

March 31, 1998

Hon. Rudolph F. Crew
Chancellor
New York City Public Schools
110 Livingston Street, Room 1010
Brooklyn, NY 11201

Re: Marlon Albert
SCI Case #97-1744

Dear Chancellor Crew:

This office has completed an investigation concerning the death of 14 year old Marlon Albert. Marlon died shortly after his graduation from I.S. 27, a junior high school in Staten Island. He would have been a freshman at Susan Wagner High School (“Wagner”) in Staten Island during the current school year. Albert died at home on July 29, 1997, a few hours after attending a practice session for the school’s football team.

Our investigation revealed that the practice session, and another practice held the previous day, violated Board regulations in a number of ways: the practices were held more than two weeks before football programs were allowed to commence; because of this, Wagner had not received medical clearance or parental consent from Marlon; the July 28 practice was held in near-90° heat, 4-5 degrees above the 85° maximum temperature under which football practices were permitted; the practices were unsupervised by a coach or other adult; the BOE insurance for Marlon and the other players was not in effect because practice was held before the official season; as well as other more minor violations. Our investigation further revealed that Wagner head football coach Alan Paturzo, a tenured teacher and Board employee since 1969, arranged for these and other unauthorized practice sessions in knowing and direct violation of the Public School Athletic League (“PSAL”) regulations. Additionally, Principal Michael Tobin authorized the use of school athletic facilities for the prohibited practices. Athletic Director Fred Hess failed to properly supervise the football program. Due to equivocal evidence from the medical examiner, however, we are not able to substantiate that the prohibited practices contributed to Marlon Albert’s death.

THE DEATH OF MARLON ALBERT

Marlon Albert and other incoming freshmen learned about the Wagner summer football schedule during the final weeks of junior high school at I.S. 27. A letter from Wagner's head football coach notified all prospective team members to report on July 28th for the first of Wagner's "night workouts." Despite their description, the practices began at 5:30 p.m. and ended sometime after 7:00.

Marlon had been feeling sick for about four months prior to the July football practices, according to his friend Steven Troia. He complained of pains in his chest, dizziness, and blackouts. Steven urged Marlon to tell his parents, but he refused. Marlon told Steven not to tell anyone about his physical condition because he really wanted to play on the Wagner High School football team and knew that he would not be allowed to play if people knew he was sick.

The first practice was on July 28, which was a very warm day. The high temperature¹ for the day was 90°. The temperature was 89° at 4:00 p.m. and had only dropped to 86° when the practice finished around 7:00 p.m.

Gaspar Maniscalco, a friend of Marlon's who is now a member of the Wagner junior varsity football team, attended the July 28th and July 29th football practices with Marlon. According to Gaspar, the practices consisted of running, practicing blocking plays, learning line stances, and running through various football plays. Another friend of Marlon's who attended the practices described the workouts as rigorous with a lot of running.

Gaspar and Marlon walked home together after practice on the 28th. Marlon did not feel well and complained to Gaspar of being sick. When he got home, he told his father he had leg cramps, tightness in his chest and chest pains. He was also walking stiffly. His condition apparently improved later that evening, and he told his father he was all right.

Another practice was scheduled for the next day, July 29th. The weather was a bit cooler, with a high of 83°. It slipped to 81° by 4:00 p.m., the time that Marlon left home for the practice, and down to 78° by 7:00 p.m. Marlon returned home between 7:15 and 7:30 p.m., along the way telling Gaspar he was sick once again.

When Marlon reached home, he was walking in a stooped fashion but told his mother that nothing was wrong.² He took a bath and then sat with his younger brother in the living room. A relative who was at their home that evening later told Marlon's mother he saw Marlon pass out

¹ The National Climatic Data Center provided weather readings from Newark Airport, the monitored weather station closest to Wagner High School.

² Marlon Albert's family refused to be interviewed by SCI. Our account of their observations on the evenings of July 28 and 29 is based on interviews of family members conducted by NYPD Detective Michael McLoughlin of the 120 Precinct.

in the living room for about one minute. The relative asked Marlon if he was all right and Marlon, now conscious, told him that he was. Sometime later, Marlon's mother entered the living room and found Marlon sitting on the couch. He was not breathing. She called 911 and the NYPD rushed her son to Saint Vincent's Hospital, where he was pronounced dead at 10:10 p.m. on July 29, 1997.

THE CAUSE OF MARLON'S DEATH

An autopsy was conducted by Dr. Thomas Gilson of the Office of the Chief Medical Examiner of the City of New York. Dr. Gilson determined that the cause of death was "myocarditis, probable viral etiology" and the manner of death "natural."

Dr. Gilson told us that Marlon died from an inflammation of the heart, probably caused by a virus in the heart. We asked him whether the football practice Marlon attended on the day of his death could have caused or contributed to his death. Dr. Gilson in his expert opinion would not attribute the death to the practice. He stated that a football practice could have affected Marlon's physical condition; since he died at his home sometime after the practice was over, however, the lapse in time likely served as an intervening factor. The doctor felt it possible that the time between the football practice and Marlon's death could have served to alleviate the stress on his heart that a practice could have caused. He also said that Marlon could have died from myocarditis had he not attended the practice but had instead spent the entire day at home resting.³

Would the required medical exam have revealed Marlon's condition? Dr. Gilson said that if Marlon had an irregular heartbeat, a possible symptom of myocarditis, a doctor might have detected that at a physical examination. He added that if at such examination Marlon had reported to the doctor that he suffered from dizziness, fainting spells, or other symptoms, the doctor would have been alerted to a possible problem and may have conducted a more thorough examination than that required for the PSAL physical. In this regard, Dr. Gilson added that had Marlon alerted his parents to his physical symptoms, they likely would have sought medical assistance for their son. While we do not want to speculate, it seems unlikely that Marlon would have revealed his symptoms to an examining physician, given the lengths he went to in order to keep his condition secret from his parents.

³ Dr. Gilson further pointed out that the medical condition of myocarditis does not always lead to death or serious illness.

Mr. Paturzo's May 8, 1997 letter has the summer workouts beginning on July 28, about one week *before* the players' medical clearances were due. Marlon's had not been filed before July 29, the date of his death.⁴ It is also likely that other boys similarly had practiced without medical clearance.

PSAL AND ITS REGULATIONS REGARDING SUMMER FOOTBALL PRACTICES

We interviewed Rose Korten, PSAL's deputy director, who told us that PSAL is responsible for administering and regulating the one hundred and fifty-five high school interscholastic athletic programs and sports teams within the New York City public school system. It coordinates, schedules, and regulates the sports seasons, practice sessions and games for all high school teams.

Consistent with this role, PSAL advises the school coaches, athletic directors and principals of the regulations and schedules, in writing prior to the start of the particular sport season. Included in this information is the beginning and ending dates of each season, the number of games permitted to be played per season and per week, and the dates and types of practices that are allowed for each sport, among other things.

The schedule for the 1997 football season laid out essential rules and regulations. The season began August 16, 1997, the first day summer practice was allowed. Date restrictions on the football season and approved practice sessions were strictly enforced, according to Ms. Korten.

While PSAL can punish a *team* for violating its rules, it does not discipline coaches or athletic directors who fail to honor its regulations. Any review of a coach's conduct must begin at the school level, according to Ms. Korten, and only the principal or his superintendent can seek or enforce disciplinary action.

The PSAL rules have a sound basis as they are designed to protect the safety of the players and the fairness of the competition: since coaches are certified in first aid and CPR, it is essential that they are present at all practices and games; since it is critical that all students have medical clearance and parental consent, students must give their coach both a parental permission form and a completed medical approval form before the first practice⁵; and since

⁴ The attorney representing Marlon's family informed us that Marlon's medical examination form was in the process of being completed at the time of his death and that only the results of blood work were pending. We asked to examine this medical form but Marlon's family declined.

⁵ According to Ms. Korten, students who participate in more than one interscholastic sport need only one physical examination and medical clearance for the entire year but need parental consent for each sport.

injuries are inevitable in sports, the BOE pays upwards of \$750,000 annually for insurance to protect both the players' families and the BOE from large financial risk. This protection is not effective before the football season starts.⁶

Heat is another threat to the players' health and safety, and a key factor in limiting the starting date for practices. For example, a May 1997 PSAL regulation regarding heat provided suggestions on how coaches could help prevent heat exhaustion and heat stroke during hot weather athletic activity. In addition to the suggestions, the regulation listed certain mandatory safety regulations that had to be enforced. Coaches were required to carry a "thermometer and an instrument for measuring humidity on the practice field prior to every practice." The regulations also mandated that all activity be discontinued if the temperature is over 85 degrees.

COACH PATURZO AND THE WAGNER SUMMER FOOTBALL PROGRAM

Alan Paturzo has been the head coach of the Wagner High School varsity football team since 1984. During his tenure as head coach, the team has enjoyed much success, winning six city championships, one state championship and completing six seasons undefeated. When asked how much time he devoted to the school football team, Mr. Paturzo estimated that he spends hundreds of hours more per year than the approximate 240 maximum hours PSAL allots yearly for payment to coaches. The coach explained that he volunteers the many extra hours and days because he cares about and is dedicated to the students, the team and the school.

Paturzo expended considerable effort to set up the pre-season program. His May 8th letter, written on Wagner High School Football letterhead and addressed to players and parents, detailed "some very important dates and events associated with the football program." The letter lists dates for various activities including fundraisers and football camp. Included in this schedule of events is a listing for night workouts to begin on July 28 at 5:30 in the Wagner High School Weight Room. The letter, in a section called "Medicals and Money Due," gave a deadline of August 4th at 5:30 p.m. at the Wagner field for players to submit medical clearance forms and parental permission slips. Later in the letter, Mr. Paturzo writes, "All players must pick up a medical form and a parent permission form. All medical and permission(s) forms must be in no later than August 1st." Mr. Paturzo concludes his letter with an instruction to the players

⁶ Ms. Korten explained that PSAL's student athlete accident insurance policy covers one school calendar year. The calendar year begins on the first day of football season, because football is the first sport of the school year, and ends on the last day of school in June. The policy covers injuries suffered by students during sanctioned practices and games, and provides medical benefits as well as benefits for accidental death, dismemberment and other physical injuries. The policy states in part that "coverage is subject to provisions for injuries received while the insured is: participating in or attending any regularly scheduled supervised school activity. The activity must be supervised by an authorized representative of the school..." The policy contains a rider for "Student Accident Football Coverage" which insures interscholastic football players for accidents occurring while participating in interscholastic football practice or competition.

and parents that if the student was unable to attend any of the events listed, he should contact Mr. Paturzo at one of two telephone numbers where he could be reached. The letter is signed by Mr. Paturzo, using the title of Head Football Coach.

