

CITY OF NEW YORK
THE SPECIAL COMMISSIONER OF INVESTIGATION
FOR THE NEW YORK CITY SCHOOL DISTRICT

**AN INVESTIGATION INTO THE DEATH OF SABRINA GREEN:
HOW THE SCHOOL SYSTEM FAILED HER**

EDWARD F. STANCIK
SPECIAL COMMISSIONER

ROBERT M. BRENNER
FIRST DEPUTY COMMISSIONER

INVESTIGATED BY: **MARK CROWLEY**, SENIOR INVESTIGATOR
ELIE KAUNFER, INVESTIGATIVE ANALYST

DECEMBER 1998

ACKNOWLEDGEMENTS

This investigation was conducted under the supervision of Chief Investigator Thomas Fennell and Deputy Chief Investigators Thomas Comiskey and Maureen Spencer. Former Special Counsel Janet Ford led the investigation which was taken up by Special Counsel Leah Keith. Deputy Commissioners Karen Lupuloff and Regina Loughran contributed significantly to the writing and editing of this report.

Invaluable assistance was given by the Children's Storefront School where Sabrina spent the early part of her educational years, as well as Dr. Karen Lancry who provided information about Attention Deficit Disorder.

INTRODUCTION

Nine-year-old Sabrina Green (“Sabrina”) died on November 8, 1997. The Medical Examiner determined the cause of death: “Multiple complications of untreated burns of hands with gangrene and blunt impacts to head, torso, and extremities with subdural hemorrhage.”¹ Yvette Green (“Green”), Sabrina’s thirty-one-year-old sister, and her boyfriend, Darryl Stephens, were charged with killing the child.² Sabrina had lived with Green, Stephens, and ten other children in Green’s apartment for the last thirteen months of her life. Yvette Green was also Sabrina’s legal guardian during most of this period.

This office began its investigation shortly after Sabrina’s death, when we learned that she was a public school student in the third grade, who never appeared at her school for the 1997-98 school year. Her absence should have triggered an attendance investigation by school authorities after September 10th, when Sabrina had missed the first five days of school. Yet, it was not until September 29th, after Sabrina missed three weeks of school, that an Attendance Teacher’s Absentee Report (“Form 407”) ordering an investigation was issued. No investigation followed, however. Indeed, no school

¹ Reading the autopsy in more detail, the degree of suffering Sabrina went through is almost unimaginable. Her right hand was burned so badly that approximately 90% of the skin on the back of her hand was gone; 25% of the skin on her palm was also missing. Underlying tendons and muscles on her ring finger were visible to the naked eye. Deposits of greenish-brown excretions – the work of gangrene – were evident. A small fragment of soft skin tissue was all that kept her thumb attached to the rest of her hand. Sabrina suffered many “blunt impact injuries” to her head, face, neck, torso, and extremities: multiple scars, bruises, scrapes, and wounds in various stages of healing virtually covered the child’s body.

² By indictment, Green and Stephens are charged with Manslaughter in the Second Degree, Criminally Negligent Homicide, and Endangering the Welfare of a Child.

personnel ever saw Sabrina between her last school day in June 1997 and her death in November.

This is the fourth time this office has investigated the death of a public school student from child abuse following a pattern of extensive absences. In each of the previous three deaths, school staff made little or no effort to locate the child or report the educational neglect to the Administration for Children's Services ("ACS"). The deaths of these children—Quentin Magee, Nadine Lockwood,³ and Justina Morales—received a great deal of public attention. Standing alone, this widespread attention should have put school staff on notice of the danger inherent in unexplained multiple absences.

Following the discovery of the death of Justina Morales, in February 1997, Chancellor Crew put new safeguards in place, including a plan to automate the ordering of attendance investigations. Working with the already computerized attendance records system, Automate The Schools ("ATS"), this new application would automatically generate a Form 407 when a child was absent for a set consecutive number of days, usually ten for general education students and five for special education students. Further, the Chancellor reinforced existing regulations, most importantly regarding children who transfer from one school to another. In Justina's case, the school relied on her mother's assertion that she was transferring the child elsewhere, and removed her from its roster. In fact, she never appeared at any other school. Further investigation by this office and the Kings County District Attorney's office revealed that Justina had been murdered by her mother and the mother's boyfriend within a few months after she dropped off the school system's radar screen. To prevent a recurrence of the Morales

tragedy, the Chancellor prohibited a transferring school from removing a student from its rolls until it had confirmed that the child had actually appeared at the receiving school. The computer attendance system would no longer allow such a transfer.

The widespread public attention concerning the three children who died previously, as well as the important reforms incorporated after the Justina Morales investigation, should have resulted in an investigation into Sabrina's absence. Indeed, Sabrina's case has striking similarities to Justina's: both children missed school day after day, week after week, without a probe by school authorities; and both died in brutal fashion having never set foot in their newly assigned school.

The next question is obvious: how did it happen again?

In the pages ahead, we try to answer that question. At the outset, we note that school authorities mishandled Sabrina's case almost from the moment she came in the door of her first public school to the day she was pronounced dead. Opportunities to help Sabrina were lost—one after another—in a seemingly endless series of mistakes, misunderstandings, and oversights. The most critical failures came in three distinct areas. Some changes were made in November 1997 to address the failures, but unfortunately, these did not occur until after Sabrina was dead.

1. Failure to Take Attendance Tracking and Investigations Seriously

Even after the high-profile deaths of three public school students, we found too many school employees who simply do not “get it” when it comes to the connection between a pattern of unexcused absence and the likelihood of child abuse at home. Thus,

³ Nadine Lockwood was only four when she died at the hands of her mother Carla Lockwood. Her siblings, however, had missed hundreds of days, including years when they never attended, and this should

when Sabrina transferred from a general education school to a special education setting, her new site did not have an attendance plan, as required by Chancellor’s regulations. The practical result was that no one was responsible for chronically absent students at the site.

The program she was scheduled to attend for emotionally disturbed children, Specialized Instructional Environment VII (“SIE VII”), was a “collaborative site.” As such, it was a citywide special education (“District 75”) facility located within and staffed by Community School District 11 employees. “Collaboration” turned out to be a cruel misnomer, as administrators from both districts quibbled over attendance responsibilities. Because there was no attendance plan, neither Michael D’Amico, a District 75 principal, Maureen Londonio, a special education pupil accounting secretary in District 75, Valeria Mitchell, the District 11 crisis intervention teacher at the SIE VII site, Sharon Reid, a District 11 supervisor at the SIE VII site, nor Zan Turner, a District 75 attendance teacher—took responsibility for the missing child.

Sabrina’s failure to appear at the SIE VII site for the 1997-98 school year was well known. In fact, Londonio and Mitchell engaged in daily sparring over whether Sabrina was technically “absent” or a “no-show,” and failed to focus on the important question: “Where *is* this child?”

2. Automated Attendance Tracking and Investigations

The improved computer tracking system was unable to surmount human complacency and error. The system was to have been in place by the beginning of the 1997-98 school year, but was not operational until September 29th. Unfortunately,

have resulted in an investigation into her fitness as a parent.

Sabrina's absences began at the start of school in early September, and continued throughout the month. Still, the month-long delay in the computer system's operation should not have posed a threat to Sabrina's safety, if the school simply followed standard procedures for manual issuance of Form 407. However, there *were* no standard procedures for the SIE VII collaborative site, because there was no attendance plan for the school. As a result, no investigation was ordered on September 10th, as it should have been, when Sabrina missed the first five days of the new school year. Even if one had been ordered, it seems likely that no one would have investigated. In fact, when computerized tracking was activated on September 29th, it immediately generated a Form 407 for Sabrina. Nevertheless, there was still no attendance investigation. Zan Turner, a District 75 attendance teacher, insisted that he was not responsible for investigating absences at the site.

While the computerized attendance system is a huge step forward, it is not by itself a panacea. Obviously, the quality of what comes out of a computer is a function of the quality of what goes into it. Much of the computer information we found was simply wrong.

Even the new transfer reforms were no match for human error. Chancellor's regulations require that a child remain the responsibility of the transferring school until the child appears at the receiving school. This procedure was reinforced following the death of Justina Morales. As a result, by a change in the ATS system, the sending school cannot remove a child from its rolls until a computer entry confirms the student's enrollment at the receiving school. Yet these changes were negated by pupil accounting secretary Maureen Londonio who, with a few simple keystrokes, dropped Sabrina from

the roster at PS 112 and placed her on the rolls of the SIE VII site, where no one ever saw her. Londonio's error undermined the Chancellor's reform, setting the stage for a recurrence of the Morales case.

Once Sabrina was erroneously admitted to the SIE VII program, the attendance tracking system continued to fail her. Sabrina was sometimes marked present at the SIE VII site in September 1997, when it is clear that she was not attending any school at that time. This particular error came about because of a system-wide "default preference," which marks a child present unless affirmatively marked absent. After Sabrina died, Londonio, the employee who made the errors, went back and altered the entries, compounding her offense. These "false positives" can sabotage the entire tracking process, by breaking up the string of consecutive absences that are necessary to generate a Form 407.

