers discretion to release the baby to his mother if she had suitable housing.

CPS administrators say their hands are often tied by confidentiality laws that ban them from discussing details of a case and explaining their actions.

Margaret Brown, who first found Rubin and her baby in the park, blames herself.

"I'm guilty for thinking I had done my job by bringing the baby to the hospital, and then hoping you would take over," she wrote in a letter to law enforcement authorities.

"I'm guilty for expecting my friends and the system to help Lynn and the baby survive."