As a seasoned head coach, Mr. Paturzo knew the official dates of the 1997 football season and the significance of those dates. By his own admission, he was aware of the August 16, 1997 start date of the season and testified at SCI that he knew no practices, workouts or games could be held before that date. He also knew that the Board did not insure students against injury during July of 1997.

He knew that before students could play or practice, they were required to provide him with both a completed parental permission slip and a completed medical form. The letter Paturzo wrote to students stated in one place that the medical form and permission slip had to be turned in by August 1st and in another that August 4th was the deadline; in either event, several practices were to occur before the medical approvals were due. Therefore, it is likely that many of the students at the July practices had not yet received medical or parental clearance to participate.

How then can Mr. Paturzo justify the workouts he scheduled to begin July 28, 1997? He claimed that the July workouts were "voluntary" practices and that they were not run by himself or anyone else connected to the BOE. His case on both counts is weak and at times borders on the absurd. It is unlikely that any incoming freshman wanting to succeed at Wagner football would see the "night workouts" as voluntary: dates and times are stated explicitly, with instructions that anyone unable to attend should contact Mr. Paturzo. Further, the seniors were directed to take attendance, a clear message to any student who wanted to play for the team that he had better be there.

Mr. Paturzo's effort to distance himself, his coaches, and the BOE from the workouts is even less persuasive. He testified that while he was at the school, he was not involved in the July 28th and 29th practices, instead completing unrelated work in his office. Likewise, he instructed his assistant coaches not to attend. Instead, Mr. Paturzo told the *senior* players to conduct these practices under his guidance. He met with the seniors before the pre-season workouts to instruct them on which exercises and drills to conduct.

This argument is further undermined by Paturzo's efforts to secure the school's facilities for the summer practices. He sought and received three permits for use of Wagner facilities for the summer of 1997, when the school was closed for summer vacation. The permits are signed by Paturzo and contain the approving signatures of Wagner Principal Michael Tobin and the custodian.⁷ The permits, dated June 26, June 27 and July 1, 1997, overlap in time frame and scope and request use of school facilities from July 1st until August 22, 1997. Mr. Paturzo sought permission to use the school athletic field, special rooms that included the weight room, the gym, bleachers, bathrooms, and locker rooms. Mr. Paturzo stated "pre-season football" as the reason for two of the three permit requests and "football" as the reason for the third.

PATURZO'S EVASIONS ENDANGER STUDENTS

The coach stressed during his testimony that he instructed the seniors not to conduct activities involving physical contact but to limit the practices to non-contact activities only, such as running football plays and formations. He testified that the practices included drills, in which the participants were told to run up and down the bleachers at the football field, run around the track and practice football plays. Mr. Paturzo explained that he instructed the seniors conducting the workouts not to push the student participants or yell at them and to try to make the workouts fun.

We asked him whether a volunteer coach,⁸ described by him as a parent, school graduate, or someone otherwise interested in Wagner's football team, attended the practices. Mr. Paturzo said he did not know because he was not there. We asked him whether people certified in CPR and first aid attended the practices and he responded that he assumed so because "there are always parents that go." The coach admitted however, that he could not be sure and that even if parents had been in attendance, they were not required to be certified in CPR or first aid. We asked if water was available for the students, and he responded that the students were told to bring their own. The coach also told us that none of the paid Wagner football coaches attended because he had instructed them not to.⁹

⁷ Mr. Tobin testified that during the summer, no summer school or other programs took place at Wagner. Other than the custodial staff, the only people with access to the school and its facilities were the football coaches and parents from the parents club who used the school to hold meetings and check equipment for the fall season.

⁸ Both PSAL and the New York State Education Department ("SED") discourage the use of volunteer coaches and in fact, the SED does not recognize the concept of volunteer coaches. According to Colleen Canorro, an Associate in Physical Education with the SED, only coaches officially recognized and sanctioned by the Board who have met the requirements for coaching may coach an interscholastic athletic team. Ms. Canorro advised that persons working with students on athletic teams without the official sanction of the Board could raise questions of liability. In addition, according to PSAL regulations, all Board coaches must be certified in first aid and CPR.

⁹ Gaspar Maniscalco thought that a coach was present during the July 28th and 29th practices but could not be sure because he was new to the school and did not know this person. He never saw him again after the summer practices.

We conclude from the evidence that Mr. Paturzo conducted the practices as a Board of Education coach on Board of Education property. His transparent evasion of the PSAL rules – resulting in seniors conducting the practices without trained adults on site – only served to make the practices more dangerous than a properly supervised regular season practice.

**THE ROLES OF WAGNER HIGH SCHOOL PRINCIPAL MICHAEL TOBIN AND
WAGNER HIGH SCHOOL ATHLETIC DIRECTOR FRED HESS**

Wagner Principal Michael Tobin and Athletic Director Fred Hess sought to deny any responsibility for the unauthorized practices. Mr. Tobin told us that he did not work during the summer at Wagner High School and that the first time he learned of the July practices was when he learned of Marlon Albert's death. There is no reason to doubt his testimony. Nonetheless, he did sign in approval of Mr. Paturzo's three permits for extensive use of athletic facilities prior to the start of the official PSAL season.

In our office, Mr. Tobin reviewed Paturzo's May 8, 1997 letter to parents and players. He testified that the letterhead used by Mr. Paturzo was not official school stationery but was something apparently developed by Mr. Paturzo. Mr. Tobin stated that Mr. Paturzo had not reviewed the letter with him before sending it out but that he was not required to do so.

Wagner Athletic Director Fred Hess, who has worked as Wagner's athletic director since the 1984-85 school year, admitted that such practice sessions were common knowledge and occurred at Wagner as well as other Staten Island public high schools. Hess likewise testified that he never worked during the summer and therefore had no first-hand knowledge of the existence of summer practice sessions. Mr. Hess testified that no football practices or workouts of any sort were permitted before August 16, 1997.

Similarly, Mr. Hess testified that he was unaware that Mr. Paturzo had provided parents and students with the May 8th, 1997 letter and did not become aware of such letter until after Marlon Albert's death. Mr. Hess said he did not authorize Mr. Paturzo or anyone else to conduct the practices and only learned of them when being informed of Marlon Albert's death.

THE BOARD'S RESPONSE TO THE UNAUTHORIZED JULY PRACTICES

PSAL Deputy Director Rose Korten, PSAL Football Commissioner Alan Arbuse and PSAL Coordinator Paul Barchitta all concurred that Mr. Paturzo knew or should have known that no practices or workout sessions of any sort -- whether the practices consisted of running on the field or lifting weights in the weight room -- were permitted for the month of July 1997. All three agreed that: the practices, if conducted or organized under Mr. Paturzo's guidance, were in direct violation of PSAL regulations; and, as a seasoned head football coach, Mr. Paturzo should have known that his actions violated the regulations. Finally, all three PSAL employees said that it was up to Mr. Paturzo's principal and Brooklyn and Staten Island High Schools ("BASIS") Superintendent Nicholas Coletto to decide what discipline, if any, would be instituted against Mr. Paturzo for the violations. Coletto did not take any disciplinary action against Paturzo, Hess, or Tobin.

Wagner Principal Michael Tobin told us that upon learning of Marlon Albert's death, he was informed that BASIS Superintendent Coletto was reviewing the incident and surrounding circumstances. On September 2, 1997, Superintendent Coletto issued a strong, clear memorandum reiterating the PSAL regulations. His memo also puts coaches on notice that they are subject to disciplinary action for violations.

CONCLUSION AND RECOMMENDATIONS

We cannot conclude that the improper practices contributed to Marlon Albert's death. The findings of the Office of the Chief Medical Examiner, while somewhat equivocal, do not conclude that the practices contributed to Marlon's death. It is possible that the medical examination required by PSAL might have detected Marlon's heart condition. Unfortunately, Marlon's family would not share the results of their son's last exam with us. Certainly, if Marlon admitted to a doctor during such a physical examination that he had been experiencing pain and passing out, further tests would have been appropriate. However, because Wagner conducted voluntary summer workouts, Marlon Albert practiced for the football team before a physical examination was required. As a result, an opportunity to uncover Marlon's medical condition was lost.

SYSTEMIC RECOMMENDATIONS

Marlon Albert's death brings to light the use of so-called "voluntary workouts," a practice that is not authorized by the Board and must end.¹⁰ These workouts are nothing more than organized practices for the football team conducted before the season begins. While we cannot conclude that the July 1997 practices contributed to Marlon Albert's death, the potential for injury occurring at such practices is very real. Calling them "voluntary" does not make them so, and does not mitigate the dangers inherent in such unsupervised, strenuous activity. Though by no means an exhaustive list, harm to students may result from the following:

- Excessive physical activity performed by students not medically cleared for such activity;
- Practices conducted without the presence of individuals qualified to administer CPR or first aid;
- The performance of strenuous physical activity in excessive heat;
- Senior football players running drills that overexert and exhaust younger students;
- Incoming freshmen, eager to impress the older teammates, pushing themselves too hard at practice when not physically up to the task and injuring themselves;
- Students being uninsured against physical injuries suffered at practices;¹¹
- Students practicing contact activities without proper protective equipment.

We therefore recommend the issuance of a Chancellor's regulation, directed to all coaches, athletic directors and principals of high schools with interscholastic sports teams, prohibiting all voluntary or otherwise unofficial practices. A Chancellor's regulation will serve to emphasize the seriousness of the matter and provide PSAL with authority to enforce its regulations. Such Chancellor's regulation should state that PSAL-approved activities and timelines alone are permitted and that coaches, athletic directors and principals are required to follow all PSAL regulations or be subject to discipline. Finally, we urge the Board to distribute this regulation with proof of receipt by all coaches, athletic directors and principals. To be effective, of course, the regulation must be strictly enforced.

