

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
OF FLORIDA IN AND FOR THE COUNTY OF MIAMI-DADE

FINAL REPORT  
OF THE  
MIAMI-DADE COUNTY GRAND JURY

FALL TERM A.D. 2002

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FILED  
August 7, 2003

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**SCHOOL BOARD OF MIAMI-DADE COUNTY PUBLIC SCHOOLS: ISSUES,  
POLICIES AND PROCEDURES**

**I. INTRODUCTION**

**As we deliberated over an investigative topic for our Grand Jury term, we discussed several issues that we thought would have a major impact on Miami-Dade County and its citizens. When all was said and done, we decided that addressing issues involving the Miami-Dade County Public School (“M-DCPS”) would be the most beneficial topic for our community. Coincidentally, the week after we voted to look into M-DCPS issues the Miami Herald began a weeklong series of articles detailing various problems and inefficiencies within the M-DCPS. The newspaper series targeted problems ranging from school overcrowding and multi-million dollar cost overruns to shoddy construction and design flaws. Rather than repeat the recent work of others, we decided to target our report and recommendations to four specific areas:**

1. Fire and Life Safety Issues in our Schools;
2. Nepotism and Hiring practices;
3. Ethics and the Ethics Advisory Committee; and
4. “Double-dipping” of Salaries by M-DCPS Employees who are also Elected Officials

Prior to addressing these four areas, we would like to make some general comments and observations regarding the M-DCPS system. As part of our investigation, we heard from a number of witnesses including the Superintendent, his Chief of Staff, the Chairman of the School Board of M-DCPS, a member of the Ethics Advisory Committee and other Department Heads within M-DCPS. The Superintendent advised that when he was appointed in October of 2001 he inherited a school system that was hobbled by two basic flaws: 1) paranoia and fear were the emotional foundations upon which the system ran and; 2) the bureaucracy and its daily business culture allowed bad principals and weak teachers to proliferate. We are pleased that he and his team have recognized the significance of these issues. We are also greatly encouraged that he has had the courage to attempt the significant changes needed to focus our school system on its most important and primary mission – the education of our children.

In that regard, during our term the Superintendent unveiled a major operational overhaul of the school system. He has trimmed away at the layers of bureaucracy and, with his

restructured administration, is trying to create an environment where mediocrity is no longer an acceptable standard for employees of M-DCPS. As he reported, his goal is to take this “Educational Delivery System” and move it from “good” to “excellent”! We applaud him on his efforts. We also believe that the recommendations contained in this Grand Jury Report will assist in achieving those goals.

In accordance with the sentiments and expectations of the Superintendent, we too believe that the School Board and M-DCPS should focus its attention and resources primarily on “the educational delivery system,” in other words, educating our children. We encourage the School Board to strongly consider devising a new process for getting schools constructed, one that would actually employ and utilize persons specifically trained in those areas. We were troubled when it was reported to us that under the present system, school principals and other district staffers have the power and authority to repeatedly issue “change orders” on construction projects. Anyone familiar with construction issues quickly recognizes that such authority inevitably results in significant cost overruns and lengthy construction delays. Surely our Miami-Dade County Public School principals and constructions staffers are not trained, nor do they have sufficient knowledge, to be able to effectively and efficiently exercise such extraordinary power and control over the construction process. Faulty construction, significant delays in getting projects completed and cost overruns exceeding \$100 million are testaments to the failures of this present system. It must be completely revamped. In other words, we believe M-DCPS should get out of the school construction business.

We will now address the four topics that are the focus of this Grand Jury Report.

## **II. FIRE AND LIFE SAFETY ISSUES**

*By the simple process of watching television news programs and reading the newspapers, this grand jury began its term fully aware that the administration of our Miami-Dade County School System was beset with many problems. Too many hunts, by too many people, foretold that all was not well within this huge bureaucracy consisting of more than 300 schools, over 35,000 employees, and a budget of almost \$4 billion.*

*Having become aware of our predecessor Grand Jury’s Report, and having heard from numerous witnesses during our term as Grand Jurors, we are cognizant of the numerous problems with which our school system is confronted. We appreciate the difficulties faced by the Miami-Dade County Public Schools District Administration (hereinafter referred to as the “District”) in administering a system as large and as diverse as ours, and the enormity of the task in solving these problems.*

Final Report Of The Miami-Dade County Grand Jury Part 1, **Inquiry Regarding: Miami-Dade County Public Schools: Fire Safety And Capital Construction**, Spring Term A.D. 2000.

These two paragraphs served as the introduction to the Final Report of the Spring Term A.D. 2000 Grand Jury. In light of events over the past year it also could very well have served as the introduction to this Grand Jury Report. The Spring Term 2000 Report covered fire safety issues, looked at capital construction projects, primarily the delays attendant thereto, and reviewed some questionable land deals. Although we still face some of the same problems addressed in that report, we are happy to report that the School Board and M-DCPS have made significant improvement in the area of Fire and Life Safety Issues.

The Spring Term 2000 Report was highly critical of M-DCPS and the School Board for their repeated failures to address or correct the longstanding repairs that created numerous fire related safety issues in many of our public schools. The 2000 report also left the Grand Jurors with a strong sense that the testimony of some witnesses was intentionally misleading. It was believed that the purpose was to create a highly favorable impression of how the School Board and M-DCPS were dealing with these problems.

What are life and fire safety hazards? The State Requirements for Educational Facilities (“SREF”) provides that life safety hazards include conditions such as:

“...non-functional fire alarm systems, non- functional sprinkler systems, doors with padlocks, or other locks or devices which preclude egress at any time, inadequate exits, hazardous electrical systems, potential structural failure, and storage conditions which can create a fire hazard.”

