

**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**

**JUSTICE INTERCEPTED:  
THE ALL CONSUMING POWER OF FOOTBALL**

**FALL TERM A.D. 2006**

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June 6, 2007**

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# INDEX

**Page**

<b>JUSTICE INTERCEPTED: THE ALL CONSUMING POWER OF FOOTBALL .....</b>	<b>1 - 30</b>
I. INTRODUCTION.....	
1	
II. THE INCIDENTS.....	2
III. THE SCHOOL.....	6
IV. THE FAILINGS AT THE SCHOOL LEVEL.....	7
A. Bad Decisions and a Failure to Follow Policy .....	7
B. A Bad Policy.....	11
V. THE APPARENT FAILINGS OF PRIORITY AT THE DISTRICT LEVEL .....	12
VI. THE FAILINGS AND PROBLEMS AT THE SCHOOLS POLICE DEPARTMENT ....	13
A. The Shutdown of a Criminal Investigation .....	14
B. Retaliation .....	17
C. A Need for Independence .....	18
D. Missing and Altered Police Reports .....	19
E. Who Can The Police Investigate? .....	20
F. Let The Police Make The Call .....	21
VII. FAILINGS WITH THE SCHOOL POLICIES .....	21
A. “The Student Code of Conduct” .....	21
B. “Procedures for Promoting and Maintaining a Safe Learning Environment” (PPMSLE) .. .....	22
VIII. 9 <sup>th</sup> GRADERS IN HIGH SCHOOL .....	25
IX. THE CRIMINAL CHARGES .....	26
X. REFERRAL TO DEPARTMENT OF EDUCATION FOR POSSIBLE SANCTIONS .....	28
XI. CONCLUSION .....	29
XII. SUMMARY OF RECOMMENDATIONS .....	29
<b>INDICTMENTS .....</b>	<b>31 – 34</b>
<b>ACKNOWLEDGEMENTS .....</b>	<b>35</b>

## **I. INTRODUCTION**

Society has a way of demonstrating its true priorities and character when confronted with crisis. So do microcosms of society, such as a school system. When confronted with a crisis, the people who make up these systems either rise to the occasion and act for the greater good or act in ways that are deceitful, selfish and ultimately destructive to all involved. The latter occurred here. Our school system, the Miami-Dade County Public Schools (M-DCPS), failed a 14 year-old girl and thus failed all of us.

There were school policies in place that dictated what should have happened. Yet, despite all the policies and procedures in place, despite the ostensibly clear directive found in the Florida Statutes, the failure to follow these laws, policies and procedures resulted in a tragedy that might have been avoided. Had the moral compass of those in charge remained true, and had there not been a desire to sweep this act of criminal sexual conduct under the rug, we would not be issuing this report. They hoped that it "would all go away" and allowed for the glory of football to trump the needs and safety of a little girl. We wanted to assess how this tragedy happened and make recommendations which, if adopted, would ensure that this can never happen again.

The unfolding of these events started with rumors. The rumors abounded and yet what was done was tantamount to nothing. The rumors persisted; yet were ignored. The plaintive cries of a little girl's mother were repeatedly voiced but not heard or addressed. The little girl's grades slipped, she was continually missing from class and her behavior had changed for the worse. She had been an honor student. She was assigned to the gifted program. It was obvious that something had gone terribly wrong. And still, she and her mother were ignored. All the while, the boys played on...both in football and sex. Priorities were chosen and the little girl lost.

The consequences for the little girl included attempted suicide and life in a residential psychiatric facility. The consequences for the school included a state football championship, the possibility of a nationally televised high school football game for the team, increased exposure for the players and coaches, and perhaps most important, an

image of success for a school that was failing in nearly every other way.<sup>1</sup> The road to glory was paved for all...all except that little girl who was viewed as little more than a bump in the road to the school's state football championship. She was totally ignored so that other priorities could be achieved. Perhaps they thought she would go away. Perhaps they thought her mother would simply do nothing. Perhaps also, there was a controlling desire to do just about anything to avoid scandal for a school that was already in trouble.

## **II. THE INCIDENTS**<sup>2</sup>

It all began with a confluence of events between two students. At 18 years of age in his senior year at Miami Northwestern Senior High School (MNW) he was a football star, the "Big Man on Campus" and a celebrity. When parties were thrown, invitations touted his expected appearance. She was a little girl, a 9<sup>th</sup> grader who had just started high school. In fact, she turned fourteen years old only weeks before school started. She arrived in high school both younger and tinier than most. She was physically tiny in stature but a potential powerhouse given the proper tools for advancement, and given her innate abilities. The football star pursued her, again and again. On September 16, 2006, the night of an "away" football game, flush with victory, he pursued her again. This time, upon returning to the school, he was successful. The result was a sexual experience on a cold bathroom floor at the school. In the State of Florida such an act between an 18-year old and a 14-year old is a crime. It is a third-degree felony!