¹⁰ Superintendent Coletto wrote in his September 2nd memorandum, "It has come to my attention due to the untimely death of a student at one of our high schools that a number of teams have sanctioned voluntary practices prior to the beginning of the football season or other PSAL sanctioned sports seasons. It is imperative that all coaches be notified that under no circumstances may State Regulations or PSAL Regulations concerning the date when practice may begin be violated."

¹¹ If a student is injured playing football while PSAL's student athlete insurance policy is not in effect, the Board, of course, could bear liability for the injuries.

INDIVIDUAL RECOMMENDATIONS

Coach Alan Paturzo: Clearly, Mr. Paturzo organized the “voluntary” practices: he authored the May 8th letter to parents and students, written on official football team letterhead; he sought and received permits for summertime use of Wagner’s facilities and field; he instructed his senior year football players to conduct the workout sessions; he told them what plays to run and what to do if students needed assistance; and he required them to take attendance. Indeed, Mr. Paturzo was present at Wagner during the workouts on both July 28th and July 29th, the date that Marlon Albert died. Finally, he cancelled the remainder of the workout sessions upon learning of Marlon’s death, once again demonstrating his control over the practices.

Mr. Paturzo labored to distance himself from those same practices. The coach testified that neither he nor any other Board employee was involved in the practice sessions. However, it is clear by his actions that the practices were official Wagner football activities he orchestrated and that, by distancing himself and the other coaches from the practices, he succeeded only in exposing his students to greater risk. Without coaches at the field, there were no trained adults to judge the appropriateness of the workout or react to an emergency.

The PSAL regulations for high school football are unequivocal. The regulations require students to complete a physical examination and receive parental permission before participating in a sport, demonstrating the Board’s concern for the health and safety of its student athletes. The regulations require practices to end if the temperature is too high and limit weight and contact training to specific time frames, demonstrating that the Board considers such activities to have inherent risks. Finally, the regulations limit the football season, including practices, to a confined and definitive time frame, demonstrating the Board’s belief that student athletes must be students first and athletes second. Mr. Paturzo said he was aware of those regulations and the reasons underlying them. He chose to violate them nonetheless.

It is the conclusion of this office that Alan Paturzo knowingly violated PSAL regulations by organizing and conducting practices for the Wagner football program during July 1997 and that, but for the death of Marlon Albert, such practices would have continued until the August 16, 1997 authorized start date for football activity. We further conclude that Mr. Paturzo believed he was continuing a long-standing tradition of unofficial practices. It is our recommendation that the Board of Education take strong disciplinary action against Mr. Paturzo and place him on formal notice of his obligation to follow all PSAL regulations. There is ample evidence that he cut corners to gain an edge over other schools and neither his contention that ‘everybody does it’ nor Wagner’s win/loss record over the years mitigates Mr. Paturzo’s culpability.

Principal Michael Tobin: We recommend that Wagner Principal Michael Tobin be disciplined for signing the permits that approved the use of school facilities for the unauthorized practices. His excuse that he was not there during the summer is not persuasive. He cannot escape responsibility for authorizing prohibited summer activities simply by being physically absent from the school during those months.

Athletic Director Fred Hess: Mr. Hess should also be disciplined. He is responsible for the conduct of the athletic department, and was well aware that the summer practices were a regular occurrence at Wagner and other Staten Island high schools. He is accountable for failure to properly supervise the football program, allowing the practice of unauthorized workouts to continue.

We are forwarding a copy of this letter and our report concerning this investigation to the Office of Legal Services. We are also forwarding a copy of our report to the State Education Department for whatever action they deem appropriate. Should you have any inquiries regarding the above, please contact Deputy Commissioner Karen I. Lupuloff, the attorney assigned to the case. She can be reached at (212) 510-1416. Please notify Deputy Commissioner Lupuloff within thirty days of the receipt of this letter of what, if any, action has been taken, or is contemplated against Mr. Paturzo. Thank you for your attention to this matter.

Sincerely,

EDWARD F. STANCIK
Special Commissioner
of Investigation for the
New York City School District

By: _____
Karen I. Lupuloff
Deputy Commissioner

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c: Simon Gourdine, Esq.

March 31, 1998

Hon. William C. Thompson, Jr.
President
New York City Board of Education
110 Livingston Street, Room 1118
Brooklyn, NY 11201

Re: Marlon Albert
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Dear President Thompson:

This office has completed an investigation concerning the death of 14 year old Marlon Albert. Marlon died shortly after his graduation from I.S. 27, a junior high school in Staten Island. He would have been a freshman at Susan Wagner High School (“Wagner”) in Staten Island during the current school year. Albert died at home on July 29, 1997, a few hours after attending a practice session for the school’s football team.

Our investigation revealed that the practice session, and another practice held the previous day, violated Board regulations in a number of ways: the practices were held more than two weeks before football programs were allowed to commence; because of this, Wagner had not received medical clearance or parental consent from Marlon; the July 28 practice was held in near-90° heat, 4-5 degrees above the 85° maximum temperature under which football practices were permitted; the practices were unsupervised by a coach or other adult; the BOE insurance for Marlon and the other players was not in effect because practice was held before the official season; as well as other more minor violations. Our investigation further revealed that Wagner head football coach Alan Paturzo, a tenured teacher and Board employee since 1969, arranged for these and other unauthorized practice sessions in knowing and direct violation of the Public School Athletic League (“PSAL”) regulations. Additionally, Principal Michael Tobin authorized the use of school athletic facilities for the prohibited practices. Athletic Director Fred Hess failed to properly supervise the football program. Due to equivocal evidence from the medical examiner, however, we are not able to substantiate that the prohibited practices contributed to Marlon Albert’s death.

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The first practice was on July 28, which was a very warm day. The high temperature¹ for the day was 90°. The temperature was 89° at 4:00 p.m. and had only dropped to 86° when the practice finished around 7:00 p.m.

Gaspar Maniscalco, a friend of Marlon's who is now a member of the Wagner junior varsity football team, attended the July 28th and July 29th football practices with Marlon. According to Gaspar, the practices consisted of running, practicing blocking plays, learning line stances, and running through various football plays. Another friend of Marlon's who attended the practices described the workouts as rigorous with a lot of running.

Gaspar and Marlon walked home together after practice on the 28th. Marlon did not feel well and complained to Gaspar of being sick. When he got home, he told his father he had leg cramps, tightness in his chest and chest pains. He was also walking stiffly. His condition apparently improved later that evening, and he told his father he was all right.

Another practice was scheduled for the next day, July 29th. The weather was a bit cooler, with a high of 83°. It slipped to 81° by 4:00 p.m., the time that Marlon left home for the practice, and down to 78° by 7:00 p.m. Marlon returned home between 7:15 and 7:30 p.m., along the way telling Gaspar he was sick once again.

When Marlon reached home, he was walking in a stooped fashion but told his mother that nothing was wrong.² He took a bath and then sat with his younger brother in the living room. A relative who was at their home that evening later told Marlon's mother he saw Marlon pass out

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in the living room for about one minute. The relative asked Marlon if he was all right and Marlon, now conscious, told him that he was. Sometime later, Marlon's mother entered the living room and found Marlon sitting on the couch. He was not breathing. She called 911 and the NYPD rushed her son to Saint Vincent's Hospital, where he was pronounced dead at 10:10 p.m. on July 29, 1997.

THE CAUSE OF MARLON'S DEATH

An autopsy was conducted by Dr. Thomas Gilson of the Office of the Chief Medical Examiner of the City of New York. Dr. Gilson determined that the cause of death was "myocarditis, probable viral etiology" and the manner of death "natural."

Dr. Gilson told us that Marlon died from an inflammation of the heart, probably caused by a virus in the heart. We asked him whether the football practice Marlon attended on the day of his death could have caused or contributed to his death. Dr. Gilson in his expert opinion would not attribute the death to the practice. He stated that a football practice could have affected Marlon's physical condition; since he died at his home sometime after the practice was over, however, the lapse in time likely served as an intervening factor. The doctor felt it possible that the time between the football practice and Marlon's death could have served to alleviate the stress on his heart that a practice could have caused. He also said that Marlon could have died from myocarditis had he not attended the practice but had instead spent the entire day at home resting.³

Would the required medical exam have revealed Marlon's condition? Dr. Gilson said that if Marlon had an irregular heartbeat, a possible symptom of myocarditis, a doctor might have detected that at a physical examination. He added that if at such examination Marlon had reported to the doctor that he suffered from dizziness, fainting spells, or other symptoms, the doctor would have been alerted to a possible problem and may have conducted a more thorough examination than that required for the PSAL physical. In this regard, Dr. Gilson added that had Marlon alerted his parents to his physical symptoms, they likely would have sought medical assistance for their son. While we do not want to speculate, it seems unlikely that Marlon would have revealed his symptoms to an examining physician, given the lengths he went to in order to keep his condition secret from his parents.

³ Dr. Gilson further pointed out that the medical condition of myocarditis does not always lead to death or serious illness.

Mr. Paturzo's May 8, 1997 letter has the summer workouts beginning on July 28, about one week *before* the players' medical clearances were due. Marlon's had not been filed before July 29, the date of his death.⁴ It is also likely that other boys similarly had practiced without medical clearance.

PSAL AND ITS REGULATIONS REGARDING SUMMER FOOTBALL PRACTICES

We interviewed Rose Korten, PSAL's deputy director, who told us that PSAL is responsible for administering and regulating the one hundred and fifty-five high school interscholastic athletic programs and sports teams within the New York City public school system. It coordinates, schedules, and regulates the sports seasons, practice sessions and games for all high school teams.

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The PSAL rules have a sound basis as they are designed to protect the safety of the players and the fairness of the competition: since coaches are certified in first aid and CPR, it is essential that they are present at all practices and games; since it is critical that all students have medical clearance and parental consent, students must give their coach both a parental permission form and a completed medical approval form before the first practice⁵; and since

⁴ The attorney representing Marlon's family informed us that Marlon's medical examination form was in the process of being completed at the time of his death and that only the results of blood work were pending. We asked to examine this medical form but Marlon's family declined.