Chapter 5, Section 5, SREF. Life safety hazards are such a danger that the SREF guidelines provide that the building (educational facility) should not be used until the serious life threatening hazards are corrected.

Surely, M-DCPS and the School Board would not knowingly subject our children to an environment that potentially threatened their lives every day they went to school.

The Spring Term 2000 Report chronicled and highlighted many concerns of our predecessor Grand Jury, including the following:

- Fire Marshals of Miami-Dade County and the Cities of Coral Gables, Hialeah, Miami Beach and Miami each conducted inspections of schools within their jurisdictions and found numerous serious life safety hazards. SREF guidelines mandate that such

hazards require prompt corrective action. Alternatively, the schools should not be used until the hazards have been corrected.

- Months later, when the Fire Marshals returned to the schools, the overwhelming majority of the life safety hazards had not been corrected.
- Many of the life safety hazards persisted for years at some of the schools although they could have been easily corrected. For instance, an electrical outlet that has too many extension cords running from it, numerous power strip adapters plugged into one extension cord, blocked exits, and illegal storage of materials in stairwells and classrooms. Many of these conditions went uncorrected for years.
- Violations discovered by the School District's own fire inspectors would be reported year after year without correction. The most serious violations were to be attended to within 24 hours.
- The School District did not have a mechanism in place to do follow-up inspections after a violation was found.
- The School District did not have a procedure in place to make sure that violations were remedied in a timely fashion.
- The life safety hazards in some of the schools were so life threatening that had the violations existed in any location other than a public school, the building would have been shut down by the Fire Marshal!<sup>1</sup>
- Many of the fire safety hazards were able to be corrected by simple maintenance. They were not corrected.
- One of the high schools cited in the report had a non-functioning fire alarm system. The system had not been operational since 1989. The principal, who complained about the problem for six years, was told the system was out-dated and there were no available parts to fix it. More than 10 years later, on the night before the Grand Jury was to make a scheduled visit to the school, the District Staff sent a fire alarm repair company to the school. The alarm system was not operational at the time of the Grand Jury's visit, however, two days later (and ten years after the condition was initially reported) parts for the alarm system were found and the system was operational again.
- Notwithstanding all the aforementioned accounts, District Staff sent a memo to the School Board that they did not believe any serious life safety hazards existed in any Miami-Dade County School. District Staff opined that the items were mere code deficiencies. The Grand Jury found that to be an "alarming misrepresentation of the safety status of our school".

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<sup>1</sup> Public safety in our public schools was governed by SREF under the supervision of the Florida Department of Education. Effective July 1, 2002, a new law (HB 443), passed during the 2002 legislative session, charging the State Fire Marshal with ensuring that schools and other educational facilities are inspected annually for compliance with Florida's fire safety standards, and that prompt corrective action is taken when a public school is found to be unsafe. The local fire official is charged with enforcing the state's fire safety standards.

After reviewing that portion of the Spring Term A.D. 2000 Grand Jury Report, we were more than a bit concerned over whether there had been any improvements to the system. We also needed to find out whether our children attending our public schools were still endangered by life and fire safety hazards. We decided to call two witnesses who had testified in connection with the Spring Term 2000 Grand Jury Report; Alfredo Suarez, Fire Marshal, and Jaime Torrens, Supervisor of the Safety Department for M-DCPS.

In the past, Miami-Dade County Fire Marshal Alfredo Suarez identified himself as one of M-DCPS's worst critics. His Department is responsible for 218 of the 340 public schools located in Miami-Dade County. Suarez acknowledges that many of the schools are old and overcrowded. In fact, as a result of overcrowding alone, he opined that every school under his jurisdiction is probably in violation due to the number of students attending each school. However, he commends the District on the drastic improvements that have been made in identifying and correcting violations. Fire Marshal Suarez also reports that there has been a complete turn around in M-DCPS's cooperation and responsiveness to complaints.

Fire Marshal Suarez and the other local Fire Marshals characterize violations as either "Operational" (storage problems, blocked exits, faulty wiring and improper use and overloading of extension cords and electrical outlets) or "Infrastructure" (installation or construction of fire walls, creation of secondary exits from classrooms, installation of sprinkler and/or fire alarm systems). M-DCPS has come a long way in correcting the Operational violations in a timely manner. Fire Marshal Suarez believes this record could get even better with implementation of a compliance plan. This is the mechanism used in the private sector to ensure that violations are completed in a timely manner. The compliance plan and compliance report incorporates a step process. The least expensive and most correctable problems get done first. Although this system has proved most successful in the private sector, the School Board has indicated a reluctance to enter into such compliance agreements. We encourage them to do so.

Jaime Torrens echoed the sentiments of Fire Marshal Suarez; there have been significant changes made at M-DCPS regarding how it deals with life safety and other SREF violations. Mr. Torrens also volunteered that the Safety Department's performance has improved primarily due to the focused attention of the local Fire Marshals.

The M-DCPS Safety Department presently has seven inspectors who are responsible for 340 schools. The department has had seven inspectors for years. The Safety

Department has requested two additional inspectors in hopes that the Department's two "lead inspectors" would be allowed to focus on follow-up inspections. Mr. Torrens testified that the primary function of the Safety department is to conduct annual safety inspections at the schools. Inspectors prepare a report when a school inspection is conducted. The reports are forwarded to the principal of the school and the School Board. There are three categories of deficiencies, which are set forth in the inspection reports:

1. Capital Deficiency – (such as installation of a new alarm system or construction of fire rated walls in existing structures)
2. Maintenance Deficiency – (such as burned out lights in an exit sign)
3. Operational Deficiency – (such as improper storage or blocked exits)

The reports cover both sanitation and casualty issues.

