**When the foster care system forgets fathers**

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Daniel H. was 3 and Dawn was 4 when their mother took them and disappeared. Her estranged husband, a New York City limousine driver, searched obsessively for his children. He posted rewards, enlisted help from a retired police officer and hired a private detective, all to no avail.

As six years passed, he took to driving slowly through residential neighborhoods, looking for two blond children who looked like him. ''I never gave up hope,'' the father, Hardaway H., said in a recent interview. ''But it was as if they were dead.''

Instead, they were in New York City foster care.

In 1991, the authorities had found the children alone in their mother's Bronx apartment. They were emaciated and had evidently been abused. But for three more years, through 33 court hearings, multiple foster placements and the children's complaints of new abuse, the city's foster care system failed to tell their father. The notification that finally reached him in 1994 was part of a routine effort to free the children for adoption.

Daniel H. v. City of New York, a 1996 federal lawsuit filed by Mr. H. -- the surname was withheld under the terms of the case -- is the first of five similar cases brought by fathers who contend that their parental rights, and their children's rights to protection, were trampled by a foster care system biased against men.

These cases, the most recent filed only two months ago, underline how hard it can be in practice for fathers to assert their parental claims.

City officials have not admitted wrongdoing in any of the cases and will not comment because of pending litigation. But they have returned children to four of the five fathers so far, and this year the city paid settlements of $135,000 and $275,000 in two of the lawsuits. Steeper damages are at stake in the others.

''I've been trying to get policy makers to change what is going on,'' said Bruce A. Young, the lawyer handling the cases as a kind of cumulative class action. ''In this day and age, when you could hop on the Internet or the parent locator service used for child support, there's no excuse for not notifying the father. It's a basic human right.''

Mr. Young acknowledges that in a nation in which only 5 percent of single parents raising children are men, fathers who want custody are still exceptional. He said that concerns about domestic violence could make the system suspicious of fathers seeking their children, and that in ordinary divorce proceedings, many fathers use custody demands to frighten an ex-wife into accepting a lower financial settlement. But in foster care cases, he contended, children are hurt when fathers lose their chance to be heard.

Daniel H.'s lawsuit charges that after he was placed in a foster home, his signs of emotional trauma brought beatings, not therapy. Separated from his sister and transferred at age 9 to a group residence where bigger boys routinely abused him, he began openly longing for his father.

But he says a caseworker at the foster agency, St. Dominic's, told him, ''Don't think your father is going to come and rescue you, because your father's dead.''

In fact, the father was living in Queens with a listed telephone number all along.

Officials at St. Dominic's, based in Westchester County and the Bronx, declined to comment. In legal papers, the agency said that caseworkers had tried and failed to find Mr. H., and that after concluding that the boy's complaints of abuse were unfounded, they returned Daniel to the same foster home. There, the lawsuit contends, the boy experienced a new round of beatings ''with a sense of helplessness so severe that at times he considered suicide.''

In recent years, promoting fatherhood has become a mantra of public policy, but foster care practices toward fathers are little changed, Mr. Young said. One of the two cases he filed this year concerns a divorced Navy police officer who had faithfully paid child support and sued to enforce visitation, yet after a yearlong search for his son and stepson, discovered that they were in a Bronx foster home, father listed as ''unknown.''

That father, Luis Abreu -- his son's name is Luis Abreu Jr. -- said that when he complained, a caseworker retorted: ''We go by what the mother tells us. We don't have to notify the father.'' And though a judge ruled in his favor last July, Mr. Abreu is still struggling to get the children out of foster care.

Another father, David Nieves, was also classified as ''unknown'' and nearly lost his son and daughter for good last year, he said, despite paying $81.31 a week in court-ordered child support and visiting them at the home of a maternal aunt. Mr. Nieves, a Federal Express worker, learned 17 months late that the aunt had legally become the children's foster mother and that the Children's Aid Society was planning their adoption.

Philip Coltoff, director of Children's Aid, would not discuss the case, except to stress its happy ending. A petition to end Mr. Nieves's parental rights was withdrawn, and the children now live with him and his fiancee in a blended family.

Happy endings in these cases are hard won. One was the work of a Florida father, Jason Rudy C., who had sought his children for 18 months when he learned late in 1995 that they were in a foster home in the Bronx.

Mr. C., then a nurse's aide, immediately drove to New York to try to reclaim Jason Rudy Jr., 4, and Tatiana, 3. The children had been taken into custody after their mother's female companion burned their hands on a stove as punishment -- the fourth report of abuse over 11 months, records show.