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injuries are inevitable in sports, the BOE pays upwards of \$750,000 annually for insurance to protect both the players' families and the BOE from large financial risk. This protection is not effective before the football season starts.⁶

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Alan Paturzo has been the head coach of the Wagner High School varsity football team since 1984. During his tenure as head coach, the team has enjoyed much success, winning six city championships, one state championship and completing six seasons undefeated. When asked how much time he devoted to the school football team, Mr. Paturzo estimated that he spends hundreds of hours more per year than the approximate 240 maximum hours PSAL allots yearly for payment to coaches. The coach explained that he volunteers the many extra hours and days because he cares about and is dedicated to the students, the team and the school.

Paturzo expended considerable effort to set up the pre-season program. His May 8th letter, written on Wagner High School Football letterhead and addressed to players and parents, detailed "some very important dates and events associated with the football program." The letter lists dates for various activities including fundraisers and football camp. Included in this schedule of events is a listing for night workouts to begin on July 28 at 5:30 in the Wagner High School Weight Room. The letter, in a section called "Medicals and Money Due," gave a deadline of August 4th at 5:30 p.m. at the Wagner field for players to submit medical clearance forms and parental permission slips. Later in the letter, Mr. Paturzo writes, "All players must pick up a medical form and a parent permission form. All medical and permission(s) forms must be in no later than August 1st." Mr. Paturzo concludes his letter with an instruction to the players

⁶ Ms. Korten explained that PSAL's student athlete accident insurance policy covers one school calendar year. The calendar year begins on the first day of football season, because football is the first sport of the school year, and ends on the last day of school in June. The policy covers injuries suffered by students during sanctioned practices and games, and provides medical benefits as well as benefits for accidental death, dismemberment and other physical injuries. The policy states in part that "coverage is subject to provisions for injuries received while the insured is: participating in or attending any regularly scheduled supervised school activity. The activity must be supervised by an authorized representative of the school..." The policy contains a rider for "Student Accident Football Coverage" which insures interscholastic football players for accidents occurring while participating in interscholastic football practice or competition.

and parents that if the student was unable to attend any of the events listed, he should contact Mr. Paturzo at one of two telephone numbers where he could be reached. The letter is signed by Mr. Paturzo, using the title of Head Football Coach.

As a seasoned head coach, Mr. Paturzo knew the official dates of the 1997 football season and the significance of those dates. By his own admission, he was aware of the August 16, 1997 start date of the season and testified at SCI that he knew no practices, workouts or games could be held before that date. He also knew that the Board did not insure students against injury during July of 1997.

He knew that before students could play or practice, they were required to provide him with both a completed parental permission slip and a completed medical form. The letter Paturzo wrote to students stated in one place that the medical form and permission slip had to be turned in by August 1st and in another that August 4th was the deadline; in either event, several practices were to occur before the medical approvals were due. Therefore, it is likely that many of the students at the July practices had not yet received medical or parental clearance to participate.

How then can Mr. Paturzo justify the workouts he scheduled to begin July 28, 1997? He claimed that the July workouts were "voluntary" practices and that they were not run by himself or anyone else connected to the BOE. His case on both counts is weak and at times borders on the absurd. It is unlikely that any incoming freshman wanting to succeed at Wagner football would see the "night workouts" as voluntary: dates and times are stated explicitly, with instructions that anyone unable to attend should contact Mr. Paturzo. Further, the seniors were directed to take attendance, a clear message to any student who wanted to play for the team that he had better be there.

Mr. Paturzo's effort to distance himself, his coaches, and the BOE from the workouts is even less persuasive. He testified that while he was at the school, he was not involved in the July 28th and 29th practices, instead completing unrelated work in his office. Likewise, he instructed his assistant coaches not to attend. Instead, Mr. Paturzo told the *senior* players to conduct these practices under his guidance. He met with the seniors before the pre-season workouts to instruct them on which exercises and drills to conduct.

This argument is further undermined by Paturzo's efforts to secure the school's facilities for the summer practices. He sought and received three permits for use of Wagner facilities for the summer of 1997, when the school was closed for summer vacation. The permits are signed by Paturzo and contain the approving signatures of Wagner Principal Michael Tobin and the custodian.⁷ The permits, dated June 26, June 27 and July 1, 1997, overlap in time frame and scope and request use of school facilities from July 1st until August 22, 1997. Mr. Paturzo sought permission to use the school athletic field, special rooms that included the weight room, the gym, bleachers, bathrooms, and locker rooms. Mr. Paturzo stated "pre-season football" as the reason for two of the three permit requests and "football" as the reason for the third.

PATURZO'S EVASIONS ENDANGER STUDENTS

The coach stressed during his testimony that he instructed the seniors not to conduct activities involving physical contact but to limit the practices to non-contact activities only, such as running football plays and formations. He testified that the practices included drills, in which the participants were told to run up and down the bleachers at the football field, run around the track and practice football plays. Mr. Paturzo explained that he instructed the seniors conducting the workouts not to push the student participants or yell at them and to try to make the workouts fun.

We asked him whether a volunteer coach,⁸ described by him as a parent, school graduate, or someone otherwise interested in Wagner's football team, attended the practices. Mr. Paturzo said he did not know because he was not there. We asked him whether people certified in CPR and first aid attended the practices and he responded that he assumed so because "there are always parents that go." The coach admitted however, that he could not be sure and that even if parents had been in attendance, they were not required to be certified in CPR or first aid. We asked if water was available for the students, and he responded that the students were told to bring their own. The coach also told us that none of the paid Wagner football coaches attended because he had instructed them not to.⁹

⁷ Mr. Tobin testified that during the summer, no summer school or other programs took place at Wagner. Other than the custodial staff, the only people with access to the school and its facilities were the football coaches and parents from the parents club who used the school to hold meetings and check equipment for the fall season.

⁸ Both PSAL and the New York State Education Department ("SED") discourage the use of volunteer coaches and in fact, the SED does not recognize the concept of volunteer coaches. According to Colleen Canorro, an Associate in Physical Education with the SED, only coaches officially recognized and sanctioned by the Board who have met the requirements for coaching may coach an interscholastic athletic team. Ms. Canorro advised that persons working with students on athletic teams without the official sanction of the Board could raise questions of liability. In addition, according to PSAL regulations, all Board coaches must be certified in first aid and CPR.

⁹ Gaspar Maniscalco thought that a coach was present during the July 28th and 29th practices but could not be sure because he was new to the school and did not know this person. He never saw him again after the summer practices.

We conclude from the evidence that Mr. Paturzo conducted the practices as a Board of Education coach on Board of Education property. His transparent evasion of the PSAL rules – resulting in seniors conducting the practices without trained adults on site – only served to make the practices more dangerous than a properly supervised regular season practice.

**THE ROLES OF WAGNER HIGH SCHOOL PRINCIPAL MICHAEL TOBIN AND
WAGNER HIGH SCHOOL ATHLETIC DIRECTOR FRED HESS**

Wagner Principal Michael Tobin and Athletic Director Fred Hess sought to deny any responsibility for the unauthorized practices. Mr. Tobin told us that he did not work during the summer at Wagner High School and that the first time he learned of the July practices was when he learned of Marlon Albert's death. There is no reason to doubt his testimony. Nonetheless, he did sign in approval of Mr. Paturzo's three permits for extensive use of athletic facilities prior to the start of the official PSAL season.

In our office, Mr. Tobin reviewed Paturzo's May 8, 1997 letter to parents and players. He testified that the letterhead used by Mr. Paturzo was not official school stationery but was something apparently developed by Mr. Paturzo. Mr. Tobin stated that Mr. Paturzo had not reviewed the letter with him before sending it out but that he was not required to do so.

Wagner Athletic Director Fred Hess, who has worked as Wagner's athletic director since the 1984-85 school year, admitted that such practice sessions were common knowledge and occurred at Wagner as well as other Staten Island public high schools. Hess likewise testified that he never worked during the summer and therefore had no first-hand knowledge of the existence of summer practice sessions. Mr. Hess testified that no football practices or workouts of any sort were permitted before August 16, 1997.

Similarly, Mr. Hess testified that he was unaware that Mr. Paturzo had provided parents and students with the May 8th, 1997 letter and did not become aware of such letter until after Marlon Albert's death. Mr. Hess said he did not authorize Mr. Paturzo or anyone else to conduct the practices and only learned of them when being informed of Marlon Albert's death.

THE BOARD'S RESPONSE TO THE UNAUTHORIZED JULY PRACTICES

PSAL Deputy Director Rose Korten, PSAL Football Commissioner Alan Arbuse and PSAL Coordinator Paul Barchitta all concurred that Mr. Paturzo knew or should have known that no practices or workout sessions of any sort -- whether the practices consisted of running on the field or lifting weights in the weight room -- were permitted for the month of July 1997. All three agreed that: the practices, if conducted or organized under Mr. Paturzo's guidance, were in direct violation of PSAL regulations; and, as a seasoned head football coach, Mr. Paturzo should have known that his actions violated the regulations. Finally, all three PSAL employees said that it was up to Mr. Paturzo's principal and Brooklyn and Staten Island High Schools ("BASIS") Superintendent Nicholas Coletto to decide what discipline, if any, would be instituted against Mr. Paturzo for the violations. Coletto did not take any disciplinary action against Paturzo, Hess, or Tobin.

Wagner Principal Michael Tobin told us that upon learning of Marlon Albert's death, he was informed that BASIS Superintendent Coletto was reviewing the incident and surrounding circumstances. On September 2, 1997, Superintendent Coletto issued a strong, clear memorandum reiterating the PSAL regulations. His memo also puts coaches on notice that they are subject to disciplinary action for violations.

CONCLUSION AND RECOMMENDATIONS

We cannot conclude that the improper practices contributed to Marlon Albert's death. The findings of the Office of the Chief Medical Examiner, while somewhat equivocal, do not conclude that the practices contributed to Marlon's death. It is possible that the medical examination required by PSAL might have detected Marlon's heart condition. Unfortunately, Marlon's family would not share the results of their son's last exam with us. Certainly, if Marlon admitted to a doctor during such a physical examination that he had been experiencing pain and passing out, further tests would have been appropriate. However, because Wagner conducted voluntary summer workouts, Marlon Albert practiced for the football team before a physical examination was required. As a result, an opportunity to uncover Marlon's medical condition was lost.