Even the records regarding Sabrina's placement into special education were wrong. Data entries indicate that special education staff, in compliance with detailed Chancellor's regulations, were making extensive outreach efforts during the summer of 1997 to secure Sabrina's attendance for the upcoming year. In fact, the District 11 Committee on Special Education ("CSE") made no effort to reach out to Sabrina. Thus, the computer entries indicating otherwise were entirely false. Helen Saarinen, a District 11 CSE placement officer, who admitted making the erroneous entries, asserted that she must have done so by accident. Whether a mistake or a deliberate effort to fake compliance with the Chancellor's regulations, it is clear that reliance on these data entries is fraught with peril.

3. The District 11 Committee on Special Education

While we focused initially on the attendance-related failures, it quickly became apparent that the District 11 CSE failed Sabrina repeatedly. It was clear from the very beginning that Sabrina was unable to cope in her general education third grade class at PS 112. Her teacher was unable to control Sabrina in a large classroom setting, and quickly referred her for a special education evaluation. However, many months would pass before this would occur. The process was brought to a screeching halt when Yvette Green withdrew her request that Sabrina be evaluated, apparently because she had not completed the process of becoming the child's legal guardian. However, as a special education official told us, since Green was acting *de facto* as Sabrina's guardian, the evaluation and placement could and should have been made. Thus, Sabrina floundered in general education for months while Green's guardianship application was pending, and only when she received the legal status in March 1997 did the process continue. Her special education placement did not occur before the end of the school year, and Sabrina failed third grade with no academic progress.

We found the District 11 CSE computer data regarding Sabrina to be virtually worthless. Record keeping was sloppy throughout her evaluation and placement. Taken together, the errors we found make clear that the CSE must take responsibility for Sabrina's wasted year of school, and for failure to complete her placement before the end of the school year. It was this failure that set the stage for the tragedy to unfold the following fall.

After Sabrina's Death

According to the Chancellor's attendance experts, improvements to the system continued after Sabrina's death. More attendance teachers were added in District 75 and additional money was made available to the local districts for their efforts. However, there remains a disagreement between attendance teachers we spoke to and central board officials about the impact of these latest measures at the district level.

At the conclusion of our report, we offer our recommendations for systemic changes for the continued improvement of the attendance system, as well as recommendations for individual disciplinary action.

BACKGROUND

Sabrina Green was born on August 25, 1988, to Joanne Coleman Green and Ronald Kelly.⁴ According to an account Yvette Green later gave school personnel, her mother, Joanne Green, was addicted to cocaine while pregnant with her sister and, as a result, Sabrina may have been born with cocaine in her system. Research on prenatal cocaine exposure has shown that exposed infants have difficulty with attention and responsiveness.⁵ Sabrina experienced problems of this nature throughout her life.

Sabrina was not yet three-years-old when Joanne Coleman Green died. At that time, Sabrina's father, also a drug addict according to Yvette Green, was unwilling to take custody of Sabrina. It was a family friend, Sylvia Simmons, who agreed to take responsibility for the child.

Sabrina moved in with Simmons in 1991, and her life appeared to stabilize. Simmons saw to it that three-year-old Sabrina received regular medical care, and she enrolled her in a preschool program at The Children's Storefront ("Storefront"), a small independent school in Harlem. Sabrina attended Storefront regularly, and though her years there were not without problems, she flourished in the small setting of the private school.

Sabrina's learning difficulties were obvious. In 1993, a doctor diagnosed then-five-year-old Sabrina as having Attention Deficit Disorder ("ADD"), and prescribed the

⁴ Board documents, most of them prepared by Yvette Green, incorrectly state Sabrina's birthdate as September 25, 1988. Her date of birth is actually August 25, 1988, according to her birth certificate, on which the space for "Father" is left blank. Both Kelly and Yvette Green stated that Kelly is Sabrina's father, and there is no evidence to contradict them.

⁵ See *Birth Outcome From a Prospective, Matched Study of Prenatal Crack/Cocaine Use: I. Interactive and Dose Effects on Health and Growth and II. Interactive and Dose Effects on Neurobehavior Assessment*, Pediatrics Vol. 101, no. 2, pp. 229-241, February 1998.

drug Ritalin to treat it.⁶ Kathleen McKelvy, an administrator at Storefront, told investigators from this office that Sabrina began receiving Ritalin twice daily. According to McKelvy, based upon an informal arrangement, Simmons administered the morning dose and staff at Storefront administered the afternoon dose.

Though Sabrina still struggled to control her behavior, the Ritalin helped quite a bit, according to Storefront records. From those records it is clear that academic development would be a constant effort. Her performance was almost always judged in need of improvement, even with the Ritalin. A November 2, 1993, progress report states that the medication had a calming effect on Sabrina. One notation indicates: “Her medicine is of some help—but we may need to adjust it.” One teacher wrote in June 1995, “I have found myself having to remove Sabrina from the group for a while [sic], hoping that she’ll be able to regroup herself. Sabrina’s behavior is even more erratic when she isn’t being given her prescribed medicine or if her medicine has ran [sic] out.”

Nevertheless, Storefront school records indicate that Sabrina made steady progress in both academic and social development during her five years there. According to members of the school staff, Sabrina always appeared well-groomed and well-cared for. School records are replete with praise and positive statements: “She is always happy.... She is coming along beautifully.” (June 5, 1992); “Sabrina is the social director of her class.... We love Sabrina!” (November 11, 1992); “Everyday, Sabrina is experiencing new and challenging things. She is gaining self-esteem daily.” (December 13, 1994).

⁶ According to the *Physicians’ Desk Reference*, Ritalin is a form of methylphenidate hydrochloride, a drug that acts as a “mild central nervous system stimulant.”

Then, in October 1996, eight-year-old Sabrina's world was shattered. Sylvia Simmons died of cancer, and Sabrina was once again in need of a guardian and a new home. Her father was apparently still unwilling or unable to care for her. Sabrina's thirty-one-year-old sister, Yvette Green, who already had ten children in her care, took custody of her. Green's custody would last little more than a year, ending in November 1997 with Sabrina's murder. According to the report of the New York City Medical Examiner, at the time of her death, Sabrina had lost a thumb to gangrene, and had suffered violent blows to her head, torso, and other parts of her body. Green and her live-in boyfriend, Darryl Stephens, are accused of causing Sabrina's death by burning her, beating her, and allowing her infected wounds—the results of the abuse—to go untreated. They remain in jail awaiting trial on charges of Manslaughter.

SABRINA'S LIFE AFTER THE DEATH OF SYLVIA SIMMONS

On October 24, 1996, Yvette Green filed a petition for legal guardianship of Sabrina in Bronx Family Court. She told an ACS caseworker that she needed to be named legal guardian in order to collect additional public assistance and to arrange medical insurance for her sister. The caseworker, Gornette Horsang, recounted this in a written report to the Court regarding Green's fitness to care for Sabrina. According to Horsang's report, Green stated that Sabrina needed the drug Ritalin and that she was unable to pay for it. As legal guardian, according to Horsang's report, Green would be able to arrange Medicaid coverage for Sabrina, and would be able to buy the medication.

For Sabrina, the move to the Bronx apartment that Green shared with her ten children and her boyfriend, Darryl Stephens, was a dramatic change. Green decided to withdraw Sabrina from Storefront even though the academic year had already started—a decision that came at a difficult time. Not only was Sabrina confronting major changes in her life, but she also had to cope with the increased demands of third grade. As a Storefront teacher put it in her second grade record: “Next year is a much more serious year, and third grade means giving up many childish ways. Sabrina is going to have to work very hard to push a head [sic] in her efforts to improve herself. I am sure she can do it.” Unfortunately, this optimistic prediction was not borne out by the reality of Sabrina’s third grade year at PS 112.

SABRINA ENTERS PUBLIC SCHOOL 112 AND IS REFERRED TO SPECIAL EDUCATION

Sabrina attended PS 112, located on Schieffelin Avenue in the Bronx within Community School District 11, for most of the 1996-97 school year. During that time, her performance was judged so poor that her teacher recommended that Sabrina not be promoted to fourth grade.

It was seven weeks into the new school year—October 24, 1996—when Sabrina joined twenty-eight other students in a third grade class at PS 112. According to her teacher, Madeline Vega-Garcia, Sabrina began to misbehave in class within a week of her arrival. Almost immediately, the teacher noticed Sabrina had serious educational problems that she could not address in a class with twenty-eight other students. By November 4, 1996, after only seven days in the classroom, Vega-Garcia called Green about Sabrina’s behavior and suggested that she be referred to special education. Green

authorized Vega-Garcia to begin the process. Thus, Yvette Green agreed to put Sabrina's educational well-being into the hands of the District 11 CSE.

The special education referral process is heavily regulated. The rights of children with disabilities to an appropriate public education are protected by both state and federal law.⁷ These laws encourage parents to participate with the school system to determine the right educational setting for these children.⁸ In New York, there are carefully drawn procedures for evaluating and monitoring the progress of children placed in special education, many of which are mandated by law.⁹ To implement these procedures, each community school district in New York City has its own CSE, which is charged with administering the evaluation and placement process. The CSE must consult with the parent or person in parental relationship to the child throughout the process.¹⁰

SABRINA'S FIRST REFERRAL FOR SPECIAL EDUCATION GOES NOWHERE

On November 6, 1996, Green met with Joy Joseph, the guidance counselor at PS 112, to discuss the possibility of evaluating Sabrina for special education. As a result, Green prepared a written request for Sabrina's evaluation, and the referral was forwarded to the District 11 CSE.