''My son jumps up on my lap -- 'Let's go home, Daddy,' '' said Mr. C., whose last name was withheld under court order to preserve confidentiality. ''I was just bawling, and he was, too. I was ecstatic to see them, and heart-wrenching miserable because I couldn't take them home.''

Case law dictates that if the father is the only available parent, he is automatically entitled to custody unless the state proves him unfit. But in practice, lawyers say, once children have been taken from the mother, Family Court judges and caseworkers are reluctant to hand them to a father about whom little is known.

Though the mother may be an admitted drug addict charged with abuse or neglect, she is typically the system's main source of information. Unofficially, the burden of proving fitness shifts to the father.

For the Florida father, that meant a two-year court battle, while the children moved through three foster homes. Midway, he filed a habeas corpus petition to try to force their return, and city lawyers countered with a neglect petition against him. Because he had been honest about his teenage drug use, Mr. C. said, he decided the only way to win was to do whatever the system demanded, including biweekly drug tests for six months.

So many appearances were required that he moved to New York, lived on a friend's couch in Queens for a year and scraped by as a street peddler. The low point, he said, was being arrested and fined for peddling without a license. The crowning glory was a 24-hour Greyhound bus ride home: ''Two kids, five bags, all of our belongings.''

Now married and working in his uncle's fence business near Tampa, he said the $275,000 settlement he received last month would help cover the cost of the children's psychotherapy, their education and the family house he is building.

Theodore Israel, a 43-year-old city sanitation worker who received the other recent settlement, bought annuities for his son Tyrel, now 4.

Mr. Israel had filed suit for custody of Tyrel in Family Court in Brooklyn when Tyrel was a baby, months before the authorities accused the child's mother of abandoning him in a Bronx homeless shelter to pursue her drug habit. But Mr. Israel said that when learned that Tyrel was at St. Joseph's, a Brooklyn foster care agency, and sought custody, ''I ran up against a brick wall.''

Caseworkers observed Mr. Israel being patient and nurturing with his son during a visit on Oct. 4, 1996, records show, but -- apparently in deference to the wishes of the mother, who claimed he was violent -- no one told Mr. Israel that a hearing on the child would take place in a Bronx court three days later. When Tyrel was injured, the agency notified the child's mother, not his father. And further visits with his son were thwarted by an agency caseworker who told Mr. Israel that in the caseworker's native Africa, men did not raise children, the lawsuit charged.

Belinda M. Conway, executive director of St. Joseph's, said that the caseworker had since returned to his homeland. ''The policy and practice of St. Joseph's is to work with both parents for reunification as soon as possible,'' she said.

Under recent federal legislation promoting adoption, caseworkers face increasingly stringent time limits for terminating parental rights, and foster care agencies are rated by the city on those benchmarks. At worst, said Peggy Davis, a professor of law at New York University and a former judge, the pressure adds unintended incentives to cut absent fathers out of the loop.

In depositions, city legal supervisors have been uncertain how much effort an agency should devote to finding a father. One supervisor said the legal standard did not require a parent locator service, which tracks deadbeat parents to collect child support, and another maintained that publishing a ''John Doe'' notice would suffice in some cases.

''There are racial and class stereotypes and gender stereotypes that lead people to feel that this doesn't matter,'' Professor Davis said.

When Mr. Israel finally got a chance to demand custody in court in December 1996, a city lawyer objected, asking for further evaluation.

''I don't understand how he could not be next in line to get this child,'' Barry Bondorowsky, Mr. Israel's lawyer, protested at the hearing.

Judge Bruce M. Kaplan of Bronx Family Court agreed. ''There's law in this state,'' he declared, ordering the city to give Tyrel to his father. ''I'm outraged when people trash the applicable law.''

Mr. Israel now allows Tyrel to spend weekends with his mother, who has been through drug rehabilitation. She declined to talk about the case. But during a recent shopping trip to buy a school uniform, the child made his feelings clear.

''I don't want to stay with Mommy,'' he confided as Mr. Israel laced his shoes. ''She keeps screaming at me.''

''Are you being good?'' Mr. Israel asked the boy.

''Yes,'' Tyrel replied. ''That's why I want to be at your house. I love you, Daddy.''

But for Mr. H., who used to hunt for his children from a limousine, reunion came too late. ''They had no memory of me as a father,'' he said.

Dawn, 17, ran to the streets before he could win her back. Daniel had a mental breakdown soon after returning to his father. Mr. H., disabled by heart and anxiety disorders, visits him in a therapeutic foster home.

Looking back at the lost years, the father recalled times he came across a wallet in the back seat of his car, and promptly called telephone information to find the passenger who had lost it.

''This,'' he said, ''was two children.''

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