SYSTEMIC RECOMMENDATIONS

Marlon Albert's death brings to light the use of so-called "voluntary workouts," a practice that is not authorized by the Board and must end.¹⁰ These workouts are nothing more than organized practices for the football team conducted before the season begins. While we cannot conclude that the July 1997 practices contributed to Marlon Albert's death, the potential for injury occurring at such practices is very real. Calling them "voluntary" does not make them so, and does not mitigate the dangers inherent in such unsupervised, strenuous activity. Though by no means an exhaustive list, harm to students may result from the following:

- Excessive physical activity performed by students not medically cleared for such activity;
- Practices conducted without the presence of individuals qualified to administer CPR or first aid;
- The performance of strenuous physical activity in excessive heat;
- Senior football players running drills that overexert and exhaust younger students;
- Incoming freshmen, eager to impress the older teammates, pushing themselves too hard at practice when not physically up to the task and injuring themselves;
- Students being uninsured against physical injuries suffered at practices;¹¹
- Students practicing contact activities without proper protective equipment.

We therefore recommend the issuance of a Chancellor's regulation, directed to all coaches, athletic directors and principals of high schools with interscholastic sports teams, prohibiting all voluntary or otherwise unofficial practices. A Chancellor's regulation will serve to emphasize the seriousness of the matter and provide PSAL with authority to enforce its regulations. Such Chancellor's regulation should state that PSAL-approved activities and timelines alone are permitted and that coaches, athletic directors and principals are required to follow all PSAL regulations or be subject to discipline. Finally, we urge the Board to distribute this regulation with proof of receipt by all coaches, athletic directors and principals. To be effective, of course, the regulation must be strictly enforced.

¹⁰ Superintendent Coletto wrote in his September 2nd memorandum, "It has come to my attention due to the untimely death of a student at one of our high schools that a number of teams have sanctioned voluntary practices prior to the beginning of the football season or other PSAL sanctioned sports seasons. It is imperative that all coaches be notified that under no circumstances may State Regulations or PSAL Regulations concerning the date when practice may begin be violated."

¹¹ If a student is injured playing football while PSAL's student athlete insurance policy is not in effect, the Board, of course, could bear liability for the injuries.

INDIVIDUAL RECOMMENDATIONS

Coach Alan Paturzo: Clearly, Mr. Paturzo organized the “voluntary” practices: he authored the May 8th letter to parents and students, written on official football team letterhead; he sought and received permits for summertime use of Wagner’s facilities and field; he instructed his senior year football players to conduct the workout sessions; he told them what plays to run and what to do if students needed assistance; and he required them to take attendance. Indeed, Mr. Paturzo was present at Wagner during the workouts on both July 28th and July 29th, the date that Marlon Albert died. Finally, he cancelled the remainder of the workout sessions upon learning of Marlon’s death, once again demonstrating his control over the practices.

Mr. Paturzo labored to distance himself from those same practices. The coach testified that neither he nor any other Board employee was involved in the practice sessions. However, it is clear by his actions that the practices were official Wagner football activities he orchestrated and that, by distancing himself and the other coaches from the practices, he succeeded only in exposing his students to greater risk. Without coaches at the field, there were no trained adults to judge the appropriateness of the workout or react to an emergency.

The PSAL regulations for high school football are unequivocal. The regulations require students to complete a physical examination and receive parental permission before participating in a sport, demonstrating the Board’s concern for the health and safety of its student athletes. The regulations require practices to end if the temperature is too high and limit weight and contact training to specific time frames, demonstrating that the Board considers such activities to have inherent risks. Finally, the regulations limit the football season, including practices, to a confined and definitive time frame, demonstrating the Board’s belief that student athletes must be students first and athletes second. Mr. Paturzo said he was aware of those regulations and the reasons underlying them. He chose to violate them nonetheless.

It is the conclusion of this office that Alan Paturzo knowingly violated PSAL regulations by organizing and conducting practices for the Wagner football program during July 1997 and that, but for the death of Marlon Albert, such practices would have continued until the August 16, 1997 authorized start date for football activity. We further conclude that Mr. Paturzo believed he was continuing a long-standing tradition of unofficial practices. It is our recommendation that the Board of Education take strong disciplinary action against Mr. Paturzo and place him on formal notice of his obligation to follow all PSAL regulations. There is ample evidence that he cut corners to gain an edge over other schools and neither his contention that ‘everybody does it’ nor Wagner’s win/loss record over the years mitigates Mr. Paturzo’s culpability.

Principal Michael Tobin: We recommend that Wagner Principal Michael Tobin be disciplined for signing the permits that approved the use of school facilities for the unauthorized practices. His excuse that he was not there during the summer is not persuasive. He cannot escape responsibility for authorizing prohibited summer activities simply by being physically absent from the school during those months.

Athletic Director Fred Hess: Mr. Hess should also be disciplined. He is responsible for the conduct of the athletic department, and was well aware that the summer practices were a regular occurrence at Wagner and other Staten Island high schools. He is accountable for failure to properly supervise the football program, allowing the practice of unauthorized workouts to continue.

Should you have any inquiries regarding the above, please contact me or Deputy Commissioner Karen I. Lupuloff, the attorney assigned to the case. She can be reached at (212) 510-1416.

Sincerely,

EDWARD F. STANCIK
Special Commissioner
of Investigation for the
New York City School District

By: _____
Karen I. Lupuloff
Deputy Commissioner

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c: Members of the Board

March 31, 1998

Hon. Edward J. Kuriansky
Commissioner
New York City Department of Investigation
80 Maiden Lane, 17th Floor
New York, NY 10038

Re: Marlon Albert
SCI Case #97-1744

Dear Commissioner Kuriansky:

This office has completed an investigation concerning the death of 14 year old Marlon Albert. Marlon died shortly after his graduation from I.S. 27, a junior high school in Staten Island. He would have been a freshman at Susan Wagner High School (“Wagner”) in Staten Island during the current school year. Albert died at home on July 29, 1997, a few hours after attending a practice session for the school’s football team.

Our investigation revealed that the practice session, and another practice held the previous day, violated Board regulations in a number of ways: the practices were held more than two weeks before football programs were allowed to commence; because of this, Wagner had not received medical clearance or parental consent from Marlon; the July 28 practice was held in near-90° heat, 4-5 degrees above the 85° maximum temperature under which football practices were permitted; the practices were unsupervised by a coach or other adult; the BOE insurance for Marlon and the other players was not in effect because practice was held before the official season; as well as other more minor violations. Our investigation further revealed that Wagner head football coach Alan Paturzo, a tenured teacher and Board employee since 1969, arranged for these and other unauthorized practice sessions in knowing and direct violation of the Public School Athletic League (“PSAL”) regulations. Additionally, Principal Michael Tobin authorized the use of school athletic facilities for the prohibited practices. Athletic Director Fred Hess failed to properly supervise the football program. Due to equivocal evidence from the medical examiner, however, we are not able to substantiate that the prohibited practices contributed to Marlon Albert’s death.

THE DEATH OF MARLON ALBERT

Marlon Albert and other incoming freshmen learned about the Wagner summer football schedule during the final weeks of junior high school at I.S. 27. A letter from Wagner's head football coach notified all prospective team members to report on July 28th for the first of Wagner's "night workouts." Despite their description, the practices began at 5:30 p.m. and ended sometime after 7:00.

Marlon had been feeling sick for about four months prior to the July football practices, according to his friend Steven Troia. He complained of pains in his chest, dizziness, and blackouts. Steven urged Marlon to tell his parents, but he refused. Marlon told Steven not to tell anyone about his physical condition because he really wanted to play on the Wagner High School football team and knew that he would not be allowed to play if people knew he was sick.

The first practice was on July 28, which was a very warm day. The high temperature¹ for the day was 90°. The temperature was 89° at 4:00 p.m. and had only dropped to 86° when the practice finished around 7:00 p.m.

Gaspar Maniscalco, a friend of Marlon's who is now a member of the Wagner junior varsity football team, attended the July 28th and July 29th football practices with Marlon. According to Gaspar, the practices consisted of running, practicing blocking plays, learning line stances, and running through various football plays. Another friend of Marlon's who attended the practices described the workouts as rigorous with a lot of running.

Gaspar and Marlon walked home together after practice on the 28th. Marlon did not feel well and complained to Gaspar of being sick. When he got home, he told his father he had leg cramps, tightness in his chest and chest pains. He was also walking stiffly. His condition apparently improved later that evening, and he told his father he was all right.

Another practice was scheduled for the next day, July 29th. The weather was a bit cooler, with a high of 83°. It slipped to 81° by 4:00 p.m., the time that Marlon left home for the practice, and down to 78° by 7:00 p.m. Marlon returned home between 7:15 and 7:30 p.m., along the way telling Gaspar he was sick once again.

When Marlon reached home, he was walking in a stooped fashion but told his mother that nothing was wrong.² He took a bath and then sat with his younger brother in the living room. A relative who was at their home that evening later told Marlon's mother he saw Marlon pass out

¹ The National Climatic Data Center provided weather readings from Newark Airport, the monitored weather station closest to Wagner High School.

² Marlon Albert's family refused to be interviewed by SCI. Our account of their observations on the evenings of July 28 and 29 is based on interviews of family members conducted by NYPD Detective Michael McLoughlin of the 120 Precinct.

in the living room for about one minute. The relative asked Marlon if he was all right and Marlon, now conscious, told him that he was. Sometime later, Marlon's mother entered the living room and found Marlon sitting on the couch. He was not breathing. She called 911 and the NYPD rushed her son to Saint Vincent's Hospital, where he was pronounced dead at 10:10 p.m. on July 29, 1997.

THE CAUSE OF MARLON'S DEATH

An autopsy was conducted by Dr. Thomas Gilson of the Office of the Chief Medical Examiner of the City of New York. Dr. Gilson determined that the cause of death was "myocarditis, probable viral etiology" and the manner of death "natural."