At the time of his testimony, Mr. Torrens advised that there were approximately 20,000 pending violations. Of those, more than half had probably been pending for more than a year. However, under the present system "immediate dangers" are now addressed immediately. The budget for maintenance related deficiencies alone is one million dollars per year. Fire Marshall Suarez and Mr. Torrens agreed that many of the outstanding (and longstanding) violations represent capital deficiencies. They are big-ticket items that will not be completed without being part of a major capital improvement at the affected school.

We are pleased at the major improvement that has taken place regarding life and fire safety issues. Unfortunately, however, many of the major repairs pending funding are for serious deficiencies such as inoperable fire alarm systems. Suarez reports that six (6) schools are left to operate under a fire watch system - - -they do not have a fire alarm system. In such affected schools, M-DCPS has a Fire-watch program. Pursuant to that program, trained individuals are given radios to patrol the school grounds and facilities. Specifically, they are "watching" for fires. When a fire or other emergency is observed, the fire watcher calls in on the radio, the alarm is sounded and emergency assistance is dispatched to the school. As was reported in the Spring Term 2000 Grand Jury Report, more than 6,000 school structural fires are reported every year in the public and private elementary and secondary schools across this country. This county has been blessed that, notwithstanding years of neglect, abuse and complacency, we have not suffered a loss of life from a fire at any of our public schools.

Indications of M-DCPS’s major compliance improvements are reflected in the chart below. The chart depicts initial inspections conducted at three different high schools in the South Miami-Dade area. It compares the number of violations initially recorded against recent inspections and Final Notices of Violations that reflect uncorrected violations.

INSPECTION	SCHOOL	INSPECTION RESULTS	FINAL NOTICE ISSUE	INSPECTION RESULTS
April 27-28 & May 2-3, 1994	South Dade Sr. High	239 violations	July 19, 2001	4 violations
November 16, 2000	Miami Sunset Sr. High	28 violations	January 17, 2001	9 violations
June 1, 1989	Miami Killian Sr. High	93 violations	October 26, 2003	9 violations

As previously stated, the overwhelming majority of the uncorrected violations (many of which have existed for years) relate to significant repairs such as providing a fire alarm system, installing an automatic sprinkler system throughout a building or providing secondary means of egress from second floor classrooms. It will require lots of money. Fire Marshal Suarez and Mr. Torrens recognize that money is now the major impediment to getting many of the remaining violations corrected. The majority of those uncorrected violations are Infrastructure in nature -- construction projects pending for years awaiting funding. A science lab in a senior high school using butane gas with no sprinkler system is not an ideal situation. However, as dangerous as that scenario maybe, it is not the type of problem that can be fixed over night.

This Grand Jury is mindful of the present funding crisis and construction debacles affecting the M-DCPS system. However, we think the School Board should make it a top priority to have fire alarm systems operable in all of the public schools by the end of this calendar year. We suggest they start this process by analyzing the work orders pending at every school where fire watch programs are still in use. Again, we commend the M-DCPS for its success in this area. The Grand Jury believes that there are still improvements to be made and therefore, we make the following recommendations.

**RECOMMENDATIONS**

- 1. To assist in efforts to ensure compliance with life safety and other SREF violations, we urge M-DCPS to adopt a Rule or policy requiring the District to enter into Compliance*

*Agreements with our local Fire Marshals. The Compliance Agreement will set forth a time frame for getting violations corrected and will also set out consequences for failure to adhere to the guidelines.*

*2. Under the present system there is no requirement that building plans for new construction or refurbishing of public schools in Miami-Dade County be submitted for review to the Fire Marshals. We understand that such a requirement does exist for private schools. This Grand Jury feels that such an exemption is a major problem needing correction. In that regard, we recommend that M-DCPS adopt a Rule or policy requiring the District to submit to the local Fire Marshals for review all building plans for newly constructed schools.*

### **III. NEPOTISM AND HIRING PRACTICES**

Early in our term, we read a newspaper article describing the arrest of a principal at one of our middle schools who was found to have hired her son to work on a part-time basis at the school where she was working as principal. She did this on two separate occasions, at two different schools. Each act was a violation of School District rules. No one at either school reported the violation to District Staff or the School Board. The principal authorized payments to her son for hours worked, including hours allegedly worked when the school was closed and locked-up. These discoveries were uncovered pursuant to audits conducted at both schools. In addition to these problems, an audit of the school finances led to a discovery that the principal had also authorized the payment of substantial amounts of overtime for a handful of employees at the school, resulting in a significant percentage increase of total overtime payments for that school. Further inquiry into the finances of the school where the principal previously worked indicated a similar problem – an extremely large amount of overtime payments made to a handful of employees. During a one year period at one of the schools, she authorized more than \$100,000 in overtime pay. The principal who replaced her authorized less than \$8,000 in the following year.

In addition to these irregularities, the audits at the two schools also uncovered that the principal used school credit cards to buy “thousands of dollars of personal items (i.e., beauty products, computer games, refrigerators) and that tens of thousands of dollars worth of school property was not able to be located. We are fairly certain in our belief that other employees, staff and or administrators were aware of some of these transgressions and rule violations. We

wonder whether their failure to report these abuses is further confirmation of Superintendent Stierheim's opinion that the school system operates out of "paranoia and fear." Employees are loath to report any problems or violations lest they be punished by transfers or demotions.

