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## SACRAMENTO STATE – Department Of Public Policy & Administration

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### **The Death of Marchella Pierce: Collaboration, Conflict and Accountability in Child Protective Services**

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Marchella Pierce's life ended on the morning of September 2, 2010 in Brooklyn, New York. Her mother, Carlotta Brett-Pierce, found her unresponsive, her hands cold. When the police arrived at the apartment they found twine still tied to the headboard of the toddler bed where Marchella slept, and a video tape case, encrusted with dried blood that had been used to beat her. They found marijuana and crack, which neighbors would say Carlotta used regularly.

The shocking nature of the death would unleash a demand for public accountability, triggering investigations, resignations, accusation and counter-accusation between contractors and the government charged with her care, and ultimately the prosecution of two social workers.

#### **Entering State Supervision**

Born 15 weeks premature, Marchella faced significant health problems. Her underdeveloped lungs required a tracheal tube to breathe. She spent her first year in an extended care facility. For the rest of her life, she divided her time between hospitals and long-term care facilities and living with her mother and grandmother, along with Carlotta's grandmother, aunt, and two cousins in a small apartment.

In April, 2009, Marchella spent nearly 10 months at the Northwoods Rehabilitation Facility in Niskayuna, north of Schenectady, over one-hundred-seventy miles from home. Her parents would visit her at times, taking a cab from Brooklyn. While Marchella was at Northwoods, Carlotta became pregnant for a third time. During the pregnancy, she tested positive for marijuana and was reported to the Statewide Central Register, New York's database of child abuse and neglect. Carlotta's case was assigned to Child Development Support Corporation (CDSC), which was tasked with providing drug treatment, testing, and home visits. Marchella returned to her mother's care in February, 2010. A month after the move, she returned to the hospital. Her tracheal tube was malfunctioning and she was having trouble breathing. Doctors tried to show Carlotta how to clean the tube but found her indifferent to the task. They were concerned enough to place a call to the Statewide Central Register. New York City's Administration for Child Services (ACS) sent an investigator to the home the next day. The investigator raised concerns about Marchella's home and her family, but ACS did not follow up.

## **The Nonprofit: Child Development Support Corporation**

Carlotta had been referred to CDSC, a Brooklyn-based non-profit, for drug treatment. CDSC served families in three needy communities – Bed-Stuy, Fort Greene, and Clinton Hill – providing drug treatment, a Head Start center, employment programs, and a food pantry, among other community services. While New York City was ultimately responsible for the wellbeing of the children in ACS supervision, a broad coalition of nonprofits provided services to at risk children and families.

The city’s contract with CDSC specified that contractor caseworkers were to contact families two to three times a week for the first four weeks after a referral, or until the client achieved sobriety. But even when a client had been referred to the contractor by the city, the terms of the contract stipulated that services were strictly voluntary. Carlotta could not be compelled to comply with the treatment.

In the seven months that Carlotta was under the supervision of CDSC, there is little record of her or Marchella, or either of her sons, having been seen by CDSC caseworkers. CDSC did not report to ACS that children were not being adequately cared for. Contractors could call a formal conference to raise concerns with ACS if they saw children to be at risk, and CDSC never used this tool at key points such as when Marchella was discharged from medical care, or when Carlotta failed drug tests. Nor did they make a State Central Registrar report on Carlotta’s continued use of drugs.

## **The City: Administration for Child Services**

While CDSC was given primary oversight of the case, ACS was still obligated to monitor the family. The ACS and CDSC were expected to collaborate as part of the New York City’s stretched child protective services network. At ACS, the case fell under the responsibility of Chereece Bell. Bell, a ten-year veteran who supervised the Hospital/Sex Abuse Unit of ACS’s Zone B, a region that encompassed Bed-Stuy, Bushwick, Williamsburg, and Greenpoint.

Bell pushed herself and her workers hard. She compiled family histories, assigned cases, and decided how a caseworker should proceed with a family. In the past, the unit had had a second supervisor. While Bell had asked for additional help, she was left to manage the supervision herself. She oversaw four or five caseworkers, each responsible for as many as twelve open investigations and many more cases going through the courts. Bell’s unit might be responsible for the welfare of as many as 400 children at a time. She pressed her employees on the need to document their contacts with families. “Don’t you think you should go make a visit to that family tonight,” she would ask, “you’re not going to make me lose my job.” Many would stay until seven or eight at night, and then would continue the work from home. Yet, they were often weeks behind on paperwork. The pace never relented.