Dr. Gilson told us that Marlon died from an inflammation of the heart, probably caused by a virus in the heart. We asked him whether the football practice Marlon attended on the day of his death could have caused or contributed to his death. Dr. Gilson in his expert opinion would not attribute the death to the practice. He stated that a football practice could have affected Marlon's physical condition; since he died at his home sometime after the practice was over, however, the lapse in time likely served as an intervening factor. The doctor felt it possible that the time between the football practice and Marlon's death could have served to alleviate the stress on his heart that a practice could have caused. He also said that Marlon could have died from myocarditis had he not attended the practice but had instead spent the entire day at home resting.³

Would the required medical exam have revealed Marlon's condition? Dr. Gilson said that if Marlon had an irregular heartbeat, a possible symptom of myocarditis, a doctor might have detected that at a physical examination. He added that if at such examination Marlon had reported to the doctor that he suffered from dizziness, fainting spells, or other symptoms, the doctor would have been alerted to a possible problem and may have conducted a more thorough examination than that required for the PSAL physical. In this regard, Dr. Gilson added that had Marlon alerted his parents to his physical symptoms, they likely would have sought medical assistance for their son. While we do not want to speculate, it seems unlikely that Marlon would have revealed his symptoms to an examining physician, given the lengths he went to in order to keep his condition secret from his parents.

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He knew that before students could play or practice, they were required to provide him with both a completed parental permission slip and a completed medical form. The letter Paturzo wrote to students stated in one place that the medical form and permission slip had to be turned in by August 1st and in another that August 4th was the deadline; in either event, several practices were to occur before the medical approvals were due. Therefore, it is likely that many of the students at the July practices had not yet received medical or parental clearance to participate.

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PATURZO'S EVASIONS ENDANGER STUDENTS

The coach stressed during his testimony that he instructed the seniors not to conduct activities involving physical contact but to limit the practices to non-contact activities only, such as running football plays and formations. He testified that the practices included drills, in which the participants were told to run up and down the bleachers at the football field, run around the track and practice football plays. Mr. Paturzo explained that he instructed the seniors conducting the workouts not to push the student participants or yell at them and to try to make the workouts fun.

We asked him whether a volunteer coach,⁸ described by him as a parent, school graduate, or someone otherwise interested in Wagner's football team, attended the practices. Mr. Paturzo said he did not know because he was not there. We asked him whether people certified in CPR and first aid attended the practices and he responded that he assumed so because "there are always parents that go." The coach admitted however, that he could not be sure and that even if parents had been in attendance, they were not required to be certified in CPR or first aid. We asked if water was available for the students, and he responded that the students were told to bring their own. The coach also told us that none of the paid Wagner football coaches attended because he had instructed them not to.⁹

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We conclude from the evidence that Mr. Paturzo conducted the practices as a Board of Education coach on Board of Education property. His transparent evasion of the PSAL rules – resulting in seniors conducting the practices without trained adults on site – only served to make the practices more dangerous than a properly supervised regular season practice.

**THE ROLES OF WAGNER HIGH SCHOOL PRINCIPAL MICHAEL TOBIN AND
WAGNER HIGH SCHOOL ATHLETIC DIRECTOR FRED HESS**

Wagner Principal Michael Tobin and Athletic Director Fred Hess sought to deny any responsibility for the unauthorized practices. Mr. Tobin told us that he did not work during the summer at Wagner High School and that the first time he learned of the July practices was when he learned of Marlon Albert's death. There is no reason to doubt his testimony. Nonetheless, he did sign in approval of Mr. Paturzo's three permits for extensive use of athletic facilities prior to the start of the official PSAL season.

In our office, Mr. Tobin reviewed Paturzo's May 8, 1997 letter to parents and players. He testified that the letterhead used by Mr. Paturzo was not official school stationery but was something apparently developed by Mr. Paturzo. Mr. Tobin stated that Mr. Paturzo had not reviewed the letter with him before sending it out but that he was not required to do so.

Wagner Athletic Director Fred Hess, who has worked as Wagner's athletic director since the 1984-85 school year, admitted that such practice sessions were common knowledge and occurred at Wagner as well as other Staten Island public high schools. Hess likewise testified that he never worked during the summer and therefore had no first-hand knowledge of the existence of summer practice sessions. Mr. Hess testified that no football practices or workouts of any sort were permitted before August 16, 1997.

Similarly, Mr. Hess testified that he was unaware that Mr. Paturzo had provided parents and students with the May 8th, 1997 letter and did not become aware of such letter until after Marlon Albert's death. Mr. Hess said he did not authorize Mr. Paturzo or anyone else to conduct the practices and only learned of them when being informed of Marlon Albert's death.

THE BOARD'S RESPONSE TO THE UNAUTHORIZED JULY PRACTICES

PSAL Deputy Director Rose Korten, PSAL Football Commissioner Alan Arbuse and PSAL Coordinator Paul Barchitta all concurred that Mr. Paturzo knew or should have known that no practices or workout sessions of any sort -- whether the practices consisted of running on the field or lifting weights in the weight room -- were permitted for the month of July 1997. All three agreed that: the practices, if conducted or organized under Mr. Paturzo's guidance, were in direct violation of PSAL regulations; and, as a seasoned head football coach, Mr. Paturzo should have known that his actions violated the regulations. Finally, all three PSAL employees said that it was up to Mr. Paturzo's principal and Brooklyn and Staten Island High Schools ("BASIS") Superintendent Nicholas Coletto to decide what discipline, if any, would be instituted against Mr. Paturzo for the violations. Coletto did not take any disciplinary action against Paturzo, Hess, or Tobin.

Wagner Principal Michael Tobin told us that upon learning of Marlon Albert's death, he was informed that BASIS Superintendent Coletto was reviewing the incident and surrounding circumstances. On September 2, 1997, Superintendent Coletto issued a strong, clear memorandum reiterating the PSAL regulations. His memo also puts coaches on notice that they are subject to disciplinary action for violations.

CONCLUSION AND RECOMMENDATIONS

We cannot conclude that the improper practices contributed to Marlon Albert's death. The findings of the Office of the Chief Medical Examiner, while somewhat equivocal, do not conclude that the practices contributed to Marlon's death. It is possible that the medical examination required by PSAL might have detected Marlon's heart condition. Unfortunately, Marlon's family would not share the results of their son's last exam with us. Certainly, if Marlon admitted to a doctor during such a physical examination that he had been experiencing pain and passing out, further tests would have been appropriate. However, because Wagner conducted voluntary summer workouts, Marlon Albert practiced for the football team before a physical examination was required. As a result, an opportunity to uncover Marlon's medical condition was lost.

SYSTEMIC RECOMMENDATIONS

Marlon Albert's death brings to light the use of so-called "voluntary workouts," a practice that is not authorized by the Board and must end.¹⁰ These workouts are nothing more than organized practices for the football team conducted before the season begins. While we cannot conclude that the July 1997 practices contributed to Marlon Albert's death, the potential for injury occurring at such practices is very real. Calling them "voluntary" does not make them so, and does not mitigate the dangers inherent in such unsupervised, strenuous activity. Though by no means an exhaustive list, harm to students may result from the following:

- Excessive physical activity performed by students not medically cleared for such activity;
- Practices conducted without the presence of individuals qualified to administer CPR or first aid;
- The performance of strenuous physical activity in excessive heat;
- Senior football players running drills that overexert and exhaust younger students;
- Incoming freshmen, eager to impress the older teammates, pushing themselves too hard at practice when not physically up to the task and injuring themselves;
- Students being uninsured against physical injuries suffered at practices;¹¹
- Students practicing contact activities without proper protective equipment.

Therefore, we have recommended to the Board of Education that they issue a Chancellor's regulation, directed to all coaches, athletic directors and principals of high schools with interscholastic sports teams, prohibiting all voluntary or otherwise unofficial practices. A Chancellor's regulation will serve to emphasize the seriousness of the matter and provide PSAL with authority to enforce its regulations. Such Chancellor's regulation should state that PSAL-approved activities and timelines alone are permitted and that coaches, athletic directors and principals are required to follow all PSAL regulations or be subject to discipline. Finally, we have urged the Board to distribute this regulation with proof of receipt by all coaches, athletic directors and principals. To be effective, of course, the regulation must be strictly enforced.

¹⁰ Superintendent Coletto wrote in his September 2nd memorandum, "It has come to my attention due to the untimely death of a student at one of our high schools that a number of teams have sanctioned voluntary practices prior to the beginning of the football season or other PSAL sanctioned sports seasons. It is imperative that all coaches be notified that under no circumstances may State Regulations or PSAL Regulations concerning the date when practice may begin be violated."

¹¹ If a student is injured playing football while PSAL's student athlete insurance policy is not in effect, the Board, of course, could bear liability for the injuries.

INDIVIDUAL RECOMMENDATIONS

Coach Alan Paturzo: Clearly, Mr. Paturzo organized the “voluntary” practices: he authored the May 8th letter to parents and students, written on official football team letterhead; he sought and received permits for summertime use of Wagner’s facilities and field; he instructed his senior year football players to conduct the workout sessions; he told them what plays to run and what to do if students needed assistance; and he required them to take attendance. Indeed, Mr. Paturzo was present at Wagner during the workouts on both July 28th and July 29th, the date that Marlon Albert died. Finally, he cancelled the remainder of the workout sessions upon learning of Marlon’s death, once again demonstrating his control over the practices.

Mr. Paturzo labored to distance himself from those same practices. The coach testified that neither he nor any other Board employee was involved in the practice sessions. However, it is clear by his actions that the practices were official Wagner football activities he orchestrated and that, by distancing himself and the other coaches from the practices, he succeeded only in exposing his students to greater risk. Without coaches at the field, there were no trained adults to judge the appropriateness of the workout or react to an emergency.

The PSAL regulations for high school football are unequivocal. The regulations require students to complete a physical examination and receive parental permission before participating in a sport, demonstrating the Board’s concern for the health and safety of its student athletes. The regulations require practices to end if the temperature is too high and limit weight and contact training to specific time frames, demonstrating that the Board considers such activities to have inherent risks. Finally, the regulations limit the football season, including practices, to a confined and definitive time frame, demonstrating the Board’s belief that student athletes must be students first and athletes second. Mr. Paturzo said he was aware of those regulations and the reasons underlying them. He chose to violate them nonetheless.