⁷ See generally, 20 U.S.C. sections 1400-1485, and N.Y. Educ. Law sections 4401-4410-a.

⁸ See *A Parent's Guide to Special Education for Children Ages 5-21*, Board of Education of the City of New York, September 1994.

⁹ See Chancellor's regulation B-445 (March 17, 1982). Under the law, children are required to be educated in the "least restrictive environment" meaning that they should be mainstreamed whenever possible. Special education should be treated as a last resort. It is warranted only when the student is unable to remain in a general education program, despite having been provided with supplemental support services.

¹⁰ N.Y. Educ. Law section 4402(3).

During the next few weeks, Vega-Garcia documented Sabrina's disruptive behavior in class. The record covers November 6 to November 18, 1996, and was

intended to aid the CSE in its evaluation of Sabrina. What follows are some of the teacher's observations:

- 11/6** "Sabrina walked in late...[s]natched her neighbors [sic] pencils claiming she 'needed it.' Pushed the girls as we walked down to lunch...."
- 11/7** "Pushed a girl into the closet...On the way up from lunch, strikes several students on the stairwell...."
- 11/14** "Sabrina shoved another student while going to sharpen her pencil...Does not show any interest in class lessons...."
- 11/18** "Sabrina was using profanity to express her feelings about the family members of other students...."

Clearly, Sabrina was having serious difficulty coping in her school setting.

Everyone agreed that an evaluation for special education was the appropriate next step. However, the evaluation process came to an abrupt halt when it was learned that Green had not yet obtained a court order appointing her as legal guardian for Sabrina. While Green had applied for such an order in October 1996, she would not receive it until March 1997.

On November 21, 1996, Green withdrew Sabrina from the evaluation process. Both Joy Joseph, the PS 112 guidance counselor, and Kerry Nicholas, a social worker for CSE 11, recall that the evaluation process was suspended as a result of Green's pending application for guardianship. While no one at the District 11 CSE would admit to prompting Green to withdraw the application, it seems unlikely that she would have done so on her own, particularly on such a legalistic basis. After all, she agreed to the referral without full guardian status, and immediately sought a placement after she obtained it.

In any event, our investigation and our review of state law make clear that Sabrina should have been evaluated without delay. When asked by our investigators, a Board official cited at least two options available to the CSE, both of which negate the guardianship issue in this case.

According to Lois Kessler, the Clinical Administrator for Region II, Districts 7-12 in the Bronx, in cases where a child does not have a formal legal guardian, the child's *de facto* guardian can be considered a person acting in "parental relation," to use the phrase contained in state law.¹¹ A person in such a role, which surely encompassed Green's relationship to Sabrina, is qualified to act as guardian in the special education process. Kessler added that another option is available in such cases: the CSE can appoint a relative as "surrogate parent" in order to continue the evaluation process during the pendency of a request for guardianship.¹² The CSE's failure to pursue either of these options in Sabrina's case is inexcusable, regardless of how Green came to withdraw the child's placement application.

The decision to postpone Sabrina's evaluation had serious consequences for her. Sabrina had floundered from the beginning at PS 112, and her classroom behavior continued to deteriorate rapidly over the next few months. Because Sabrina's evaluation was postponed, she remained in Vega-Garcia's class. The teacher tried to maintain control over Sabrina's outbursts by moving her closer to the teacher's desk. Vega-Garcia felt she simply could not provide Sabrina with the care and attention the child needed. On November 26, 1996, Vega-Garcia again spoke to Green about Sabrina's behavior and inquired about the status of her guardianship. Nevertheless, by the end of the first

¹¹ N.Y. Educ. Law section 3212.

¹² Regulations of the NYS Commissioner of Education, 8NYCRR section 200.5(e).

marking period, there was still no progress to report. Vega-Garcia was unable to grade Sabrina.

NO RETURN TO RITALIN

While Sabrina struggled in Vega-Garcia's class as the evaluation process for special education lay dormant, her prior diagnosis of ADD also went ignored. According to Storefront records, while there, Sabrina regularly received Ritalin to treat that disorder. Sylvia Simmons had consistently obtained this medication for Sabrina, but after Simmons died, Green claimed to be unable to obtain it. While pursuing guardianship of Sabrina, Green told ACS Caseworker Gornette Horsang that she could not afford to pay for Ritalin, and would not be able to do so until she obtained a court order naming her as legal guardian.

However, PS 112 school guidance counselor Joy Joseph proposed a temporary solution to the lack of funds for Ritalin. According to Joseph, she offered to help Green by contacting a charitable services organization in order to purchase Ritalin for Sabrina during the guardianship process. In response, Joseph says, Yvette Green declined the offer. Nevertheless, within the first two weeks of Sabrina's arrival at PS 112, school officials gave Green the paperwork necessary to authorize school employees to administer medication. However, she never completed it, and made no apparent effort to obtain the medication.¹³ Indeed, by March 26, 1997, after she was awarded guardianship, PS 112 social worker Kerry Nicholas learned from Green that Sabrina still was not receiving Ritalin.

¹³ This paperwork is known as "Section 504 Form B."

Mistreatment at home and the upheaval in her life following Sylvia Simmons' death undoubtedly had a powerful influence on Sabrina's behavior. Given the extreme changes in her environment, it is impossible to know the extent to which the lack of Ritalin affected Sabrina's third grade experience.

Thus, two avenues that may have helped Sabrina cope—a special education program and Ritalin treatment—were closed off to her. Months dragged by. From January to April 1997, Vega-Garcia was on maternity leave and responsibility for teaching Sabrina's class was left to a substitute teacher, Lucille Oka. Oka described the same problems with Sabrina that Vega-Garcia had noted and fared no better at teaching the child. Additionally, she complained that Sabrina often came to school without supplies.

Oka prepared Sabrina's report card for the second grading period. In the comments section she wrote: "Sabrina has potential and can do better if she is given support and help at home. She needs to keep her books and materials in much better condition."

SABRINA IS FINALLY EVALUATED FOR SPECIAL EDUCATION

On March 12, 1997, four months after the original request for Sabrina's referral to special education, Bronx Family Court Judge Terrence McElrath granted legal guardian status to Yvette Green. That same day, Green resubmitted her request that Sabrina be evaluated for placement in special education. Two weeks later, on March 26, 1997, she gave formal consent for the evaluation at a meeting with school social worker Kerry

Nicholas who would track the evaluation process for the CSE. Now, with Green's status as guardian settled, the CSE decided to process the referral.

The special education evaluation process is supposed to be timely, with mandatory deadlines for evaluation of a student. At the same time, it is meant to be a deliberative process involving a team of professionals in consultation with the student's parent or guardian. The evaluation for special education should include a social history, an individual psychological evaluation, an educational evaluation, an observation of the child in the classroom, and any other necessary assessments. In Sabrina's case, the evaluation was conducted by the PS 112 School Based Support Team ("SBST") consisting of Sonya Hammer, an educational evaluator; Kerry Nicholas, the social worker; and Joel Baum, a school psychologist.

The professionals who observed Sabrina quickly concluded that she would benefit significantly by a move to a small instructional environment tailored for children with serious emotional problems. Their remarks echoed those of Sabrina's teachers. Kerry Nicholas, the social worker, conducted a classroom observation of Sabrina on March 26, 1997, and recorded the following observations: "On two occasions [Sabrina] rose from her seat without permission and called out.... [H]er teacher described her as...oppositional, impulsive and physically aggressive with peers."

Similarly, Joel Baum, the school psychologist, observed Sabrina and concluded her behavior was likely to improve if she was placed in a smaller, more structured setting. He conducted a one-on-one interview with her, as well as two classroom observations, and noted in his May 7, 1997, report that "overall Sabrina was cooperative one-on-one but when observed in unstructured settings can be outrageous, aggressive and insulting to

both peers [and] teachers. She has a history of extreme histrionics at home [and] class and will benefit from a full time spec. ed setting to address her behavioral delays [and] academic difficulties.”

The findings of the SBST include the following description of the child:

[Sabrina] shows adequate behavior individually but this is a result of also knowing she is being observed. In her class + at home she demonstrate [sic] ongoing dangerous [and] resistant behavior that are extremely disruptive to others [and] alienating to other children. She will benefit from a therapeutic setting [and] academic assistance.

Kerry Nicholas prepared a social history dated March 26, 1997, two weeks after Green was named legal guardian. By this time, Sabrina had been living in the Green home for approximately five months. Through consultation with Green, Nicholas painted a bleak picture of the child’s relationship with her guardian, as well as the entire Green household. Green felt that Sabrina was an extremely difficult child and needed constant supervision. According to her sister, Sabrina could not be involved in activities at home, such as watching television, because of the child’s misbehavior. In her words, Green disciplined Sabrina by “screaming” and “withholding privileges.” Asked what Sabrina’s strengths were, Green could not think of any. Asked what she enjoyed most about Sabrina, Green responded: “When she’s quiet.”