## **The Last Year**

Carlotta had been enrolled in CDSC’s drug treatment program since November 2009. While the family was under the nonprofit’s supervision, CDSC fell well short of their contracted standards for contacting Carlotta: from the time Marchella returned to her mother’s home in February 2010 through June of that year, CDSC reported three home visits where Marchella was seen. On one of these visits, near the end of February, CDSC’s caseworker recorded that Carlotta was not complying with the drug treatment. But CDSC did not notify ACS or the statewide central registry. The communication that the network was built to provide was not happening. Days later, Carlotta would bring Marchella to the hospital for breathing problems.

Cases assigned to Bell's unit – those that involved children who had been admitted to the hospital, like Marchella, and victims of sexual abuse – were among the toughest that ACS was responsible for. Yet compared to the rest of these cases, Marchella's didn't seem out of the ordinary. "In comparison to all the others, that case did not jump out at me. . . . That was not the one that I was afraid something would happen," Bell would later say. Marchella's case only noted that she had been hospitalized. The call from hospital officials after Carlotta's visit had been referred to ACS as an "additional information" call – one which reported an update to a family's file, rather than reporting a new case of abuse or neglect.

The nature of the phone call would turn out to be pivotal. "Additional information" calls did not require that supervisors open a new investigation; the choice lay with Bell. On the decision of whether or not to open an investigation, one caseworker claimed, "you ask yourself, if I don't do a visit, will this child die?" As far as Bell knew, nothing about the call seemed any more troublesome than any other call that came in to her office. She asked caseworker Damon Adams to pay the family a visit.

When Adams asked Carlotta about the hospital visit, she told him that she already knew how to operate a tracheal tube, and she was agitated because Marchella was hungry and she had to return home to her other children. The explanation seemed reasonable to Bell. Adams's report raised questions about Carlotta's parenting ability but Bell declined to open an investigation— after all, CDSC was already supervising the family due to Carlotta's drug use, and there was no allegation of the type of abuse that was common in many of Bell's cases. ACS still maintained an open case on the family, but without a formal investigation, Adams was not required to file regular reports or visit as frequently. In an overburdened ACS unit, the presence of CDSC helped make the workload manageable.

At the end of the CDSC contract, Damon Adams was the only caseworker monitoring the family. Adams, who had graduated with a Masters from Tufts University, had worked for ACS for four years. When profiled by the Tufts student paper as a 20 year old, Adams described his plans to "go back to my old neighborhood and maybe work as a social worker, to help underprivileged kids." Adams's imposing figure – he stood over six feet tall and had been captain of his college football team – disguised a tenderness and an ability to connect with the traumatized children. Families praised him for his warmth and dedication. Long after their cases were closed, parents would continue to call Adams for advice and children would sneak into the office to play with him.

When the call came that Marchella was dead, ACS began a process that caseworkers dread. Senior officials started to sort through the documentation on the case since it had first come to the city's attention, nearly a year before. They needed to understand if the proper protocols had been followed, and if any caseworkers had failed to do their job.

Bell remembered that every time she had asked Adams about the Pierce family, he told her that he had just visited the family, that they were eating dinner, that everything appeared normal. When Bell received the phone call, she immediately asked Adams about the case. He told her that he had done five home visits since Marchella and Carlotta's March visit to the hospital that had brought the family to ACS's attention. He had recorded these visits – on March 3rd, April 6th, June 9th, July 23rd, and August 12th – in ACS's computer system. But his handwritten case notes didn't mention any of these visits and only contained a few scant details on Marchella's case. There were almost no notes from Bell.

The lack of supporting documentation raised the question of whether the visits had actually happened. Without such evidence, Adams's word was insufficient. Bell would often remind her caseworkers that "if it isn't written, it didn't happen." Caseworkers privately complained that ACS leaders cared more about paperwork than home visits. But even if ACS officials believed Adams about his reported visits, it was still clear that five visits in six months fell far short of ACS standards.

### **Blame and Accountability**

The day after Marchella's death, the New York Daily News headline read "Child Death Horror. B'Klyn Girl, 4, Weighed 15 Lbs. and May Have Been Tied to Crib." A spokesperson for ACS pointed out that Marchella's case had been assigned to CDSC and that the non-profit failed to visit the family two to three times each week, as was legally required. A pattern of blame shifting – from ACS to its contractor, and back again – had begun.

Early reporting would soon shift from ACS's failures to CDSC's. On September 8th, the New York Times published an article, titled "Audit Assailed Group Hired to Aid Family in Abuse Case," that detailed a scathing 2008 New York City audit of the non-profit. In addition to CDSC's failure to make required visits to the families under its supervision, the article described how the contractor could not show whether or not individuals under supervision had passed drug tests, or even whether or not its own employees had passed criminal background checks. The audit of CDSC revealed that it had been unable to show that it had "helped families obtain the preventive services needed to become stabilized so that the children are not placed in foster care."