It is the conclusion of this office that Alan Paturzo knowingly violated PSAL regulations by organizing and conducting practices for the Wagner football program during July 1997 and that, but for the death of Marlon Albert, such practices would have continued until the August 16, 1997 authorized start date for football activity. We further conclude that Mr. Paturzo believed he was continuing a long-standing tradition of unofficial practices. We have recommended that the Board of Education take strong disciplinary action against Mr. Paturzo and place him on formal notice of his obligation to follow all PSAL regulations. There is ample evidence that he cut corners to gain an edge over other schools and neither his contention that ‘everybody does it’ nor Wagner’s win/loss record over the years mitigates Mr. Paturzo’s culpability.

Principal Michael Tobin: We have recommended that Wagner Principal Michael Tobin be disciplined for signing the permits that approved the use of school facilities for the unauthorized practices. His excuse that he was not there during the summer is not persuasive. He cannot escape responsibility for authorizing prohibited summer activities simply by being physically absent from the school during those months.

Athletic Director Fred Hess: We have recommended that Mr. Hess should also be disciplined. He is responsible for the conduct of the athletic department, and was well aware that the summer practices were a regular occurrence at Wagner and other Staten Island high schools. He is accountable for failure to properly supervise the football program, allowing the practice of unauthorized workouts to continue.

Should you have any inquiries regarding the above, please contact me or Deputy Commissioner Karen I. Lupuloff, the attorney assigned to the case. She can be reached at (212) 510-1416.

Sincerely,

EDWARD F. STANCIK
Special Commissioner
of Investigation for the
New York City School District

By: _____
Karen I. Lupuloff
Deputy Commissioner

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March 31, 1998

Hon. Richard P. Mills
Commissioner
New York State Department of Education
Washington Avenue
Albany, NY 12234

Re: Marlon Albert
SCI Case #97-1744

Dear Commissioner Mills:

This office has completed an investigation concerning the death of 14 year old Marlon Albert. Marlon died shortly after his graduation from I.S. 27, a junior high school in Staten Island. He would have been a freshman at Susan Wagner High School (“Wagner”) in Staten Island during the current school year. Albert died at home on July 29, 1997, a few hours after attending a practice session for the school’s football team.

Our investigation revealed that the practice session, and another practice held the previous day, violated Board regulations in a number of ways: the practices were held more than two weeks before football programs were allowed to commence; because of this, Wagner had not received medical clearance or parental consent from Marlon; the July 28 practice was held in near-90° heat, 4-5 degrees above the 85° maximum temperature under which football practices were permitted; the practices were unsupervised by a coach or other adult; the BOE insurance for Marlon and the other players was not in effect because practice was held before the official season; as well as other more minor violations. Our investigation further revealed that Wagner head football coach Alan Paturzo, a tenured teacher and Board employee since 1969, arranged for these and other unauthorized practice sessions in knowing and direct violation of the Public School Athletic League (“PSAL”) regulations. Additionally, Principal Michael Tobin authorized the use of school athletic facilities for the prohibited practices. Athletic Director Fred Hess failed to properly supervise the football program. Due to equivocal evidence from the medical examiner, however, we are not able to substantiate that the prohibited practices contributed to Marlon Albert’s death.

THE DEATH OF MARLON ALBERT

Marlon Albert and other incoming freshmen learned about the Wagner summer football schedule during the final weeks of junior high school at I.S. 27. A letter from Wagner's head football coach notified all prospective team members to report on July 28th for the first of Wagner's "night workouts." Despite their description, the practices began at 5:30 p.m. and ended sometime after 7:00.

Marlon had been feeling sick for about four months prior to the July football practices, according to his friend Steven Troia. He complained of pains in his chest, dizziness, and blackouts. Steven urged Marlon to tell his parents, but he refused. Marlon told Steven not to tell anyone about his physical condition because he really wanted to play on the Wagner High School football team and knew that he would not be allowed to play if people knew he was sick.

The first practice was on July 28, which was a very warm day. The high temperature¹ for the day was 90°. The temperature was 89° at 4:00 p.m. and had only dropped to 86° when the practice finished around 7:00 p.m.

Gaspar Maniscalco, a friend of Marlon's who is now a member of the Wagner junior varsity football team, attended the July 28th and July 29th football practices with Marlon. According to Gaspar, the practices consisted of running, practicing blocking plays, learning line stances, and running through various football plays. Another friend of Marlon's who attended the practices described the workouts as rigorous with a lot of running.

Gaspar and Marlon walked home together after practice on the 28th. Marlon did not feel well and complained to Gaspar of being sick. When he got home, he told his father he had leg cramps, tightness in his chest and chest pains. He was also walking stiffly. His condition apparently improved later that evening, and he told his father he was all right.

Another practice was scheduled for the next day, July 29th. The weather was a bit cooler, with a high of 83°. It slipped to 81° by 4:00 p.m., the time that Marlon left home for the practice, and down to 78° by 7:00 p.m. Marlon returned home between 7:15 and 7:30 p.m., along the way telling Gaspar he was sick once again.

When Marlon reached home, he was walking in a stooped fashion but told his mother that nothing was wrong.² He took a bath and then sat with his younger brother in the living room. A relative who was at their home that evening later told Marlon's mother he saw Marlon pass out

¹ The National Climatic Data Center provided weather readings from Newark Airport, the monitored weather station closest to Wagner High School.

² Marlon Albert's family refused to be interviewed by SCI. Our account of their observations on the evenings of July 28 and 29 is based on interviews of family members conducted by NYPD Detective Michael McLoughlin of the 120 Precinct.

in the living room for about one minute. The relative asked Marlon if he was all right and Marlon, now conscious, told him that he was. Sometime later, Marlon's mother entered the living room and found Marlon sitting on the couch. He was not breathing. She called 911 and the NYPD rushed her son to Saint Vincent's Hospital, where he was pronounced dead at 10:10 p.m. on July 29, 1997.

THE CAUSE OF MARLON'S DEATH

An autopsy was conducted by Dr. Thomas Gilson of the Office of the Chief Medical Examiner of the City of New York. Dr. Gilson determined that the cause of death was "myocarditis, probable viral etiology" and the manner of death "natural."

Dr. Gilson told us that Marlon died from an inflammation of the heart, probably caused by a virus in the heart. We asked him whether the football practice Marlon attended on the day of his death could have caused or contributed to his death. Dr. Gilson in his expert opinion would not attribute the death to the practice. He stated that a football practice could have affected Marlon's physical condition; since he died at his home sometime after the practice was over, however, the lapse in time likely served as an intervening factor. The doctor felt it possible that the time between the football practice and Marlon's death could have served to alleviate the stress on his heart that a practice could have caused. He also said that Marlon could have died from myocarditis had he not attended the practice but had instead spent the entire day at home resting.³

Would the required medical exam have revealed Marlon's condition? Dr. Gilson said that if Marlon had an irregular heartbeat, a possible symptom of myocarditis, a doctor might have detected that at a physical examination. He added that if at such examination Marlon had reported to the doctor that he suffered from dizziness, fainting spells, or other symptoms, the doctor would have been alerted to a possible problem and may have conducted a more thorough examination than that required for the PSAL physical. In this regard, Dr. Gilson added that had Marlon alerted his parents to his physical symptoms, they likely would have sought medical assistance for their son. While we do not want to speculate, it seems unlikely that Marlon would have revealed his symptoms to an examining physician, given the lengths he went to in order to keep his condition secret from his parents.

³ Dr. Gilson further pointed out that the medical condition of myocarditis does not always lead to death or serious illness.

Mr. Paturzo's May 8, 1997 letter has the summer workouts beginning on July 28, about one week *before* the players' medical clearances were due. Marlon's had not been filed before July 29, the date of his death.⁴ It is also likely that other boys similarly had practiced without medical clearance.

PSAL AND ITS REGULATIONS REGARDING SUMMER FOOTBALL PRACTICES

We interviewed Rose Korten, PSAL's deputy director, who told us that PSAL is responsible for administering and regulating the one hundred and fifty-five high school interscholastic athletic programs and sports teams within the New York City public school system. It coordinates, schedules, and regulates the sports seasons, practice sessions and games for all high school teams.

Consistent with this role, PSAL advises the school coaches, athletic directors and principals of the regulations and schedules, in writing prior to the start of the particular sport season. Included in this information is the beginning and ending dates of each season, the number of games permitted to be played per season and per week, and the dates and types of practices that are allowed for each sport, among other things.

The schedule for the 1997 football season laid out essential rules and regulations. The season began August 16, 1997, the first day summer practice was allowed. Date restrictions on the football season and approved practice sessions were strictly enforced, according to Ms. Korten.

While PSAL can punish a *team* for violating its rules, it does not discipline coaches or athletic directors who fail to honor its regulations. Any review of a coach's conduct must begin at the school level, according to Ms. Korten, and only the principal or his superintendent can seek or enforce disciplinary action.

The PSAL rules have a sound basis as they are designed to protect the safety of the players and the fairness of the competition: since coaches are certified in first aid and CPR, it is essential that they are present at all practices and games; since it is critical that all students have medical clearance and parental consent, students must give their coach both a parental permission form and a completed medical approval form before the first practice⁵; and since

⁴ The attorney representing Marlon's family informed us that Marlon's medical examination form was in the process of being completed at the time of his death and that only the results of blood work were pending. We asked to examine this medical form but Marlon's family declined.

⁵ According to Ms. Korten, students who participate in more than one interscholastic sport need only one physical examination and medical clearance for the entire year but need parental consent for each sport.

injuries are inevitable in sports, the BOE pays upwards of \$750,000 annually for insurance to protect both the players' families and the BOE from large financial risk. This protection is not effective before the football season starts.⁶

Heat is another threat to the players' health and safety, and a key factor in limiting the starting date for practices. For example, a May 1997 PSAL regulation regarding heat provided suggestions on how coaches could help prevent heat exhaustion and heat stroke during hot weather athletic activity. In addition to the suggestions, the regulation listed certain mandatory safety regulations that had to be enforced. Coaches were required to carry a "thermometer and an instrument for measuring humidity on the practice field prior to every practice." The regulations also mandated that all activity be discontinued if the temperature is over 85 degrees.