The next step in Sabrina’s evaluation process was the Educational Planning Conference (“EPC”). The EPC amounts to a summit meeting, where the professionals who have evaluated the child—usually members of the SBST—explain their findings to the child’s parent or guardian. At the EPC, it is decided whether to recommend to a CSE review committee that the child be moved into special education. Also at this conference, a plan is formulated to meet the educational needs of the child. In the form letter about

the conference that is sent to parents, the District 11 CSE urges attendance, explaining: “It is your right to participate fully in this decision making process.”¹⁴

The District 11 CSE allowed Green’s boyfriend, Darryl Stephens, an individual with no legal standing toward Sabrina, to act as her guardian at the EPC. Despite the importance of this step, Green’s boyfriend attended the conference on May 9, 1997, in her place. His name is signed on a document signifying acceptance of the educational findings and recommendations presented. According to Dr. Mary Sheehy, the Chairperson of the District 11 CSE, although it is acceptable for a parent to send a representative to the EPC in order to convey the results of the conference, the substitute is not empowered to make decisions regarding the child.

Nevertheless, the District 11 CSE erroneously allowed Darryl Stephens to consent to special education services for Sabrina, by signing the consent form which states: “I understand and agree to the recommendation made by the S.B.S.T. for my child.”

THE SBST RECOMMENDS SABRINA FOR SPECIAL EDUCATION

After completing her evaluation, the CSE termed Sabrina “emotionally disturbed,” one of thirteen categories of disability established by law in New York.¹⁵ The CSE also concluded that Sabrina would best benefit from the Specialized Instructional Environment VII program for emotionally disturbed children. In materials provided to parents by the Board, SIE is defined as: “Full-time special education classes

¹⁴ Excerpt from form “M-2 Notice of Educational Planning Conference-Parent.”

¹⁵ The other twelve are: autistic, deaf, deaf-blindness, hard of hearing, learning disabled, mentally retarded, multiply disabled, orthopedically impaired, other health impaired, speech impaired, traumatic brain injury, and visually impaired. See Regulations of the NYS Commissioner of Education, 8 NYCRR section 200.1.

where students are taught in small groups in a special education school or a special center of a community school or high school. Students in these programs have limited access to mainstreaming.”¹⁶ Sabrina was slated to attend the SIE VII program located inside PS 68 within the boundaries of District 11.

For Sabrina, this placement would mean fewer students in the classroom, and more adult attention during the course of the school day. In addition, the SBST recommended that Sabrina be provided with year-round schooling, minimizing the possibility that she would regress during the months when school would be closed for summer. Nevertheless, her year-round education was not scheduled to start until September 1997.

As a child moving to a special education program, Sabrina was entitled to the formulation of an Individualized Education Program (“IEP”), a plan of action that sets academic goals specific to a child’s needs, as well as a timetable for meeting those goals. In Sabrina’s case, her IEP, dated May 14, 1997, included plans to improve her reading, communication, and math skills. It also provided for counseling in order to help Sabrina “learn to comply with limits....”

A WASTED YEAR ENDS IN FAILURE FOR SABRINA

Sabrina finished 3rd grade in her regular classroom because the special education process, which began on March 26, 1997, was not completed until after the school year ended. Vega-Garcia, who returned in April, taught Sabrina’s class for the remainder of the academic year. The child scored in the bottom 8% in both the math and reading

¹⁶ *A Parent’s Guide to Special Education for Children Ages 5-21.*

standardized examinations. In five out of six subjects, Sabrina was graded “unsatisfactory” or “needs improvement.” Her only “satisfactory” grade was in “oral language.” The school had only one answer for Sabrina’s educational and behavioral problems at this point: they decided she should repeat the third grade the following year. Sadly, though, she would never attend school again.

SUMMER 1997: THE CSE DROPS THE BALL

It was not until four months after the evaluation process started, on July 17, 1997, that the District 11 CSE sent Yvette Green a letter, known as a “site offer,” informing her that it had chosen a classroom setting appropriate for Sabrina. However, Green never mailed back the consent form, and her failure to do so should have triggered a timed response by the CSE. At this point, the school system began losing track of Sabrina.

Board of Education guidelines clearly state that the CSE placement office in every district is responsible for actively encouraging parents to make a prompt decision regarding acceptance or rejection of a site offer. A parent’s failure to respond to a site offer places school officials in the difficult position of deciding whether to seek authorization to place the student in special education without parental consent.

If the parent receiving the site offer fails to respond to it, CSE employees are supposed to telephone the parent, attempt to visit the home, and even ask the principal of the student’s present general education school to help contact the parent—all in an effort to secure acceptance or rejection of the offer.

Yet this investigation found that the District 11 CSE made no effort to reach Yvette Green during the summer of 1997, aside from the mailing of the original site

offer. CSE officials admitted to our investigators that they do not make serious efforts at outreach during the summer months, meaning that the opportunity to place students before the start of a new school year is lost.

According to the special education timetable, very specific steps must be taken to determine whether the site offer has been accepted or rejected. First, if by the eighth day after the offer letter was mailed no response has been received, the CSE placement office should make “at least two telephone calls to the parent or, where practical, a home visit.”¹⁷

The next scheduled attempt at outreach must occur ten business days after the site offer, if there is still no response. At that time, the placement office is required to send a letter, known as a “W-3” form, to the principal of the student’s present general education school, asking for assistance in “encouraging” the parent to respond to the original site offer letter.¹⁸ Then, on the twelfth business day from the issuance of the initial site offer letter, the CSE placement office should send a “W-4” form to the parent or guardian, notifying them that their child’s seat will be withdrawn if there is no response.¹⁹ The W-4 informs the parent that the principal or CSE chairperson will request a meeting to discuss the child’s case.

Unfortunately, the District 11 CSE placement office took none of these steps and, in fact, did nothing, in violation of regulations. This is no mere technicality: every day of needless delay undermined the CSE’s prescribed plan for Sabrina.

¹⁷ Child Assistance Program (“CAP”) Manual, CAP Placement: Self-Contained Program at 3-6 and 3-7.

¹⁸ The W-3 form is entitled, Notice of Completion of Evaluation and Recommended Placement.

¹⁹ The W-4 form is entitled, Placement Withdrawal Notice Initial Referrals Only.

FALSE COMPUTER ENTRIES HIDE THE CSE FAILURES

Looking at the District 11 CSE computer records regarding Sabrina Green, one would never guess that the mandatory efforts to pursue acceptance of her site offer were

ignored. In fact, the computer records indicate that both warning letters, the W-3 and the W-4, were sent within a month of the July 17th site offer. Computer records also indicate that the site offer was withdrawn and Sabrina's seat was relinquished on August 14, 1997, after no response to the offer was received. Unfortunately, none of these entries is accurate.

Examination of the records indicates that the erroneous entries were all made on November 5, 1997, months after the outreach was supposed to have been done, and just three days prior to Sabrina's death. Helen Saarinen, who was the placement officer for the District 11 CSE at the time, admits that she entered the information, but claims it was merely an inadvertent error.

Saarinen claims that, at the time she made the entries in November 1997, she was confronted with a stack of documents relating to students, all containing information that needed to be entered into the Child Assistance Program ("CAP"), which is "the computerized database of special education children."²⁰ Saarinen recalls that some of the documents in the pile dated back to the summer.

According to Saarinen, she cannot recall the circumstances of the entries regarding Sabrina, but assumes that she mistakenly entered information regarding another student onto Sabrina's records while working to clear the backlog. However, Saarinen was the individual responsible for conducting the outreach and securing Sabrina's placement in the SIE VII program. In fact, she knew no outreach steps regarding Sabrina had been taken during the summer of 1997. Furthermore, Saarinen admitted that, under

²⁰ Chancellor's regulation A-242, Glossary of Special Education Terms.

her supervision, “hundreds” of errors were made while inputting summer outreach information into the CAP computer in November.

Taking Saarinen at her word, she demonstrates the type of shoddy record keeping that renders the information useless. At worst, it indicates a deliberate effort to falsify compliance with the law regarding mandatory deadlines for the provision of special education services.

As it turns out, Saarinen’s false entry on November 5th regarding the loss of Sabrina’s seat was eerily prophetic: by that time, Sabrina was certainly suffering from life-threatening gangrene, and a mere three days later, she was dead.

THE FIRST DAY OF SCHOOL: SEPTEMBER 4, 1997

The District 11 CSE claims that Yvette Green appeared in person on September 4, 1997, the first day of the 1997-98 school year, and accepted the site offer for Sabrina. Yet, there is no documentary evidence that this occurred. Once again, the CSE’s sloppiness in record-keeping is evident. The CSE claims to have lost its visitors’ logbook, which should have listed Yvette Green as having been present in its offices that morning.