We are uncertain as to whether any other similar abuses are out there waiting to be discovered. However, in light of the many criticisms contained in this report, we want to praise those individuals responsible for requiring annual audits at each of the Miami-Dade County Public Schools. It was only through the diligent work of the auditors that this problem was uncovered. In light of the effectiveness of these audits, we would like to make a recommendation in that regard.

It is our understanding that once completed, the audits are sent to the school principal, the Superintendent and the School Board. In addition to these recipients, we recommend that a copy for each audit report for each school be forwarded to the President of the Education Standards School Advisory Committee ("ESSAC"). ESSAC is the 21<sup>st</sup> Century's version of the Parents Teachers' Association ("PTA"). ESSAC is required to prepare an annual report that must be presented to the District on its implementation plans. As such, ESSAC works closely with the teachers and administrators at their particular school and are aware of what is happening (or should be happening) at their school. ESSAC should also have input into budgets and audit reports. Another level of scrutiny by a group directly involved with a school may ferret out more wrongdoing. Because the Superintendent and the School Board receive at least 340 school audits per year, one for each public school in Dade County, it is unlikely that such scrutiny will occur at that level. If the school principal is involved in wrongdoing and/or is aware of wrongdoing and covering it up, the likelihood that abuses will continue is great. Another set of eyes may help spot and prevent further wrongdoing.

M-DCPS Superintendent Merrett Stierheim issued a report in March 2003, reorganizing personnel and the infrastructure of the district. One section of that report reads as follows:

District Demographics and Population: M-DCPS is the fourth largest school district in the nation serving a diverse population of students with a wide range of abilities, needs and unique challenges. This population consists of approximately 358,000 students; 340 schools; 19,000 teachers; 1,975 administrators; 12,000 volunteers and 2,500 Dade Partners.

The numbers are staggering and the system is huge. So huge that administration should be capable of avoiding a situation where one in a supervisory position has direct oversight of

another M-DCPS employee who happens to be a relative, or worse, a member of the supervisor's immediate family. This is intolerable and leads to the results highlighted in the example above. We received conflicting information as to whether or not this employment arrangement was a violation of an existing Board Rule or Policy.

### **RECOMMENDATIONS**

1. *We recommend that the School Board adopt a policy that precludes a supervisor or administrator (including principals and assistant principals) from exercising direct supervision over an employee who is a relative of the supervisor or administrator.*
2. *We recommend that the onus be placed on both the employee and the supervisor. The employee should be required to disclose the names of all relatives working at his particular work site. Similarly, supervisors and administrators should be required to disclose the names of any and all relatives who work at a work site controlled or supervised in any manner by the administrator or supervisor. Simply put, no administrator or supervisor should be conducting performance evaluations, reviewing and/or approving performance evaluations, making recommendation for salaries or salary increases. Even a "fair" evaluation will be viewed as biased by those co-workers who cannot proclaim, " I am the boss' son."*
3. *To assist in achieving the second recommendation, we also recommend that the School Board change its policy to allow all hiring to be "centralized." In effect, all hiring would be done from the personnel office with selection being made at the school level from a pool of qualified candidates. The decision of where workers are assigned should be based on need and whether or not someone has the skills to do the job. This would go a long way to undoing what we heard was the present lament among workers at M-DCPS --- where you go depends on who you know.*
4. *We recommend that a copy of each schools annual report be forwarded, as a matter of course, to the ESSAC group that operates for that particular school.*

### III.

### IV. ETHICS AND THE ETHICS ADVISORY COMMITTEE

The allegations above that led to the arrest of the school principal lead us to the next area of concern for this report – Ethics and the Ethics Advisory Committee. The School Board, after much debate and contention, created the School Board of Miami-Dade County, Florida Ethics Advisory Committee (hereinafter “EAC”). The first meeting of the EAC was held on March 22, 2002. One of the first tasks of the EAC was to create a Mission Statement. During its meeting held July 12, 2002, the members of the EAC adopted the following as its Mission Statement:

#### MISSION STATEMENT

The School Board of Miami-Dade County, Florida (the Board), created the Ethics Advisory Committee to help ensure the integrity of the Board’s decision making processes and to restore public confidence in our public schools. The purpose of the Ethics Advisory Committee is to promote the public trust, by among other things, educating the public, candidates for election to the Board, members of the Board and employees of Miami-Dade County Public Schools as to the required standards of ethical conduct, clarifying those standards of conduct and recommending changes to the various rules and regulations which set forth the governing standards of ethical conduct.

Simply put, the EAC “is supposed to help the Superintendent and the School Board change the culture [in the school system] by recommending new policies and procedures.” We reviewed copies of the EAC meeting minutes from its inception only to discover that the EAC had voiced concerns and made recommendations on some of the same issues we had discussed during our Grand Jury proceedings.

A primary concern and recommendation of the EAC is that the School Board authorize the creation of its own Code of Ethics for all M-DCPS administrators and employees. We join in that recommendation. “This is a four billion dollar operation, the fourth largest school system in the country, and it does not have its own code of ethics,” (EAC member at the January 31, 2003 meeting). Witnesses informed us that the School Board and its employees are bound to the Code of Ethics promulgated by the Florida Commission on Ethics (“FCE”), based in Tallahassee, Florida. We were further informed that the FCE enforces the Code of Ethics for Public Officers and Employees. In other words, the Code of Ethics is not specific to the M-DCPS system or any other school system, but is, in fact, a Code of Ethics for all public officers and employees in the State of Florida. The Miami Dade County Public Schools could put in place stronger ethical

rules than the statewide code of ethics. We recommend that the School Board initiate the process to do just that.

