

SANTA BARBARA NEWS-PRESS

DA urged to investigate 4-year-old's drowning

DAWN HOBBS, NEWS-PRESS STAFF WRITER

November 22, 2005 1:00 AM

The father of a 4-year-old boy who drowned three months ago while attending an unlicensed child care program at the Cathedral Oaks Athletic Club is urging the Santa Barbara County district attorney to investigate whether criminal negligence killed his son.

Oded Gottesman told the News-Press that he and his civil attorney have turned over the results of their own investigation to the District Attorney's Office for review because, in his opinion, the Sheriff's Department did an "absolutely pathetic and superficial" job of investigating Jonathan Gottesman's drowning.

One day after the Aug. 15 drowning, the Sheriff's Department concluded it was accidental. At that point, sheriff's investigators had not viewed a surveillance video of the incident that shows the child's motionless body in the pool for at least five minutes before anyone noticed. Two camp counselors and two swimming instructors were nearby, and two lifeguards were on duty.

"We expect the district attorney to conduct a thorough and unbiased investigation," Mr. Gottesman said last week.

A sheriff's spokesman said the department's investigation was thorough.

"It was a tragic incident, and the Sheriff's Department personnel who were involved in the investigation feel for the family," said Sgt. Erik Raney.

Mr. Gottesman said he is pushing for a criminal investigation to prevent another drowning. It was not the first time a child had been pulled from the pool and given CPR at the Athletic Club, which has been owned by Richard Berti since 1989.

Five years ago, then 6-year-old Rebecca Lynch was found floating face down and unresponsive by her twin brother, Sean, according to a statement provided by her family to Mr. Gottesman's attorney. Sean's yells went unnoticed by the lifeguard, but finally got the attention of a man on the pool deck, according to the statement. He pulled her out and began performing CPR, reviving Rebecca.

"This has happened before, and it will happen again," Mr. Gottesman said. "We strongly believe there has been criminal negligence on all levels, from the top with the owner to the bottom with the lifeguards and the counselors."

Santa Barbara County District Attorney Tom Sneddon did not return News-Press phone calls.

Assistant District Attorney Pat McKinley would not confirm whether the office was looking into the

matter and declined to comment further.

Sgt. Raney said the District Attorney's Office had initially decided against criminal charges.

"In the initial steps of the investigation, the Sheriff's Department contacted a senior deputy district attorney, who reviewed the case," Sgt. Raney said. "We were told there was no criminal negligence involved."

Sgt. Raney confirmed that detectives recently turned over reports about the incident to the District Attorney's Office, at the request of Mr. Sneddon, but said that was for review of questions about the club's licensing.

The state's Community Care Licensing Division determined Oct. 11 that the club broke the law by operating the program for children ages 4 to 10 without a child care license and ordered the program shut down.

Mr. Berti, a well-known real estate executive who owns properties from the beach to Carrillo Plaza, said he has been devastated by the boy's drowning.

"I pray that I could go back, but I can't," said Mr. Berti, who attended the boy's memorial service but did not identify himself to the parents.

"I've never suffered more than I am suffering over this," he said. "I just can't imagine what the parents are going through.

"I can't do anything about what has happened, but I want to bond with the Gottesmans. They have their pain and I have my pain. I'd like to do something together with them in honor of their son. But I just don't know what to do. They won't talk with me."

Mr. Gottesman said he will not speak with Mr. Berti until the club owner takes responsibility for his son's death.

"He needs to admit he made the wrong decision and hired the wrong people and cut corners that kept a pattern and culture of negligence that has been conducted in that club for years," Mr. Gottesman said. "He needs to take responsibility for his wrongdoing first. He just doesn't get it. Not yet."

e-mail: dhobbs@newspress.com

All Content Copyright © 2005 Santa Barbara News-Press / Ampersand Publishing, LLC unless otherwise specified.