As proof that Green personally accepted Sabrina’s placement on September 4th, the District 11 CSE presented to our investigators the July 17th “site offer” letter, which had finally been signed by Green. Though the form now had Green’s signature on it, no date accompanied her signature, as required, and no mark indicated whether she accepted the site offer, also as required. Furthermore, the visitor logbook maintained by the

District 11 CSE, which could have proved Green’s appearance that day, was missing. Finally, the logbook for the school building in which the CSE was housed contained no record of Green’s appearance.²¹

The CSE estimates that as many as one hundred parents showed up at its offices on September 4th, adding to the confusion that is typical on the first day of school. Nevertheless, the District 11 CSE staff members insisted that someone in their office must have met with Yvette Green on that day, at which time she signed the site offer letter. Their reasoning apparently flows from a second form, known as the Authorization to Attend Special Education Program (“the A-1”), prepared for Sabrina. This form authorizes the parent or guardian to bring the child to a specific class. The A-1 should serve as a means of notifying the receiving school, the sending school, and the parent that the student’s placement is finally settled.²² The A-1 prepared in connection with Sabrina’s placement informed Yvette Green that she could bring the child to an SIE VII program on September 4, 1997, and the form is dated that same day. However, Green never took Sabrina to her new site, and her placement was never finally resolved.

SABRINA IS ENROLLED AT TWO SCHOOLS BUT ATTENDS NEITHER

On September 4th, the day that the 1997-98 school year started, educators at two different schools—PS 112 and the SIE VII site at PS 68—were holding a place for Sabrina Green. However, she appeared at neither. In theory, with two different sets of

²¹ The District 11 CSE offices are housed in Harry S. Truman High School, which is located at 750 Baychester Avenue in the Bronx. The high school maintains its own separate logbook to record visitors to the school. It is possible that Green failed to sign in on September 4, 1997, and that this failure went unnoticed, or it is possible that she was not there that day.

school officials responsible for investigating Sabrina’s absence, one might expect that she had double the chances of being found. In fact, she had no chance of being found because neither school was looking for her.

To make matters worse, because the A-1 was not prepared by the CSE until September 4th, bus service for Sabrina was not requested until that day. Although school had already begun, transportation was not scheduled to begin until September 15th, well into the school year.²³ Starting that day, Anthony Rinaldo, a driver from Pioneer Transportation, stopped and waited for Sabrina four days in a row. He marked Sabrina absent on all four days and then dropped her from his route, as the rules permit him to do.

Board regulations required that Sabrina remain the responsibility of PS 112 unless and until she appeared at SIE VII.²⁴ However, Sabrina was “admitted” to her SIE VII site by means of a computer entry, even though she never once appeared at the site and bus service for her had not yet begun. This had devastating consequences for Sabrina, because personnel at PS 112 were falsely led to believe that Sabrina was present and accounted for at her new school. This relieved them of their obligation to search for her since, by virtue of her admission elsewhere, she was now dropped from the rolls of PS 112.

²² Chancellor’s regulation A-242, Glossary of Special Education Terms.

²³ According to Richard Langford of the Board’s Office of Pupil Transportation, bus arrangements can be made by fax in cases where there is an immediate need. He added that, in Sabrina’s case, as is the usual practice, transportation arrangements were handled by mail.

²⁴ This was made clear following the death of eight-year-old Justina Morales. Acting upon information from the girl’s mother, the public school she attended removed her from the roster before receiving documentation that she had transferred to another school. Thus, no one looked for her. In fact, she had been murdered by her mother and her mother’s boyfriend.

NO ONE TAKES RESPONSIBILITY FOR ATTENDANCE

Complicating matters, Sabrina's new school, the SIE VII site, was not exclusively controlled by District 75, the citywide special education district; instead, it was a "collaborative site" meaning that both District 75 and Community School District 11 administered the program. One theory behind the collaboration was to allow District 11 special education students to attend school closer to home, rather than being transported to a District 75 facility which could be much further away. In practice, however, at least with respect to attendance procedures, the collaborative effort failed because neither District 11 nor District 75 took responsibility for attendance investigations.

In essence, the attendance procedure at Sabrina's SIE VII school, located at PS 68, was no more than that of a recording device. The individual in charge of taking attendance at the SIE VII site, Crisis Intervention Teacher Valeria Mitchell, had no special education Automate The Schools terminal in which to input data. As a result, she would forward attendance information by telephone to Maureen Londonio, the pupil accounting secretary at PS 168, a special education school which had an ATS terminal. In this way, a child's absence was recorded and entered into the Board's computerized tracking system. However, ATS was not yet automatically producing Form 407. Furthermore, because there was no attendance plan in place for the SIE VII site, no one was responsible for an investigation into the whereabouts of a chronically absent or missing child. Thus, when Sabrina failed to appear at her new SIE VII school, no one looked for her.

Rather than two entities—District 75 and District 11—being responsible for attendance investigations at the SIE VII site, the lack of a formal attendance plan meant that neither was assigned those duties. Neither Susan Erber, superintendent of District 75, Joseph Kovaly, superintendent of District 11, Michael D’Amico, principal at PS 168, the school where attendance was recorded, nor Sharon Reid, the supervisor at Sabrina’s SIE VII school, could reasonably explain why no plan was formulated. In fact, the failure to do so was in direct violation of Chancellor’s regulation A-210 which details mandatory attendance procedures.

The Chancellor’s initiatives on attendance have become well-known to school administrators in the wake of several widely reported cases of children, discussed above, whose failure to attend school went uninvestigated until their deaths made newspaper headlines: Justina Morales, the siblings of Nadine Lockwood, and Quentin Magee. In other words, failure to recognize the importance of the rules has become a lame excuse, given the recent emphasis placed on attendance monitoring.²⁵

Indeed, special education Principal D’Amico is well aware of the Chancellor’s regulations as he has developed and supervised attendance plans in the past. Nevertheless, he did not do so in this case because he did not feel it was his responsibility. He saw his role regarding the collaborative SIE VII site as merely recording the attendance of children, rather than outreach for absent students because, in his view, it was not his job. In fact, Superintendent Erber, head of citywide special education, thought the attendance responsibility fell to District 11. Nevertheless, she

²⁵ See Memorandum of Chancellor Rudolph F. Crew to Superintendents dated February 25, 1997 (Justina Morales, Nadine Lockwood); Memorandum of Chancellor Ramon C. Cortines to Superintendents and Principals dated October 6, 1995 (Quentin Magee).

said, “we were lucky that nothing occurred at [the collaborative site] previously.” By the fall of 1997, however, that luck had run out.

THE MYSTERY OF SABRINA’S ADMISSION: HOW SABRINA WAS “ADMITTED” TO A SCHOOL SHE NEVER ATTENDED

Sabrina never appeared at the SIE VII school at PS 68, yet she was erroneously placed on the roster. Maureen Londonio, the pupil accounting secretary at PS 168 “admitted” Sabrina to the SIE VII program by making a computer entry to that effect on September 10, 1997, the fifth day of the school year. While Londonio denies that she made the erroneous computer entry, there is convincing evidence that she did.

First, Londonio had the computer access necessary to make such an entry, and this was her job. Moreover, Londonio’s user identification code, “Mlondon,” was found on the September 10th admission of Sabrina Green; the computer entry regarding Sabrina was made from her terminal located on her desk; Londonio was at work on September 10, 1997, and no one else was observed using her terminal; and, on that day, ten ATS transactions for students, including Sabrina, were made through Londonio’s computer, under her user identification code. Furthermore, Londonio had Sabrina’s name and student identification number, all she needed to admit her to the SIE VII site.²⁶ Thus, Londonio had both the opportunity and the means to admit Sabrina.

By the fifth day of school, in this case September 10th, Londonio was required to complete a process known as Clearance of Register, which is intended to “identify the status of students who do not report to school at the beginning of the fall term.”²⁷ Five days of absence triggers the process, when all schools must finalize enrollment. To

²⁶ This information was given to Londonio by Valeria Mitchell, the crisis intervention teacher at Sabrina’s SIE VII site. According to an account given to this office by Mitchell, on the very first day of school she gave Londonio the names and identification numbers of all the students expected at the SIE VII program, including Sabrina.

²⁷ Chancellor’s regulation A-241.

accomplish her clearance of register, Londonio merely admitted Sabrina and the other students. What she was required to do, however, was to generate a Form 407 in order to commence an investigation to locate these children.²⁸

A second safeguard exists for special education students. Chancellor's regulations mandate attendance investigations for "no-shows," special education students who fail to appear by the end of the fifth day at a new site, regardless of when during the school year the transfer is scheduled to occur.²⁹ By her action of admitting Sabrina without taking any steps to determine her whereabouts, Londonio not only violated the Chancellor's regulation, she also undermined the purpose of those rules—to ensure the safety of New York City public schoolchildren.

Despite the evidence against her, Londonio strongly denied making the computer entries which admitted Sabrina and the other children on September 10, 1997. When asked under oath to explain how Sabrina suddenly appeared on the register at the SIE VII site, Londonio responded: "It's a mystery."

Later in the investigation, Michael D'Amico provided this office with a computer printout registering Londonio's user identification code and password at a time when she was on vacation. He claimed this would prove that someone else used Londonio's codes.