We note that the School Board has taken steps to address the need to restore the public's confidence and trust in the school system by: 1) providing ethics training to all employees of the school system; and 2) hiring an Inspector General. The ethics training is designed to educate employees on their ethical obligations and to advise them on what is and what is not appropriate behavior. We believe this is an impressive first start. However, much work still needs to be done to restore public confidence in the school system.

Another huge step in the right direction was the School Board's decision to create the position of Inspector General for M-DCPS. As the Superintendent advised, the Inspector General will operate "outside of the school system" and will have the ability to investigate anyone, anywhere within the hierarchy of M-DCPS. We commend the School Board and the Superintendent on this undertaking. We expect that the Inspector General will play a critical role in helping to change the culture in the M-DCPS.

### **RECOMMENDATIONS**

1. *We recommend that the School Board authorize the creation of its own Code of Ethics for all M-DCPS administrators and employees.*
2. *We are firmly of the opinion that employees and administrators who violate ethical rules, guidelines and policies should be disciplined. We recommend that repeat or egregious offenders should be terminated.*
3. *We support another recommendation of the EAC and encourage the School Board to adopt a new rule that requires each school system employee, on an annual basis, to sign a Certificate of Ethical Education, Compliance and Disclosure<sup>2</sup>. If the School Board were to adopt a Code of Ethics, the certificate should certify that the employee had received and reviewed M-DCPS Code of Ethics, understood the provisions set therein and was not aware of any information, transactions or events involving M-DCPS that might indicate non-observance of the requirements and policies of such a Code. The creation of such a process would mandate that on at least a yearly basis,*

*every employee would be reminded of their ethical obligations and the importance of their adherence thereto. We hope that it would also serve as a deterrence of ethical lapses in the future.*

#### VII. IV. DOUBLE-DIPPING

A prime issue for this Grand Jury related to the School Board's policy allowing elected officials to receive their full M-DCPS salary when they were not working for the M-DCPS. An historical review is needed here.

In times past, members of the School Board encouraged M-DCPS employees to run for public office, particularly State legislative seats. As was reported to the Grand Jury, there was a belief that if M-DCPS employees were able to secure seats in the State House and Senate, they would be able to assist M-DCPS by supporting and enacting legislation that would benefit of M-DCPS. Another thought was the M-DCPS employee / legislator would also be instrumental in directing funds to our School District. As one present key Board Member reported, although that might have been the justification for the policy then, the justification no longer exists. In fact, we were advised that, some of our elected officials who are also M-DCPS employees have taken positions that were contrary to and against the best interests of the school district.<sup>3</sup> Nevertheless, under the old system, the individuals received their full-time salary from the school district and the full salary that attached to their elected position.

In an attempt to fully understand how this system operates, we questioned the former Chief Personnel Officer, the Executive Payroll Director and other employees and administrators of the school district. Their responses led to several discoveries.

M-DCPS has several categories of employees: those who are 10 month employees and those who are 12 month employees. Twelve-month employees are entitled to vacations. Ten month employees are not. Historically, when an elected official had to take time off from work at the M-DCPS, he/she was required to submit a leave slip (professional leave with pay) for the absence. Based on Board policy in existence at the time, the M-DCPS employee would submit a

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<sup>2</sup> Although not covered in this Grand Jury Report, the Ethics Advisory Committee recommendation also encourages a requirement that such a certificate also be signed by union officials and representatives, suppliers, vendors, service providers, consultants, lobbyists contractors, subcontractors and others doing business with the School Board

<sup>3</sup> We chose not to address the inherent conflict of interest created by this situation.

request for leave with pay even if the employee was going to be away for months. For instance, if the M-DCPS employee was a member of the Florida Legislature, he/she could expect to not work for M-DCPS for three consecutive months during the legislative session. Nevertheless, that employee would get his/her full M-DCPS salary, just as if the employee had worked during that time. Additionally, the M-DCPS employee would also receive the salary for the work performed as a legislator. Many citizen, journalists and witnesses alike, euphemistically refer to this as “double-dipping.”

Unbeknownst to us, and before we had even been empanelled as a Grand Jury, the Ethics Advisory Committee had also become interested in this topic. The committee minutes and the testimony from one of the committee members confirmed to us that they too believed this was an unwise and confusing allocation of taxpayer funds. Although we believe it is an admirable trait, to run for public office and serve in that capacity, we do not believe M-DCPS employees ought to be treated any differently than other governmental and public employees. Even we as jurors, and full time employees, may not take money from our employers and the courts at the same time.

As a result of its outrage over this policy, the EAC made a recommendation through the Superintendent to the School Board. The Committee’s recommendation was to move the elected officials’ leave provision from paid to unpaid. This strong recommendation was made after the EAC had been informed of the rule. The Board rejected the recommendation from the EAC.

During one of its meetings, EAC members received a report from Dr. Magaly Abrahante, the former Chief Personnel Officer of the Department of Personnel Management Services, on how the Board addressed the issue of professional leave with pay for elected officials, School Board Rule 6Gx13-~~4E-1.09~~. As Dr. Abrahante reported, staff made a recommendation to move the elected official’s leave provision from paid to unpaid. Effectively, this would ensure that M-DCPS employees would not be paid with taxpayer money if they did not work. The M-DCPS Board rejected that recommendation and requested staff to modify the recommendation. The staff modified its recommendation and at its August 21, 2002 meeting, the School Board amended Rule 6Gx13-~~4E-1.09~~, Professional Leave, to allow M-DCPS employees who have been elected to public office to request professional leave with pay when engaged in official functions of the elected body. The amendment further provides that employees elected to public office after August 21, 2002, may be granted professional leave in half or full day increments, and the

daily rate of the salary for their elected position shall be deducted from their school system pay. How does this work?