Approximately one month after this incident, school employees told the school principal, Dwight Bernard, what occurred that night in the bathroom. This was not rumor, gossip or innuendo. Dates were cited, the location where the incident happened was given and the names of both participants were provided. School employees told Principal Bernard that he **must** report this to the school police. The information was of such a definitive nature that it caused the principal to ask whether the requirement to report was statutory or by school policy.<sup>3</sup> He was told that it didn't matter. It was

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<sup>1</sup> To add to this list, the Miami Herald recently released its 2006-2007 high school sports article which touted the success of the Miami Northwestern High School football program and its **national** ranking. "12 most memorable moments in Miami-Dade," Miami Herald, May 26, 2007.

<sup>2</sup> Due to the graphic and personal nature of many of the events disclosed in this report we do not name the little girl. In fact, we reached out to her mother before finally deciding to include this level of disclosure of her daughter's personal information. Our collective hope is that it will help prevent a similar tragedy from occurring within our schools.

<sup>3</sup> In fact, the duty to report this crime was both statutory and a requirement pursuant to school district policy.

statutory rape and it must be reported.<sup>4</sup> Reporting would have been easy and immediate. There were two School Resources Officers stationed on campus at MNW. Principal Bernard chose not to take advantage of the ease with which he could have met his obligation. Instead, he did nothing, absolutely nothing, in regard to his statutory and school policy obligation to bring this incident to their attention nor did he take any other steps to report this to the Miami-Dade Schools Police Department. The situation was allowed to fester and consequently the football star continued to play. We are utterly convinced that had something been done then, had a single Miami-Dade School employee intervened then, the ensuing events discussed below could have been prevented. The frustration of this potential truth is simply agonizing.

After the September incident the little girl met another boy. He was not a football star, not a school celebrity, just a regular boy. And, she really liked him. Unfortunately, he turned out to be not such a nice boy after all. She had sex with him, too. Again, the experience occurred on a bathroom floor at the school. When he was done with her, he told her that she had to have sex with his “cousins.” She agreed, because she liked him and wanted to make him happy. And so, at his behest and because the judgment of a 14-year-old is inherently lacking, she engaged in a series of sexual events on campus and off, each more horrific than the last. It culminated in one final incident in the girl’s locker room on November 14, 2006. The description was so utterly degrading we will not include it in this report.

A school security monitor discovered what was going on, interrupted them, rounded everyone up and took them down to the office. School administrators were advised of what had just happened on campus. Despite the fact that this too was a criminal act, specifically Lewd and Lascivious pursuant to Florida Statute 800.04, no one reported the incident to the Miami-Dade Schools Police. The male students were issued referrals citing them for “being in an unauthorized location” by MNW administrators. The range of school discipline for the participants included a referral, a suspension or no punishment at all. It is here we start to see the motivation for a cover-up more clearly. The disciplinary actions here were handed out immediately and the decision about what should be done was made on the day the incident was brought to the attention of the administrators at

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<sup>4</sup> Although the administrators were wrong in their assessment of the charge (Florida does not have a statutory rape charge anymore) they were correct in their pronouncement that it was a crime and needed to be reported.

MNW. We take note that the boys involved in this November incident were not football players. These punishments were not going to impact the potential glory of the school. Was the failure to report the November incident deliberate? If the November incident were reported to police, would the September incident be uncovered during that investigation? We believe the answer to both questions is yes. Apparently, that was not an acceptable result, and so another horrific incident went unreported to Miami-Dade Schools Police.

Prior to any of the incidents referred to in the preceding paragraph and shortly after the first incident in September 2006, the little girl confided in someone at the school, someone she thought she could trust. She thought she had found that trust in one of her counselors. But as it turned out, that counselor betrayed her. The counselor betrayed her by not giving the information to the people that mattered, the people who could have helped her, the people who maybe, just maybe, if they had been given the chance, could have prevented the subsequent events. Effective and timely intervention could have made all the difference in the world. The harsh reality is that nothing was done. No attempts were made to get her the help she needed. The opportunity was lost and the little girl's life was further ruined.

Ironically, during the same time period, specifically from October through December, the mother of the little girl was desperately seeking assistance for her daughter. Her grades had plunged and her behavior had changed. The personnel at MNW chose to ignore obvious signals that something was wrong, but her mother knew something was going on with her daughter. A mother always knows. Over a three-and-a-half-month period of time, this mother had no less than thirty (30) contacts with various MNW personnel. She attended meetings with counselors, teachers and administrators, all to no avail. Most of the MNW personnel attending the meetings were already aware (or were made aware) of the various sexual encounters that had taken place with the little girl **at** MNW. The mother was not seeking revenge or punishment for the sex crimes committed against her daughter by the boys and men involved here, she was simply trying to get help for her and get her back on the right track.