We reviewed this information with Larry Krobath of the Board's Computer Information Services, and he concluded that this entry was actually made at a computer facility operated by the central Board. According to Krobath, Londonio's user identification code appeared on the printout supplied by D'Amico because it repeated from a previous entry made by her, as she was the last individual to input data into this

²⁸ Chancellor's regulation A-241. See also Chancellor's regulation A-210 6.3.4.

²⁹ Chancellor's regulation A-210 6.3.5. See also Chancellor's regulation A-242 2.2.2.

record prior to the entry made at the central computer facility. At our request, Krobath then examined the entry made on September 10th regarding Sabrina, and he confirmed that it was made at Londonio's terminal under her user identification code and password.

We find that Londonio's testimony to the contrary is unbelievable. It is clear that on September 10th, she admitted Sabrina via her computer. By doing so, Londonio wiped out Sabrina's chances of being looked for by PS 112, and foreclosed the attendance investigation that should have occurred in the process of accurately clearing the register. These keystrokes also negated the computer safeguard implemented by Chancellor Crew following the death of Justina Morales, under which ATS no longer permitted "a transfer/discharge until the pupil has been admitted elsewhere within the public school system."³⁰

MISSING THE FOREST FOR THE TREES: DEBATING WHETHER SABRINA WAS A "NO-SHOW" OR "ABSENT"

Londonio's admission of Sabrina at the SIE VII site should simply have shifted the burden of finding her from PS 112 to that site. However, as stated before, there was no attendance plan for Sabrina's new site. Furthermore, those handling attendance for the site, who were in the best position to do something about her absence, were locked in a futile disagreement about her status—"no-show" versus "absent."

³⁰ See Memorandum of Chancellor Rudolph F. Crew to Superintendents dated February 25, 1997. See also footnote 25. Thus, the Chancellor reinforced already existing regulations which dictate that the transferring school bears responsibility for a student until the child actually enrolls at the receiving school.

Valeria Mitchell, the crisis intervention teacher at the SIE VII site, called in attendance data each day to Maureen Londonio, the pupil accounting secretary at PS 168 who recorded the information. Mitchell considered Sabrina a “no-show,” because she

never appeared at the SIE site, and therefore not her responsibility. However, as a result of Sabrina’s admission to the program via Londonio’s false ATS computer entry, the daily attendance sheets for the program included her name. Sabrina was thus listed on the roster generated for the site each day at Londonio’s computer. Students on the roster were to be labeled “present” or “absent” for each school day.

Because Sabrina was on the roster, each day Londonio demanded to know from Mitchell whether to mark Sabrina present or absent. Mitchell continued to assert that Sabrina was neither present nor absent; she was a no-show because she had never appeared at the school. To Mitchell, it seemed that Londonio should trigger an attendance investigation, given the fact that Sabrina had not yet appeared at the site. Consequently, in Mitchell’s view, Sabrina’s whereabouts were now a matter to be addressed by attendance personnel who, Mitchell believed, had an obligation to search for the child.

Londonio, on the other hand, stuck to her bureaucratic guns and insisted upon knowing whether to mark Sabrina present or absent. To make matters worse, Londonio was erratic in recording Sabrina’s attendance and, by default, the computer marked Sabrina present on some dates, since Londonio had not marked the girl absent.³¹ Ironically, the bigger, and more troubling question—Sabrina’s whereabouts—apparently eluded Londonio.

The disagreement between Londonio and Mitchell escalated to the point that Michael D’Amico, the principal at PS 168, intervened. In recounting the facts, Mitchell and Londonio both recalled D’Amico telling them that “no-shows” should be marked

³¹ In tracking attendance, the system assumes that the student is present unless specifically marked absent.

absent. For his part, D'Amico testified that he settled a general dispute about attendance reporting, but claimed to never have heard of Sabrina Green until after her death.

ATTENDANCE INVESTIGATION LAGS IN SEPTEMBER AS SCHOOLS WAIT FOR NEW COMPUTER TRACKING

The Board of Education has a formal system for tracking absent students—both general education and special education—that relies on school personnel and district attendance teachers doing the detective work. Chancellor's regulations require that a school call a child's home after he or she is unaccountably absent for two days.³² If the absence goes unexplained for a third day, a postcard should be sent to the child's home.³³ After five days, a Form 407, which is an official request for an attendance investigation, must be issued for a special education student, like Sabrina, who has failed to appear at his or her newly assigned site.³⁴ In the days that follow, the school is required to continue making attempts at contacting the home, through additional phone calls or even a home visit by an aide known as a "family worker."

A Form 407 should have been generated on September 10, 1997, after Sabrina failed to appear at school for five consecutive days without explanation. Because of human error or malfeasance, however, it was not. To avoid just such a situation from occurring, an automated system was supposed to be in place by the beginning of the

³² Chancellor's regulation A-242 2.1. See also Chancellor's regulation A-210.

³³ Chancellor's regulation A-242. See also Chancellor's regulation A-210.

³⁴ Chancellor's regulation A-210 6.3.5. In the case of a general education student, a Form 407 must be issued if the child has not returned to school after ten consecutive days of absence. Chancellor's regulation A-210 6.3.1.

school year. Unfortunately, it was not functional until September 29, 1997. On that date, the Board automated the production of Form 407, meaning that the computer would produce the request for an attendance investigation when the requisite number of days had passed.

Unfortunately, this system did not help Sabrina. Although a Form 407 was generated for her on September 29th, no investigation was conducted.

SCHOOL EMPLOYEES POINT FINGERS AT EACH OTHER AS SABRINA'S FORM 407 PROMPTS NO ACTION

Sabrina's Form 407 prompted little meaningful response. Consistent with the failure to have an attendance plan, Maureen Londonio claimed that she never received specific instructions about how to handle a Form 407 for a student at the SIE VII collaborative site.

According to Londonio, she took the Form 407, made two copies, and forwarded the original to Zan Turner, the District 75 attendance teacher assigned to her school. Londonio says that she maintained one copy for her own files, and sent the other copy to the acting supervisor of the SIE VII program, Sharon Reid.

According to Reid, she did not know what to do with the Form 407 for Sabrina, and contacted Londonio. Reid recalls Londonio telling her, ““these are your copies to do as you wish,’ so I’m under the impression these are just an extra set of copies to have for my records.”

Attendance Teacher Zan Turner never conducted an investigation. This was primarily because, according to him, he was not responsible for the collaborative SIE VII

site. Furthermore, Turner claimed he never received a Form 407 regarding Sabrina Green. He testified: “Up until her death, no one, no living soul had come to me and asked me to make an emergency visit or to try and contact this girl.”

Londonio, also testifying under oath, tells a different story. She claimed that sometime during the first few days of October she forwarded Sabrina’s Form 407, along with others, to Turner. Then, according to Londonio, some days later Turner called her and said he was not responsible for investigating Sabrina’s SIE VII site at PS 68. At that point, according to Londonio, she suggested to Turner that he speak to his supervisor to determine who was responsible for attendance investigations at the site. Londonio never followed-up to ensure that the situation was resolved and that someone had responsibility for investigating Sabrina’s Form 407.

Yet, even if Turner had received Sabrina’s Form 407, and assumed responsibility for it, there is reason to believe he might not have been able to perform an effective investigation. Turner testified that, at the time, his caseload was so large he could not possibly give meaningful attention to all of his open attendance cases.

According to Turner, he is expected to make about eight home visits each day, and he does not have a car, making the process all the more time consuming. Turner also testified, “I’m one man and for one man to be responsible for six hundred 407 absentee reports, six hundred different students, is totally unrealistic.”³⁵

SABRINA IS BANISHED TO THE “SAR” LIST

³⁵ Turner’s supervisor confirmed that the teacher had approximately 700 cases during that time period.

On October 10, 1997, at the end of the fifth week of the new school year, Maureen Londonio moved Sabrina onto the list reserved for chronically absent special education students known as the “Special Attendance Register” (“SAR”).³⁶ Once again, Londonio’s action was wrong. In theory, the SAR functions as a holding area for the names of students whose failure to attend their assigned special education program has been investigated without success. In practice, there is a serious consequence attached to moving a student onto the SAR: locating the child is no longer a priority and the student is removed from a classroom teacher’s daily attendance sheet and assigned to a class that exists only on paper. The child remains in this “class” until somehow returned to school or discharged from the system.

However, before a child’s name can be moved to the SAR, “Every possible effort to close the Form 407 investigation should be made....”³⁷ At a minimum, this must include attempts to contact the parents, home visits, and attempts at contacting other sources who may have information concerning the whereabouts of the child. Londonio moved Sabrina onto the SAR list although no steps to find her had been taken. By Londonio’s action, Sabrina’s name was taken off the daily attendance roster and effectively buried on what turned out to be a meaningless list, where it would remain until after her death.

FINAL—BUT FEW—ATTEMPTS TO FIND SABRINA

³⁶ Chancellor’s regulation A-242.4.1.

³⁷ Chancellor’s regulation A-242.

In spite of the missed opportunities and mistakes made, both Maureen Londonio and Sharon Reid made efforts to contact Sabrina's home in the final weeks of the child's life.