First, the M-DCPS payroll department calculates the daily rate of pay for each of the affected school board employees. The daily rate for the M-DCPS salary is determined by dividing the annual salary by the actual number of days the employee would work on an annual basis for the school system. The 10 M-DCPS salaries range from a low of \$41,500 to a high in excess of \$102,000. For the ten M-DCPS employees the daily rate ranges from a low of 212 days of work with a daily rate of \$275.16, to a high of 260 days of work with a daily rate of \$395.49.

Next, the M-DCPS payroll department calculates the daily rate of pay for the M-DCPS employees elected position. All affected M-DCPS employees who are elected officials are required by Board Rule to provide to the payroll department the annual salary for their elected position. The daily rate for the elected official salary is determined by dividing the annual salary by 365 days.<sup>4</sup> For the M-DCPS employee/elected officials who provided salary information, the daily rate ranges from a low of \$2.74 to a high of \$80.00.

Finally, once the calculations are complete, the payroll department is able to make adjustments to the M-DCPS employee/elected official's paycheck. For instance, if one of the elected officials submits a leave request for Professional Leave with pay because he or she is engaged in official functions of the elected body, the payroll department will reduce the M-DCPS employee's paycheck by multiplying the "elected official daily rate" by the number of days the employee was away. Thus, a M-DCPS employee who makes \$64,000/yr (with a M-DCPS daily rate of \$247) who has an elected official salary of \$30,000 (with an elected official daily rate of approximately \$80) can be out on professional leave for two full work weeks and still get paid \$1,670; even though he did not work for M-DCPS at all during that time period. If the same M-DCSP employee (daily rate of \$247) had a lower paying elected official's salary (daily rate of \$7) he would receive a check in the amount of \$2,400, although he did not work for the school system at all during that two-week time period.

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<sup>4</sup> No one was able to explain the justification for calculating the M-DCPS daily rate using actual days worked and calculating the elected officials' daily rate using a full calendar year (weekends and holidays included).

We think the newly adopted rule is fraught with problems and issues. We believe the Rule needs to be further scrutinized and changed. It seems to us that the fair and prudent thing to do is for every day that a M-DCPS employee is away on leave, their salary should be deducted by the amount of the M-DCPS daily rate. Simply stated, it seems to us, that if the employees are not performing their job functions with M-DCPS, they should not be getting paid by M-DCPS. If M-DCPS employees wish to volunteer to run for civic and public office, they will have to make the same difficult decision as others who run for those same offices. Therefore, we urge the Superintendent, M-DCPS, the School Board together with the EAC and the involved employees themselves, to review and modify this policy. Many of these involved employees are hard working and caring public servants, who become vulnerable to criticism just because of this kind of out dated policy. Unfortunately, the Legislature was in session during our term and we were not able to hear from those elected officials who are also M-DCPS employees. We urge our successor Grand Jury to review this policy more comprehensively than our time permitted and also provide an opportunity for the elected officials to appear before the Grand Jury and be heard.

#### ***RECOMMENDATION***

- 1. We recommend that the School Board change its present policy related to professional leave to reflect that the M-DCPS employees will not be paid by M-DCPS, nor will any M-DCPS benefits accrue during the time that the employee is away on professional leave and performing the duties of their elected position.*

#### **CONCLUSION**

As members of the Miami-Dade County Grand Jury, we have had the opportunity to ask officials of our school system and other governmental agencies important questions that impact both on our community and on each of us as individuals. We certainly wish that our report on these important school system issues be given the attention we feel these issues deserve. In speaking for ourselves, we all were cognizant that we were speaking for so many others, our friends, our neighbors our co-workers who may never have the opportunity to serve on such an important public committee and speak directly, one-on-one, to our public officials.

In closing, we would like to reiterate that we are pleased with the progress that the Superintendent and the School Board have been making recently. We also would like to applaud the efforts of the Ethics Advisory Committee and the Oversight Board for the professional job

they have done in volunteering their time to assist in addressing issues affecting our school system. While we note the improvement, we also recognize that there still is much to do. As the Fire Marshals do with their compliance reports, we tried to restrict our recommendations (for the most part) to things that could be easily accomplished by the School Board. We know our twenty-one individual voices speak volumes for the citizens of this county on these issues. We also believe that adopting these recommendations will go a long way towards restoring the public's faith and confidence in Miami-Dade County Public Schools.

For convenience, we have reprinted all the recommendations here at the end of the Report.

### **SUMMARY OF RECOMMENDATIONS**

#### Fire and Life Safety Issues in our Schools

1. *To assist in efforts to ensure compliance with life safety and other SREF violations, we urge M-DCPS to adopt a Rule or policy requiring the District to enter into Compliance Agreements with our local Fire Marshals. The Compliance Agreement will set forth a time frame for getting violations corrected and will also set out consequences for failure to adhere to the guidelines.*
2. *Under the present system there is no requirement that building plans be submitted for review to the Fire Marshals for new construction or refurbishing of public schools in Miami-Dade County. We understand that such a requirement does exist for private schools. This Grand Jury feels this is a major problem that should also be corrected. In that regard, we recommend that M-DCPS adopt a Rule or policy requiring the District to submit to the local Fire Marshals for review all building plans for newly constructed schools.*

#### Nepotism and Hiring Practices

3. *We recommend that the School Board adopt a policy that precludes a supervisor or administrator (including principals and assistant principals) from exercising direct supervision over an employee who is a relative of the supervisor or administrator.*
4. *We recommend that the onus be placed on both the employee and the supervisor. The employee should be required to disclose the names of all relatives working at his*