COACH PATURZO AND THE WAGNER SUMMER FOOTBALL PROGRAM

Alan Paturzo has been the head coach of the Wagner High School varsity football team since 1984. During his tenure as head coach, the team has enjoyed much success, winning six city championships, one state championship and completing six seasons undefeated. When asked how much time he devoted to the school football team, Mr. Paturzo estimated that he spends hundreds of hours more per year than the approximate 240 maximum hours PSAL allots yearly for payment to coaches. The coach explained that he volunteers the many extra hours and days because he cares about and is dedicated to the students, the team and the school.

Paturzo expended considerable effort to set up the pre-season program. His May 8th letter, written on Wagner High School Football letterhead and addressed to players and parents, detailed "some very important dates and events associated with the football program." The letter lists dates for various activities including fundraisers and football camp. Included in this schedule of events is a listing for night workouts to begin on July 28 at 5:30 in the Wagner High School Weight Room. The letter, in a section called "Medicals and Money Due," gave a deadline of August 4th at 5:30 p.m. at the Wagner field for players to submit medical clearance forms and parental permission slips. Later in the letter, Mr. Paturzo writes, "All players must pick up a medical form and a parent permission form. All medical and permission(s) forms must be in no later than August 1st." Mr. Paturzo concludes his letter with an instruction to the players

⁶ Ms. Korten explained that PSAL's student athlete accident insurance policy covers one school calendar year. The calendar year begins on the first day of football season, because football is the first sport of the school year, and ends on the last day of school in June. The policy covers injuries suffered by students during sanctioned practices and games, and provides medical benefits as well as benefits for accidental death, dismemberment and other physical injuries. The policy states in part that "coverage is subject to provisions for injuries received while the insured is: participating in or attending any regularly scheduled supervised school activity. The activity must be supervised by an authorized representative of the school..." The policy contains a rider for "Student Accident Football Coverage" which insures interscholastic football players for accidents occurring while participating in interscholastic football practice or competition.

and parents that if the student was unable to attend any of the events listed, he should contact Mr. Paturzo at one of two telephone numbers where he could be reached. The letter is signed by Mr. Paturzo, using the title of Head Football Coach.

As a seasoned head coach, Mr. Paturzo knew the official dates of the 1997 football season and the significance of those dates. By his own admission, he was aware of the August 16, 1997 start date of the season and testified at SCI that he knew no practices, workouts or games could be held before that date. He also knew that the Board did not insure students against injury during July of 1997.

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Similarly, Mr. Hess testified that he was unaware that Mr. Paturzo had provided parents and students with the May 8th, 1997 letter and did not become aware of such letter until after Marlon Albert's death. Mr. Hess said he did not authorize Mr. Paturzo or anyone else to conduct the practices and only learned of them when being informed of Marlon Albert's death.

THE BOARD'S RESPONSE TO THE UNAUTHORIZED JULY PRACTICES

PSAL Deputy Director Rose Korten, PSAL Football Commissioner Alan Arbuse and PSAL Coordinator Paul Barchitta all concurred that Mr. Paturzo knew or should have known that no practices or workout sessions of any sort -- whether the practices consisted of running on the field or lifting weights in the weight room -- were permitted for the month of July 1997. All three agreed that: the practices, if conducted or organized under Mr. Paturzo's guidance, were in direct violation of PSAL regulations; and, as a seasoned head football coach, Mr. Paturzo should have known that his actions violated the regulations. Finally, all three PSAL employees said that it was up to Mr. Paturzo's principal and Brooklyn and Staten Island High Schools ("BASIS") Superintendent Nicholas Coletto to decide what discipline, if any, would be instituted against Mr. Paturzo for the violations. Coletto did not take any disciplinary action against Paturzo, Hess, or Tobin.

Wagner Principal Michael Tobin told us that upon learning of Marlon Albert's death, he was informed that BASIS Superintendent Coletto was reviewing the incident and surrounding circumstances. On September 2, 1997, Superintendent Coletto issued a strong, clear memorandum reiterating the PSAL regulations. His memo also puts coaches on notice that they are subject to disciplinary action for violations.

CONCLUSION AND RECOMMENDATIONS

We cannot conclude that the improper practices contributed to Marlon Albert's death. The findings of the Office of the Chief Medical Examiner, while somewhat equivocal, do not conclude that the practices contributed to Marlon's death. It is possible that the medical examination required by PSAL might have detected Marlon's heart condition. Unfortunately, Marlon's family would not share the results of their son's last exam with us. Certainly, if Marlon admitted to a doctor during such a physical examination that he had been experiencing pain and passing out, further tests would have been appropriate. However, because Wagner conducted voluntary summer workouts, Marlon Albert practiced for the football team before a physical examination was required. As a result, an opportunity to uncover Marlon's medical condition was lost.

SYSTEMIC RECOMMENDATIONS

Marlon Albert's death brings to light the use of so-called "voluntary workouts," a practice that is not authorized by the Board and must end.¹⁰ These workouts are nothing more than organized practices for the football team conducted before the season begins. While we cannot conclude that the July 1997 practices contributed to Marlon Albert's death, the potential for injury occurring at such practices is very real. Calling them "voluntary" does not make them so, and does not mitigate the dangers inherent in such unsupervised, strenuous activity. Though by no means an exhaustive list, harm to students may result from the following:

- Excessive physical activity performed by students not medically cleared for such activity;
- Practices conducted without the presence of individuals qualified to administer CPR or first aid;
- The performance of strenuous physical activity in excessive heat;
- Senior football players running drills that overexert and exhaust younger students;
- Incoming freshmen, eager to impress the older teammates, pushing themselves too hard at practice when not physically up to the task and injuring themselves;
- Students being uninsured against physical injuries suffered at practices;¹¹
- Students practicing contact activities without proper protective equipment.

Therefore, we have recommended to the Board of Education that they issue a Chancellor's regulation, directed to all coaches, athletic directors and principals of high schools with interscholastic sports teams, prohibiting all voluntary or otherwise unofficial practices. A Chancellor's regulation will serve to emphasize the seriousness of the matter and provide PSAL with authority to enforce its regulations. Such Chancellor's regulation should state that PSAL-approved activities and timelines alone are permitted and that coaches, athletic directors and principals are required to follow all PSAL regulations or be subject to discipline. Finally, we have urged the Board to distribute this regulation with proof of receipt by all coaches, athletic directors and principals. To be effective, of course, the regulation must be strictly enforced.

¹⁰ Superintendent Coletto wrote in his September 2nd memorandum, "It has come to my attention due to the untimely death of a student at one of our high schools that a number of teams have sanctioned voluntary practices prior to the beginning of the football season or other PSAL sanctioned sports seasons. It is imperative that all coaches be notified that under no circumstances may State Regulations or PSAL Regulations concerning the date when practice may begin be violated."

¹¹ If a student is injured playing football while PSAL's student athlete insurance policy is not in effect, the Board, of course, could bear liability for the injuries.

INDIVIDUAL RECOMMENDATIONS

Coach Alan Paturzo: Clearly, Mr. Paturzo organized the “voluntary” practices: he authored the May 8th letter to parents and students, written on official football team letterhead; he sought and received permits for summertime use of Wagner’s facilities and field; he instructed his senior year football players to conduct the workout sessions; he told them what plays to run and what to do if students needed assistance; and he required them to take attendance. Indeed, Mr. Paturzo was present at Wagner during the workouts on both July 28th and July 29th, the date that Marlon Albert died. Finally, he cancelled the remainder of the workout sessions upon learning of Marlon’s death, once again demonstrating his control over the practices.

Mr. Paturzo labored to distance himself from those same practices. The coach testified that neither he nor any other Board employee was involved in the practice sessions. However, it is clear by his actions that the practices were official Wagner football activities he orchestrated and that, by distancing himself and the other coaches from the practices, he succeeded only in exposing his students to greater risk. Without coaches at the field, there were no trained adults to judge the appropriateness of the workout or react to an emergency.

The PSAL regulations for high school football are unequivocal. The regulations require students to complete a physical examination and receive parental permission before participating in a sport, demonstrating the Board’s concern for the health and safety of its student athletes. The regulations require practices to end if the temperature is too high and limit weight and contact training to specific time frames, demonstrating that the Board considers such activities to have inherent risks. Finally, the regulations limit the football season, including practices, to a confined and definitive time frame, demonstrating the Board’s belief that student athletes must be students first and athletes second. Mr. Paturzo said he was aware of those regulations and the reasons underlying them. He chose to violate them nonetheless.

It is the conclusion of this office that Alan Paturzo knowingly violated PSAL regulations by organizing and conducting practices for the Wagner football program during July 1997 and that, but for the death of Marlon Albert, such practices would have continued until the August 16, 1997 authorized start date for football activity. We further conclude that Mr. Paturzo believed he was continuing a long-standing tradition of unofficial practices. We have recommended that the Board of Education take strong disciplinary action against Mr. Paturzo and place him on formal notice of his obligation to follow all PSAL regulations. There is ample evidence that he cut corners to gain an edge over other schools and neither his contention that ‘everybody does it’ nor Wagner’s win/loss record over the years mitigates Mr. Paturzo’s culpability.

Principal Michael Tobin: We have recommended that Wagner Principal Michael Tobin be disciplined for signing the permits that approved the use of school facilities for the unauthorized practices. His excuse that he was not there during the summer is not persuasive. He cannot escape responsibility for authorizing prohibited summer activities simply by being physically absent from the school during those months.

Athletic Director Fred Hess: We have recommended that Mr. Hess should also be disciplined. He is responsible for the conduct of the athletic department, and was well aware that the summer practices were a regular occurrence at Wagner and other Staten Island high schools. He is accountable for failure to properly supervise the football program, allowing the practice of unauthorized workouts to continue.

We are forwarding a copy of our report for whatever action you deem appropriate. Should you have any inquiries regarding the above, please contact me or Deputy Commissioner Karen I. Lupuloff, the attorney assigned to the case. She can be reached at (212) 510-1416.

Sincerely,

EDWARD F. STANCIK
Special Commissioner
of Investigation for the
New York City School District

By: _____
Karen I. Lupuloff
Deputy Commissioner

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c: Peter Sherman, Esq.