Londonio called the Green home on October 31st, and received no answer. When asked why she made this first phone call after Sabrina had already missed two months of

school, Londonio answered that she was merely checking on the students listed on the SAR. According to her testimony, “I just did it then, I don’t know, I just, when I had time I just pulled up my SAR kids and did them.” She claims to have made a second call to the home on November 6th, but again received no answer. On that date, Londonio also sent a postcard to Sabrina’s home.

Sharon Reid also attempted to contact Sabrina’s home, and succeeded on four separate occasions: September 24th, September 30th, October 15th, and finally, on November 6th. However, in her conversations with Green and Darryl Stephens, Reid did not ask questions targeted at uncovering educational neglect or risk of harm to Sabrina. Instead, she was trying to find out whether Sabrina would be coming to the SIE VII site.

During the first telephone call, on September 24th, Reid spoke with Yvette Green who told her that Sabrina was in need of medical attention and would be going to Jacobi Hospital. Reid recalls that, a week later, on September 30th, Green told her that Sabrina was in the hospital. On October 15th, Reid informed Green that the SIE VII program needed documentation proving Sabrina’s admission to Jacobi Hospital. Green promised to provide Reid with paperwork from the hospital, but never did so.

On November 6th, two days before Sabrina’s death, Reid made her final telephone call to the child’s home. Sabrina’s gangrene was certainly life threatening by then. This time Reid spoke with Darryl Stephens, stressing to him the need for written proof that Sabrina was, in fact, hospitalized. Reid recalls the substance of the conversation as follows: “‘I need documentation and I need it, like, now because if not someone will be knocking on your door.’ I said it like that because I don’t want to say, you know, the child welfare bureau is going to be at your door or the truant officer or whatever else, I

just was saying you know, the way today's society is and the way things are going I need some documentation, I need proof...."³⁸ Stephens told Reid the documentation would be provided. It never was.

Two days after Reid's conversation with Stephens, on November 8th, Sabrina was taken by paramedics to Our Lady of Mercy Hospital in the Bronx where she was pronounced dead on arrival. Within a short time, Yvette Green and Darryl Stephens were in police custody, charged with killing the child. The findings of the Medical Examiner reveal that Sabrina was abused over a long period of time, with both old and fresh injuries evident at the time of her death.

ATTENDANCE RECORDS ARE DOCTORED AFTER SABRINA'S DEATH

In the aftermath of Sabrina's death, with senior Board officials beginning to scrutinize attendance procedures at the SIE VII collaborative site, Maureen Londonio changed her attendance entries regarding the child.

Londonio found that she had incorrectly failed to mark Sabrina absent on a number of occasions, which meant that the system, by default, had marked Sabrina present. By the time of her death, it was well known that Sabrina had never appeared at her SIE VII site. Londonio admitted that she changed several entries regarding Sabrina's attendance after learning the child was dead. Londonio claimed that she wanted to make

³⁸ In remarks she made to this office, Reid expressed concern that she may have provoked Darryl Stephens with her final phone call to the Green/Stephens home two days prior to Sabrina's death. Based on the findings of the Medical Examiner, it appears that Reid is mistaken in assuming that Sabrina suffered one swift and brutal beating in the final two days of her life that caused her death. Instead, the autopsy report indicates that a number of Sabrina's injuries long preceded Reid's final phone call to her home, leading to the inescapable conclusion that the child's suffering was lengthy and excruciating.

sure the records would accurately indicate that Sabrina was absent every day. Not surprisingly, by doing so, she covered up her own false record keeping. Londonio told no one other than D'Amico about the alterations, which were discovered by officials at the central Board and immediately referred to this office. Londonio's record tampering undermines her credibility even further.

FINALLY—AN ATTENDANCE PLAN FOR THE COLLABORATIVE SITES

Four days after Sabrina's death, on November 12, 1997, with a media storm raging, District 75 Superintendent Susan Erber and District 11 Superintendent Joseph Kovaly jointly issued a memorandum containing instructions for attendance investigations involving the collaborative site.³⁹

Their memorandum instructed that attendance investigations for these students would be handled by District 11, while the role of PS 168 remained much as it had been: daily attendance communication, and data entry. Form 407 was to be generated at PS 168 and forwarded to the SIE VII site which was responsible for conducting attendance outreach as needed and coordinating with the District 11 attendance teacher. Unfortunately, although only a one page document, the language was convoluted and, therefore, was difficult to understand. In fact, the memorandum did not specifically state who should be looking for a missing child.

However, on October 27, 1998, a new memorandum of understanding regarding attendance procedures at the collaborative site was issued jointly by Erber and Kovaly.

³⁹ A second collaborative site exists at IS 180, also in District 11. The memorandum of instructions covers that site as well.

The SIE VII site was finally given access to the ATS system, so that personnel there can admit and discharge students, record attendance, and generate Form 407. The document further states: “District 11 will be responsible for all functions for these students.”

Though even this latest memorandum does not explicitly state who should conduct attendance investigations, the language suggests that District 11 will assume that responsibility.

FORM 407 IS PRODUCED IN ABUNDANCE BY THE NEW SYSTEM

There appears to be an unforeseen consequence to the new automatic production of Form 407: while reliably generated—an improvement over the manual system—even more forms are produced for an attendance system already having trouble with existing caseloads. In response to this, Board personnel responsible for managing attendance tracking insist that teachers who cannot handle their caseloads should ask for help, and their district will be given extra resources. This is according to administrators Lillian Garelick, the Board’s director of attendance, Vincent Giordano, deputy executive director of attendance, and Neil Harwayne, deputy superintendent of operations. For example, according to Giordano, District 75 needed assistance and has now been given that help, with an increased number of attendance teachers from twenty to thirty-two.

Garelick, Giordano, and Harwayne claim that there are a number of senior attendance teachers who have yet to fully realize the Board’s heightened commitment to improving attendance tracking in the wake of the deaths of Quentin Magee, Nadine Lockwood, Justina Morales, and now Sabrina Green. According to Garelick, an extra 2.7

million dollars would be dedicated to the improvement of attendance monitoring and child abuse prevention in the 1998-99 school year. \$1.7 million of the funds would be divided among the districts for investment in new attendance personnel. Another half million dollars of the money would be spent for a team of attendance personnel who would travel school to school to assist districts in training and technique. And the remaining half million, according to Garelick, would be used for child abuse prevention efforts.

In Garelick's view, the extra money would allow schools to try more innovative approaches to attendance investigations, by using more effectively the services of any available social workers, drug abuse counselors, or school nurses. It is Garelick's goal to achieve more aggressive attendance investigation at the school level, where there is more familiarity with the student and the student's family, during the first ten days of absence. If the student is still missing, the Form 407 is to then be forwarded to an attendance teacher at the district level.

Her views are shared by Giordano and Harwayne, who appear not to be alarmed by the fact that some school districts have only one attendance teacher for as many as twenty thousand students. When asked by this office how many cases one attendance teacher can reasonably be expected to handle, neither Giordano, Harwayne, nor Garelick was willing to state a number. Their unwillingness to do so is troubling, given that a system without such standards or measures of accountability is difficult to evaluate.

It is also difficult to reconcile their upbeat characterizations of the central Board's attendance efforts with the frustration of some district-level attendance personnel as voiced by their union representative and two other attendance teachers interviewed in

connection with this case. According to Garelick, the discrepancy between these points of view should lessen over time, as the districts grow more familiar with the increased volume that comes with automated production of Form 407. Moreover, she predicts that attitudes will change as the districts begin to see results from the resources now being added to the system. It is too soon to tell whether her optimistic projections are on target.

CONCLUSION AND RECOMMENDATIONS

The link between excessive unexcused absences and child abuse is abundantly clear. The cases of Quentin Magee, Nadine Lockwood, Justina Morales, and now Sabrina Green all demonstrate the connection. This should not surprise anyone, because it flows from common sense. Few parents would willfully neglect their children's education. It follows that those who do neglect education would be more likely than caring parents to physically abuse their children as well. Further, child abuse leaves marks, and many of those marks may be visible. Abusive parents often *cannot* send their children to school without risking detection of their crimes.

A few cautionary words: this investigation, and the three other investigations we have mentioned, should not be read to imply that the schools have the sole obligation to protect students from abuse outside the school. Primary responsibility lies with the parents. Inevitably, however, school personnel are in a position to see evidence of abuse more often than other people. Thus, schools play a key role in any child abuse prevention strategy.

The Board of Education is striving to improve school performance in this area. An emphasis on Chancellor's regulations and a computerized tracking system are evidence of this effort. Clearly though, regulations alone will not protect students. To do that, all school employees must recognize the seriousness of the child abuse problem, understand their obligations regarding attendance, and carry out those duties. As our investigation demonstrates, technology alone cannot overcome inept, untrained, or uncaring staff.

We therefore make the following recommendations:

- The Chancellor should require each superintendent to certify that every child for whom he/she bears responsibility is covered by an attendance-tracking plan. No plan was in effect at Sabrina’s SIE VII site, which was to be jointly administered by Districts 11 and 75. An attendance plan is now in place there, but *all children* in the system should be covered by a formal attendance plan. Without such a plan, the safety net evaporates because lines of responsibilities are unclear.