- particular work site. Similarly, supervisors and administrators should be required to disclose the names of any and all relatives who work at a work site controlled or supervised in any manner by the administrator or supervisor. Simply put no administrator or supervisor should be conducting performance evaluations, reviewing and/or approving performance evaluation, making recommendation for salaries or salary increases. Even a “fair” evaluation will be viewed as biased by those co-workers who cannot proclaim, “ I am the boss’ son.”*
- 5. To assist in achieving the second recommendation, we also recommend that the School Board change its policy to allow all hiring to be “centralized.” In effect, all hiring would be done from the personnel office with selection being made at the school level from a pool of qualified candidates. The decision of where workers are assigned should be based on need and whether or not someone has the skills to do the job. This would go a long way to undoing what we heard was the present lament among workers at M-DCPS --- where you go depends on who you know.*
  - 6. We recommend that a copy of each schools annual report be forwarded, as a matter of course, to the ESSAC group that operates for that particular school.*

#### Ethics and the Ethics Advisory Committee

- 7. We recommend that the School Board authorize the creation of its own Code of Ethics for all M-DCPS administrators and employees.*
- 8. We are firmly of the opinion that employees and administrators who violate ethical rules, guidelines and policies should be disciplined. We recommend that repeat or egregious offenders should be terminated.*
- 9. We support another recommendation of the EAC and encourage the School Board to adopt a new rule that requires each school system employee, on an annual basis, to sign a Certificate of Ethical Education, Compliance and Disclosure<sup>5</sup>. If the School Board were to adopt a Code of Ethics, the certificate should certify that the employee had received and reviewed M-DCPS Code of Ethics, understood the provisions set*

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<sup>5</sup> Although not covered in this Grand Jury Report, the Ethics Advisory Committee recommendation also encourages a requirement that such a certificate also be signed by union officials and representatives, suppliers, vendors, service providers, consultants, lobbyists contractors, subcontractors and others doing business with the School Board

*therein and was not aware of any information, transactions or events involving M-DCPS that might indicate non-observance of the requirements and policies of such a Code. The creation of such a process would mandate that on at least a yearly basis, every employee would be reminded of their ethical obligations and the importance of their adherence thereto. We hope that it would also serve as a deterrence of ethical lapses in the future.*

#### Double-Dipping of Salaries

- 10. We recommend that the School Board change its present policy related to professional leave to reflect that the M-DCPS employees will not be paid by M-DCPS, nor will any M-DCPS benefits accrue during the time that the employee is away on professional leave and performing the duties of their elected position.*

## IV.

## INDICTMENT

<u>NAME OF DEFENDANT</u>	<u>CHARGE</u>	<u>RETURNED</u>
JONATHON NODAL	Murder First Degree Murder First Degree	True Bill
MORGAN LABISSIERE and DAVID TOUSSAINT	Murder First Degree Robbery / Armed / Attempt	True Bill
JUAN FELIPE CASTANEDA	Murder First Degree Robbery / Armed / Attempt	True Bill
ADA ROSE VEGA	Murder First Degree	True Bill
CALVIN A. PIERRE	Murder First Degree Murder First Degree / With a Deadly Weapon / Attempt	True Bill
ALLAN MOSES MILLER (A), TRENT JORDAN (B), CLINTON CARLOS SEYMORE (C) and ROBIE BROWN (D)	Murder First Degree (A,B,C,D) Robbery/Armed/Firearm or Deadly Weapon (A,B,C,D) Robbery/Armed/Conspiracy (A,B,C,D) Murder 1 <sup>st</sup> Degree/With a Deadly Weapon/Attempt (A,B,C,D)	True Bill
TERRENCE L. MATHIS	Murder First Degree	True Bill
FRANCISCO JAVIER OLVERA-RAMOS	Murder First Degree	True Bill
ARIE BIZZLE, EARL LEON MURRAY and DONTELL SINGLETARY	Murder First Degree (A,B,C) Murder First Degree (A,B,C) Attempted Felony Murder / Deadly Weapon (A,B,C) Attempted Felony Murder / Deadly Weapon (A,B,C) Firearm / Possession by Felon (A) Firearm / Possession by Felon (B)	True Bill
ISRAEL L. SANCHEZ, Also known as KING KILO, Also known as CHINO	Murder First Degree Murder First Degree / Conspiracy Firearm/Possession by Felon Firearm / Use, Display While Committing a Felony	True Bill
WARREN N. ROBERTS	Murder First Degree Murder First Degree/With a Deadly Weapon/ Attempt Murder First Degree/With a Deadly Weapon / Attempt	True Bill
ARMANDO LLANES	Murder First Degree Child Abuse / No Great Bodily Harm Domestic Violence / Violation of Injunction	True Bill
RAFAEL ASTACIO MATARRANZ	Murder First Degree Robbery / Home Invasion	True Bill

V.