### **Agency Reforms**

ACS also announced a series of reforms. The agency investigated ways to better monitor its contractors' compliance with agency rules, including better monitoring and enforcement mechanisms. ACS pointed out that while CDSC had been placed on "corrective" status after its 2008 audit of the contractor, the agency had had no indication that CDSC's performance had been so negligent.

In sum, the ACS argued that errors by two caseworkers and the negligence of the contractor were to blame for the Marchella's death – not agency-wide failures. At the same time, it put in place new caseworker procedures and contractor policies to prevent future tragedies. The ambiguity of their response invited further investigation. New York's Public Advocate (and later Mayor) Bill de Blasio stated that "the suspension of [Adams and Bell] reinforces concerns about whether ACS's handling of cases and lack of resources have left thousands of children in jeopardy." Child advocates pointed out that the reforms the agency had instituted after the death of Nixzmary Brown had the unintended effect of overburdening ACS caseworkers. "It was inevitable that families were going to get lost in the shuffle," said one child welfare advocate.

### **Legal Accountability**

Soon after Damon Adams and Cherece Bell were suspended without pay they were forced to resign from ACS. Bell had been warned countless times that "you're only as good as your last case." While her diligence had won her promotions, awards, and supervision of the toughest cases, it offered little protection now. Adam's approach to child services casework – one that focused on connecting with children but neglecting documentation and paperwork – won him praise from families, but made him appear negligent to investigators.

In July of 2011 Mattingly resigned after 7 years as head of ACS. He received generally positive reviews from child welfare advocates for reforms he had pursued after the death of Nixzmary Brown. During his tenure, he presided over the hiring of 600 additional caseworkers. The turnover rate among caseworkers dropped. But the deaths of children like Brown and Pierce defined his tenure. “I think he was so personally affected by the horror-story cases that he lost sight of the fact that the majority of the cases are not horror cases,” said one child advocate.

While Mattingly could retire, the prospects for Bell and Adams were grimmer. They soon became the focus of a legal investigation. Their union organized a protest outside their offices and in front of the District Attorney’s, chanting “Stop the blame,” “Who’s next?,” “The D.A. doesn’t know.”

As the Brooklyn D.A. investigated failures and lapses at ACS, people within the agency questioned such an approach. Would a cop be arrested for arriving too late to the scene of a crime? But public outrage demanded a response. The fact remained that Adams could not prove that he had visited the Pierce family in the six months between the end of CDSC’s contract and Marchella’s death. Bell had almost no documentation on the family. And so, on March 22, 2011, Bell and Adams were arrested.

The District Attorney charged Bell and Adams with criminally negligent homicide, saying “baby Marchella might be alive today had these ACS workers attended to her case with the basic levels of care it deserved.” Bail was set for each of them at \$25,000. Six months after they had left the agency, they were news again, featured everywhere from local TV to the New York Times. The DA’s case centered on the argument that the caseworkers should have acted on the danger signs. Bell should have launched a full investigation after the call from the hospital. Adams was alleged to have falsified visits: if he had made them, surely he would have seen Marchella’s dire condition. These were the same failings identified by ACS itself, but now elevated to criminal behavior.

Meanwhile CDSC continued to operate and received public funding for programs such as Head Start childcare and food pantries. None of its employees faced legal action. In the months after Marchella’s death, the only indication of the tragedy that appeared on the contractor’s website was the removal of any mention of drug testing or preventative treatment.

The grand jury impaneled for the case was much less sympathetic to the ACS than the Children’s Services Planning Group report. The grand jury report charged that 11 children had died under ACS supervision because of agency failures. It argued that little new funding was needed, but called for the agency to drop a distinction between “social work and law enforcement investigatory standards and techniques.” The emphasis on investigations echoed changes made after Nixzmary Brown’s death, which had led caseworkers to complain they were doing less and less actual social work.

In December of 2013, Bell and Adams took plea deals. The felony charges were dropped, and they instead accepted misdemeanor charges of endangering the welfare of a child, with Adams also pleading guilty to falsifying records and official misconduct. They faced community service, and the prospect that the case would be sealed if they were not re-arrested. Adam’s lawyer described the pleas as a “fiction to accomplish a goal” and a way to save face for a DA that had overreached. Bell remained silent when the judge first asked her how she pled in the case, quietly offering a guilty plea only after being asked a second time.