

TUESDAY, AUGUST 9, 2005

**FORMER OWNER OF FOREST HILLS DAY CARE CENTER CHARGED WITH RECKLESS
ENDANGERMENT IN DEATH OF 7-MONTH-OLD INFANT**

Queens District Attorney Richard A. Brown, joined by New York City Commissioner of Investigation Rose Gill Hearn and Department of Health and Mental Hygiene Commissioner Thomas R. Frieden, today announced that the former owner of Devlin Day Care in Forest Hills has been charged with recklessly endangering the life of a 7-month-old infant boy entrusted to her care by leaving him and two 3-year-olds unattended. The child, identified as Matthew Perilli, later died as the result of suffocation after the two toddlers piled toys in the infant's crib.

District Attorney Brown identified the defendant as Heather Zlotshewer, 35, presently of 33-10 Chippendale Avenue in Philadelphia, Pennsylvania. Zlotshewer has been charged with Reckless Endangerment in the Second Degree, a Class A misdemeanor punishable by up to one year in prison. She is presently awaiting arraignment in Queens Criminal Court.

District Attorney Brown said, "The sad irony of this case is that Matthew Perilli's parents thought that they were acting in their young son's best interests by placing him in a licensed day care program. They had no way of knowing that their child would suffer the dire consequences of the defendant's alleged actions. With the completion of this criminal investigation, we are all reminded of the horrific dangers present when caregivers disregard the risks inherent in leaving an infant unattended."

DOI Commissioner Gill Hearn said, "Matthew Perilli died while in the care of the defendant, who is alleged to have ignored critical New York State and City regulations designed to protect the well-being of children enrolled in a day care facility. We will ask that the defendant be barred from ever being permitted to operate a daycare center in the City and State of New York."

According to the charges, the defendant had obtained a Group Family Day Care License for Devlin Day Care located at 109-19 72 Avenue, Apartment 3C, in Forest Hills. The group license entitled her to operate a day care facility and care for no more than 10 children -- ages 6 weeks to 12 years and two additional school-aged children -- or 12 children -- ages 2 to 12 years and 2 additional school-aged children.

According to the criminal complaint filed by the District Attorney's Office, on July 28, 2004, the defendant was cited by inspectors from the City's Department of Health and Mental Hygiene Bureau of Day Care for three violations:

- operating an unlicensed facility (Devlin Day Care was allegedly being painted at the time and the defendant had moved the children across the street to a facility where the license was pending.);
- caring for six more children than allowed by her group license (the defendant and two staff members allegedly were present with 16 children: 7 under two years of age.); and
- employing two assistants who had not yet been approved by the Department of Public Health to work at a Group Family Day Care Center.

The complaint further alleges that when inspectors returned five days later – at 2:15 p.m. on August 11, 2004 – the defendant was present on the first floor of Devlin Day Care where the inspectors observed eight infants on the first floor and a parent picking up and leaving with another child. It is further alleged that at the time 7-month old Matthew Perilli was napping on the second floor, unattended by the defendant or any other staff member in violation of Section 416.87 of the City Health Code which states, in part, that: "Care-givers must have direct visual contact with the children at all times."

It is further alleged that when the defendant produced a valid license for the facility, the inspectors questioned her about noise coming from above, the defendant told the inspectors about the two 3-year-old toddlers playing on the second floor. At the time the inspectors had arrived, and in violation of the regulations, the complaint charges that the defendant was the sole staff member on the premises. However, according to the complaint, while the inspectors were still present, she summoned another staff member back to the location.

Between 3:30 and 3:45 p.m., it is alleged that the defendant went upstairs to attend to the two toddlers and discovered Matthew Perilli in a playpen, not breathing and covered in toys. She then removed the infant from the playpen and administered CPR while running to Parkway Hospital with the infant in her arms. The infant was pronounced dead after resuscitation efforts proved unsuccessful. According to the Office of the Chief Medical Examiner, the cause of death was compression of the body by foreign objects, toys.

The defendant has been a licensed day care provider since June 1, 1999. On August 12, 2005, Devlin Day Care was shut down. The defendant is not presently operating any day care program.

District Attorney Brown expressed his appreciation to DOI Commissioner Gill Hearn and Department of Health and Mental Hygiene Commissioner Frieden and their staffs for their cooperation and assistance in the investigation.

The investigation was conducted Assistant District Attorney Nathalie Bell under the supervision of Peter Reese, Bureau Chief of the District Attorney's Homicide Investigations Bureau, and Executive Assistant Attorney General for Major Crimes Charles A. Testagrossa, together with DOI Chief of Staff Robert Roach, Inspector General for Department of Health and Mental Hygiene Sam Amorese and members of his staff, including Deputy Inspector General Stephen Zander, and NYPD Detective Sean Roche, of the 112th Precinct.

Assistant District Attorney Lucinda Suarez, Deputy Chief of the District Attorney's Special Victims Bureau, is prosecuting the case under the supervision of Marjory D. Fisher, Bureau Chief, and the overall supervision of Executive Assistant District Attorney for Major Crimes Charles A. Testagrossa and Deputy Executive Assistant District Attorney for Major Crimes Daniel A. Saunders.

It should be noted that criminal charges are merely an accusation and that a defendant is presumed innocent until proven guilty.