- We urge the Chancellor to use every available opportunity to stress the importance of the attendance function to superintendents, principals, and all employees. They must understand the link between attendance and potential child abuse, and perform their duties accordingly. It should be made clear that failure to perform those duties will result in disciplinary action.

- The computerized attendance system should not be viewed as a remedy for all the defects in attendance tracking and investigation. Nevertheless, since it is a component of the system, information input must be accurate. If data entry errors are common, as they certainly were here, the computer system will not perform its function. We recommend “quality control” checks to test the system’s accuracy and effectiveness. Furthermore, changes to the system should be made, as necessary, to improve its operation.

- The current practice of marking a child present by default unless affirmatively marked absent results in inaccurate attendance tracking. As demonstrated in Sabrina’s case, misinformation disrupts the computerized investigation system which relies heavily on the *consecutive* number of absences for each child. Therefore, we urge the Chancellor to review this procedure.

- Similarly, we urge the Chancellor to make use of the requirement that in the case of a “known truant,” an investigation be triggered by only two consecutive unexcused absences. Chronically absent children must be watched closely. When such a child does not appear at school, there may not be time to wait for the number of consecutive absences to accumulate. Also, the happenstance of a child appearing intermittently should not cause an attendance investigation to be called off.

- According to Board attendance experts, the total number of Form 407s generated inflates the number of children “missing” because some children may have multiple open investigations. Additionally, some cases remain open although the child has been located. While it is understandable that the Board would want to err on the side of caution, its inability to state how many children are actually missing undermines a principle aim of the computerized system: to know how many children in each district must be located. We recommend that the Board develop an accurate tracking system in order to be able to state precisely the number of children who are not accounted for. Without that information, it is difficult to set priorities for the use of scarce resources. Furthermore, attendance teachers must be taught to prioritize their investigations and therefore we recommend that meaningful categories be developed to assist them in that goal.

- Given the problems we have seen with school employees failing to report children to ACS for possible *physical* abuse, it is implicit that *educational* neglect—which might be demonstrated by excessive absences alone—is not being reported sufficiently.⁴⁰ Parents have an obligation to make sure their children attend school

⁴⁰ See N.Y. Social Services Law sections 411 *et seq.* See also, Chancellor’s regulation A-750.

regularly. When they do not, school personnel must learn why and do their part to return the missing child. Therefore, school employees must be held accountable when they fail to report educational neglect to ACS.

The District 11 CSE

This investigation did not initially focus on special education. But in looking closely at what mistakes were made with Sabrina, we have little confidence in the District 11 CSE to carry out its function. The CSE made errors at virtually every opportunity. For example, there was no need to delay the special education evaluation for four months while waiting for Yvette Green's guardianship to be legally established. As a result of this error, Sabrina wasted her third grade year in a class where she could not cope. Further, if the evaluation had been conducted earlier, Sabrina could have been in her SIE VII program *before* the 1996-97 school year ended. There is no way of knowing if this would have changed Sabrina's ultimate fate, but the sooner she received more individual attention, the sooner she could have made educational progress.

The CSE's failure to finalize Sabrina's special education placement before the start of the 1997-98 school year is troubling. Worse, the computer entries regarding her placement are false. The implementation of a child's special education needs requires planning *before* the child arrives. Failing to do so affected not only Sabrina, but other children in special education as well.

We therefore recommend the following:

- We urge the Chancellor to evaluate the performance of the District 11 CSE, and determine whether personnel and/or operational changes need to be made. The failures

we found were egregious, and those in charge of the CSE should not be allowed to escape responsibility. The pattern of error was so consistent that we view the CSE as dysfunctional. In making this recommendation, we are thinking not only of Sabrina, but also the current and future special education students in the district.

Specific Personnel Actions

- **Susan Erber, Superintendent of District 75**
- **Joseph Kovaly, Superintendent of District 11**

As Superintendents, Susan Erber and Joseph Kovaly bear the responsibility for the failure of their Districts to coordinate their efforts at the SIE VII collaborative site. Jointly they share the blame for not developing an attendance plan at the site and, ultimately, for failing to investigate Sabrina's absences. Without such a plan, employees from both districts chose to disclaim responsibility. The shirking of responsibility by personnel involved with the site, and the foolish bickering it engendered, reflect poorly on the Districts' leadership. We recommend that the Chancellor take appropriate disciplinary action against the two superintendents.

- **Michael D'Amico, Principal of PS 168**

Michael D'Amico chose to disclaim attendance investigation responsibility for the SIE VII collaborative site instead of taking charge. Although he was aware that the two individuals involved in handling attendance for the site—Mitchell and Londonio—were in a daily heated dispute over the procedure, he never asked if a particular child was the subject of their arguments or if a child was missing. This failure of leadership was costly at the critical moments in the fall of 1997. We urge the Chancellor to take appropriate disciplinary action against D'Amico.

· **Maureen Londonio, Pupil Accounting Secretary at PS 168**

The evidence supports the conclusion that Londonio made the false attendance entry that effectively took Sabrina off the PS 112 radar screen and placed her on the rolls of the SIE VII site. This effectively sabotaged the Chancellor's recent attendance reforms and allowed the recurrence of the Justina Morales tragedy. Furthermore, we find that Londonio was not credible in her explanations to this office. Finally, she altered attendance documents after Sabrina's death. We ask the Chancellor to take strong disciplinary action, which might appropriately include termination of her employment.

· **Valeria Mitchell, Crisis Intervention Teacher at SIE VII**

Mitchell engaged Londonio in the "absent" versus "no-show" debate. Given her title, one might hope that she would recognize that Sabrina's failure to appear at *any* school was a cause for alarm. Instead, she focused on bureaucratic lines of responsibility. We urge the Chancellor to take appropriate disciplinary action against Mitchell.

· **Helen Saarinen, District 11 CSE Placement Officer**

Helen Saarinen readily admits that she entered erroneous information into the computer system regarding attempts by the District 11 CSE during the summer of 1997 to place Sabrina in special education. Her explanation is that she did so accidentally. Nevertheless, Saarinen holds an important position within the special education process and her actions falsified records regarding compliance with the Chancellor's regulations. We therefore recommend that appropriate disciplinary action be taken against her.

***AN INVESTIGATION INTO THE DEATH OF SABRINA GREEN:
HOW THE SCHOOL SYSTEM FAILED HER***

TABLE OF CONTENTS

INTRODUCTION	3
Failure to Take Attendance Tracking and Investigations Seriously.....	5
Automated Attendance Tracking and Investigations	6
The District 11 Committee on Special Education.....	9
After Sabrina’s Death.....	10
BACKGROUND.....	11
SABRINA’S LIFE AFTER THE DEATH OF SYLVIA SIMMONS.....	13
SABRINA ENTERS PUBLIC SCHOOL 112 AND IS REFERRED TO SPECIAL EDUCATION	14
SABRINA’S FIRST REFERRAL FOR SPECIAL EDUCATION GOES NOWHERE..	15
NO RETURN TO RITALIN.....	19
SABRINA IS FINALLY EVALUATED FOR SPECIAL EDUCATION.....	20
THE SBST RECOMMENDS SABRINA FOR SPECIAL EDUCATION	23
A WASTED YEAR ENDS IN FAILURE FOR SABRINA.....	24
SUMMER 1997: THE CSE DROPS THE BALL.....	25
FALSE COMPUTER ENTRIES HIDE THE CSE FAILURES.....	27
THE FIRST DAY OF SCHOOL: SEPTEMBER 4, 1997	29
SABRINA IS ENROLLED AT TWO SCHOOLS BUT ATTENDS NEITHER.....	30
NO ONE TAKES RESPONSIBILITY FOR ATTENDANCE	32

THE MYSTERY OF SABRINA’S ADMISSION: HOW SABRINA WAS “ADMITTED” TO A SCHOOL SHE NEVER ATTENDED.....	35
MISSING THE FOREST FOR THE TREES: DEBATING WHETHER SABRINA WAS A “NO-SHOW” OR “ABSENT”	37
ATTENDANCE INVESTIGATION LAGS IN SEPTEMBER AS SCHOOLS WAIT FOR NEW COMPUTER TRACKING	40
SCHOOL EMPLOYEES POINT FINGERS AT EACH OTHER AS SABRINA’S FORM 407 PROMPTS NO ACTION	41
SABRINA IS BANISHED TO THE “SAR” LIST.....	42
FINAL—BUT FEW—ATTEMPTS TO FIND SABRINA.....	43
ATTENDANCE RECORDS ARE DOCTORED AFTER SABRINA’S DEATH	46
FINALLY—AN ATTENDANCE PLAN FOR THE COLLABORATIVE SITES	47
FORM 407 IS PRODUCED IN ABUNDANCE BY THE NEW SYSTEM	48
CONCLUSION AND RECOMMENDATIONS	51
The District 11 CSE.....	54
Specific Personnel Actions.....	55
Susan Erber, Superintendent of District 75.....	55
Joseph Kovaly, Superintendent of District 11.....	55
Michael D’Amico, Principal of PS 168	55
Maureen Londonio, Pupil Accounting Secretary at PS 168	56
Valeria Mitchell, Crisis Intervention Teacher at SIE VII	56
Helen Saarinen, District 11 CSE Placement Officer.....	56