INDICTMENT

NAME OF DEFENDANT

CHARGE

RETURNED

HENRY ARMANDO CUESTA (A) and  
EUSEBIO ANASTACIO HERNANDEZ (B)

First Degree Murder (A) (B)  
Attempted First Degree Murder (A) (B)  
Murder First Degree / Conspiracy (A)  
Murder First Degree / Conspiracy (B)

True Bill

RICKY VALLE (A) and  
SANTO HERNANDEZ (B)

Accessory After the Fact (A)  
Murder First Degree (B)  
Murder First Degree (B)

True Bill

DAVID TONY JEAN, also known as  
DINO

Murder First Degree  
Murder First Degree / Attempt  
Firearm / Possession by Felon

True Bill

NELSON RODRIGUEZ

Murder First Degree  
Kidnapping / With a Weapon / Attempt  
Murder First Degree / With a Deadly Weapon /Attempt

True Bill

DARYL ULYSSES DIXON

Robbery / Armed / Attempt  
Murder First Degree / Attempt  
Attempted Felony Murder

True Bill

COREY KENTA JOHNSON

Murder First Degree  
Murder First Degree / Attempt  
Murder First Degree / Attempt

True Bill

CHRISTOPHER JARROD McBRIDE

Murder First Degree  
Murder First Degree/With a Deadly Weapon/Attempt  
Murder Second Degree/With a Deadly Weapon/Attempt

True Bill

PHILLIP JARVIS RANGE and  
LARON BRYANT

Murder First Degree  
Robbery/Armed/Firearm

True Bill

MICHAEL ANDRE DAVIS

Murder First Degree  
Child Abuse/No Great Bodily Harm  
Child Abuse/No Great Bodily Harm

True Bill

MORGAN LABISSIERE and  
DAVID TOUSSAINT

Murder First Degree  
Cocaine/Trafficking/Armed/Attempt  
Robbery/Armed/Attempt

True Bill

MICHAEL ANDRE DAVIS

Murder First Degree  
Firearm/Possession by Felon  
Child Abuse/No Great Bodily Harm  
Child Abuse/No Great Bodily Harm]  
Resisting Officer with Violence to his Person

True Bill

ALBERT OTIS LABON also known as  
"YO BOY"

Murder First Degree  
Firearm/Weapon/Possession by Convicted Felon/Delinquent  
Firearm/Use, Display While Committing a Felony

True Bill

VI.  
INDICTMENT

<u>NAME OF DEFENDANT</u>	<u>CHARGE</u>	<u>RETURNED</u>
EARL ARWIN SIMMONS	Murder First Degree Murder First Degree Attempted Felony Murder/Deadly Weapon Attempted Felony Murder/Deadly Weapon Attempted Felony Murder/Deadly Weapon Attempted Felony Murder/Deadly Weapon Firearm/Possession by Convicted Felon	True Bill
JEFFREY LAMONT GIBBS and ANTHONY BRIAN JONES also known as FAT TONY	Murder First Degree (A,B) Murder First Degree / Attempt (A,B) Deadly Missile/Shoot, Throw (A,B) Firearm/Weapon/Possession by Convicted Felon (A Only) Firearm/Use, display While Committing a Felony (A,B)	True Bill
ANGEL ALBERTO MARZO	Murder First Degree Burglary/Assault/Battery/Armed	True Bill
JOHNSON MICHEL	Murder First Degree Murder First Degree/Attempt	True Bill
VICTOR DEMETROUS ROBINSON	Murder First Degree Child Abuse/Aggravated/Great Bodily Harm/Torture Child Abuse/Aggravated/Great Bodily Harm/Torture	True Bill
JOSE ALBERTO HERNANDEZ DE JESUS (A) and JUAN MANUEL FEBRES (B)	Murder First Degree	True Bill
(A) SHIRD TRANNELL MYRICK, (B) EHREN WITT, (C) ANDRE WILLIAMS, and (D) MILTON HALL	Murder First Degree Robbery / Armed / firearm Firearm/Possession by Felon (B Defendant) Firearm/Possession by Felon (D Defendant)	True Bill
ISRAEL L. SANCHEZ, also known as KING KILO, also known as CHINO	Murder First Degree Murder First Degree / Conspiracy Firearm / Possession by Felon Firearm / Use, Display While Committing a Felony Murder First Degree / Solicit Murder First Degree / Solicit	True Bill
GREGORY JOSEPH	Murder First Degree Aggravated Child Abuse	True Bill

## ACKNOWLEDGMENTS

The commitment of six months for Grand Jury duty is a difficult one that requires personal and professional sacrifices be made. By the end of the jury term, the consensus of opinion is that this is an enlightening experience and the ability to participate in local government is worthwhile, fulfilling and fun. The jurors, representing a wide variety of ethnic and cultural backgrounds, were able to unify as a group, make decisions and explore issues of social relevance in our community, while enjoying the opportunity to get to know each other. It has been a privilege to be able to participate in this process.

During the six-month term, we were guided, educated and enlightened by the tireless efforts of Chief Assistant State Attorney Don Horn. Mr. Horn has been caring, conscientious, sincere and impartial to all of us. His efforts have been inspirational and he has demonstrated that he is a leader in our community, as well as a good friend.

The Grand Jury expresses its sincere gratitude to Rose Anne Dare, Administrative Assistant and Neo Gil, Bailiff, for their dedication and commitment in making the Grand Jury well fed, entertained and efficient. They managed innumerable administrative duties with a cheerful and friendly attitude. We also thank the court stenographers for their time and professionalism.

We are thankful to the Honorable Judge Judith L. Kreeger, for her unfailing sense of humor, fairness and willingness to share Jasmine, her dog, with us. And we thank State Attorney Katherine Fernandez Rundle for her interest and concerns for Miami-Dade County as a community. We gratefully acknowledge all of the dedicated law enforcement agencies of Miami-Dade County and the witnesses who helped with our Investigation. Their often-thankless efforts, professionalism and dedication have earned the respect of all.

Respectfully submitted,

Kevin Abrams, Foreperson  
Miami-Dade County Grand Jury  
Fall Term 2002

ATTEST:

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Zaidee Alvarez  
Clerk

Date: August 7, 2003