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The Long Wait for a Rapid Response

By KATE STONE LOMBARDI APRIL 16, 2006

White Plains - A YEARS-LONG turf war between the offices of the county executive and the district attorney over jurisdiction in certain child welfare deaths has come to an end with the installation of Janet DiFiore as district attorney, officials in the two camps say. This has allowed Westchester County to create an independent group to review the death of any child in the system.

Called the Child Fatality Review Team, it represents an institutional effort to learn from bad mistakes and avoid repeating them. Its first step will be to act on recommendations stemming from a state investigation into the deaths of two young boys in Yonkers last summer.

The boys, Elijah Santana, almost 3, and David Maldonado Jr., 20 months, were left in a bathtub, inside a closed bathroom, where they burned to death in 140-degree water as their parents slept off doses of crack cocaine and heroin. According to autopsy reports, at one point the boys had been standing on their toes to escape the scalding water. Second- and third-degree burns covered most of their bodies. The parents, David Maldonado and Luz Arroyo, pleaded guilty to criminally negligent homicide and were sentenced last week. His sentence was 5 to 15 years; hers was one and a third years.

Since 2003, the family had been under the supervision of the Westchester Department of Social Services, which was severely criticized by the Office of Children and Family Services after a recent investigation. It found that caseworkers failed to research the family's history, repeatedly neglected signs of abuse, did not conduct thorough investigations, and inadequately supervised caseworkers assigned to the family.

The report found that Mr. Maldonado had previously resorted to locking his younger son in a hot room as punishment for perceived misbehavior. There were also repeated reports of drug abuse, as well as allegations that the parents sold the babies' diapers for drugs. One caseworker, who was later fired, had not seen the boys for nearly 60 days before they died, even though she had been told to visit the home every two weeks.

The idea of a local independent team to investigate deaths in the child welfare system, proposed years ago, remained a persistent political casualty of the friction between Andrew J. Spano, the county executive, and Jeanine Pirro, then district attorney. Both officials expressed support for the concept, but two proposals in the last two years came to a stalemate over who would control the team.

The issue came to a head over the Yonkers case.

After the gruesome deaths of the two little boys, Ms. Pirro's office issued a grand jury report that harshly criticized the handling of the case, painting a picture of systematic incompetence on the part of Child Protective Services, an arm of the Department of Social Services. Mr. Spano defended the department, blaming the individuals involved -- the parents and agency employees who did not follow procedures. Cooperation between the politicians on the issue came to a standstill.

But with the election of Ms. DiFiore in November, frustrations dissipated. The new district attorney said she found the state report on the Maldonado case "accurate and fairly done." She set to work with the county on the creation of the local review team, and the departments issued a joint proposal -- which won state approval during her first month in office.

"When you cut through everything, it turns out that it's really quite simple to muster the forces to do this," Ms. DiFiore said in an interview at her office here. "I'm not a political person and this is not the Janet DiFiore show. The goal is protecting kids in this county."

Mr. Spano expressed delight with the new spirit of cooperation.

"We could have had this team two or three years ago," he said. "What we have now isn't any different than what we wanted originally -- an impartial review team that would include the district attorney. Jeanine Pirro had insisted on running it. Janet DiFiore and I have the same attitude. We want to get the job done and we don't care who gets the credit."

Ms. Pirro, now a candidate for state attorney general, fired back. "Andy still doesn't get it," she said. "Two grand juries determined that his Department of Social Services failed on more than one occasion the children it was duty-bound to protect. We can't have a chief executive investigate failures who is more interested in defending those failures than protecting children." The team is to include representatives from Child Protective Services, the district attorney's office, the county medical examiner's office and the State Office of Children and Family Services, as well as a forensic pediatrician and others. Westchester is the fourth county in New York to establish a local team.

Ms. DiFiore expresses the hope that the new local team would adopt the state's findings and oversee the corrective actions detailed in the report -- among them more comprehensive caseworker investigations, more accurate safety and risk assessments, better follow-up and documentation on families and closer supervision of caseworkers.

Should another child die while in the county's care, the new local team would be responsible for the kind of investigations conducted by the state after Elijah and David died. Ms. DiFiore said the team would also review any death outside the child social service system, if it is found to be unexpected, unusual or otherwise suspect.

The discovery of the body of a newborn baby girl on April 5 near a pile of storm-drain sediment in a Mount Kisco highway dump could potentially generate such a review, said Lucian Chalfen, a spokesman for the district attorney. Although the case is being treated as a crime, he said, it is too early to know whether there will be enough findings to merit a review.

In general, the team will be convened as quickly as possible after a child's death. In addition to its mandated members, others like the local police, mental health professionals or anyone else who could contribute will be included on a case-by-case basis.

"We will try to figure out if there were things that weren't done that should have been done, or things that were done that should have been done better," Ms. DiFiore said. "This is an honest assessment of events leading up to the death."

She expressed the hope that another case would never crop up, and said her department was focusing on prevention. But in the event of another death, Ms. DiFiore said, the group would aim to complete an investigation within six months. Recommendations may include changes in policy, management, police procedure or law.

Her office has also begun planning a similar multidisciplinary team to investigate child abuse. The system is now set up so that, when abuse is reported, a child may be further traumatized by having to repeat his or her story to a variety of investigators -- for instance, a child protective services caseworker, a police officer, a prosecutor. The new approach would have all the agencies involved in the case convene ahead of time and determine their respective roles, to minimize the stress for the child.

The district attorney says she also plans to expand the Child Advocacy Center, a Valhalla-based group of professionals trained to interview young crime victims in comforting, child-friendly surroundings.

"This is a tremendous step," Ms. DiFiore said. "So much of this work is about communication. We are all very excited about the collaborative approach. Everyone who works on these cases is so affected by them. They just grab your heart."