As fate would have it, one day the mother just happened to run into one of the MNW School Resource Officers (SRO) at a local Dunkin Donuts. She inquired into the

status of her daughter's situation. She had been led to believe, by non-police personnel at the school, that there was a pending investigation of her daughter's case. What she could not understand was why no one was communicating with her. The fact of the matter, as reported by the SRO, was that there was no investigation and the school police knew nothing of any situation or incident(s) involving her daughter. It became alarmingly apparent to the mother that no one had reported the incidents that took place at the school to the Miami-Dade Schools Police.

This chance meeting on December 5, 2006, resulted in the start of a police investigation. It was now almost three (3) months after the first incident with the star football player. As was the standard agreement on these type offenses, the City of Miami Police Department would conduct the investigation of the sexual crimes. Miami-Dade Schools Police would handle the other aspect of the investigation, the failure of the MNW personnel to report these crimes. Both investigations began immediately after the information was reported.

The investigation of the sexual crimes is not our focus here. Instead, our investigation and focus has been directed at trying to determine why the MNW school administration, faculty, counselors and staff failed to do the right thing. Thus, the question turned to who knew, when did they find out, and more importantly, what if anything, did they do about it. As a result of our investigation we have determined that at least twenty-one (21) employees at MNW were aware of the September incident involving the football player and failed to report the crime to the police. Similarly, we have further determined that at least seventeen (17) employees at MNW were aware of the November "girl's locker room incident" and failed to report that crime as well. Some of the employees were in both groups! The simple act of picking up a telephone and making a report might have averted further tragedy and the potential loss of life. Because these results did ensue, we felt it was incumbent upon us to do everything within our power to prevent the recurrence of such irresponsible and, in fact, harmful behavior.

Our investigation revealed that entirely too many people knew early on that crimes had been committed inside the school and the vast majority did absolutely nothing about it. Twenty-one individuals, several of whom had supervisory or administrative roles, knew about the September incident well before the school police discovered it by happenstance.



Each of them must share some blame in the horrible consequences that followed their failure to act. Our job was not to just find out why they failed to report but also to determine whether any of them should be prosecuted for that failure. We address that issue later in this report.

### **III. THE SCHOOL**

As previously indicated, the events disclosed above occurred at MNW. Many view this school as a jewel, a beacon in the community. It sits in the middle of Liberty City, a community that has its share of crime and poverty. Despite the obstacles placed in their paths, many alumni of MNW have done well and some of them testified before the grand jury. However, our investigation has led us to believe that at MNW, the glory and emphasis in the school is placed on sports, not academics. Although most witnesses proclaimed that the focus is on academics, we find the ancient proverb to be true--actions speak louder than words.

The athletic program at MNW is the school's pride and glory. In a Zone School<sup>5</sup> with a grade of "D", the athletic program is, quite frankly, one of the few successes. Indeed, the football program has been quite a success. For years, MNW has been known as a football powerhouse. Coaches from colleges and universities all over the United States have been coming for years to recruit at MNW. In 2006, the lure increased by leaps and bounds due to the status conferred by the state championship.

The lure of championship status does not only tug at college coaches. It also entices high school coaches, school administrators, alumni, and of course, the students themselves. School administrators are lured by some sort of success for their failing school to which they owe a contractual and moral duty of improvement. The same lure applies to the coaches, with the additional pull of, perhaps, some personal glory. Maybe, just maybe, if they coach the high school football team to the championship, they too will be noticed and recruited to college and someday to the pros.

Equally so, many student athletes are also looking for an escape from lives which for the

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<sup>5</sup> A Zone School is a school that has consistently received low performance in test scores over a number of years. MNW is one of 39 schools (one of 8 high schools) in the Miami-Dade County Public School System designated as such. Zone Schools are selected to be in the "school improvement zone". The purpose of selecting these schools is to standardize the curriculum in accordance with other successful schools. The goal is to improve the education available in these schools and ultimately, improve the scores and test performance.

most part are full of poverty. They wish and hope for untold riches they imagine they can someday make if only they can get to the professional level. In these desperate hopes and desires to make it and truly go big, students (children really) lose sight of the reality. Thousands of high school athletes and college stars all over the country are vying for a limited number of coveted positions in the professional football ranks. They lose sight of the fact that in all likelihood, they will not make it. More often than not, many will be injured. However, in spite of this reality, no consideration is given to the need for a strong "Plan B." Or even better, a recognition that academics should be "Plan A" and athletics, a distant "Plan B." It is our duty, as a society, as parents, as educators, and as citizens, to make sure that our children are educated as to the realities of life and the importance of choices made early in life. The lesson plan for success must include the clear message that academics truly must take precedence over sports. To those who focus on sports instead of academics, we implore you to consider the future of our children.

#### **IV. THE FAILINGS AT THE SCHOOL LEVEL**

Principal Dwight Bernard was the Chief Administrator at MNW. He was the head of the school. He had previously been a school administrator in this school district and left to become a principal in Broward County. He was specifically brought back to Miami-Dade to head MNW. He was selected because of his background and focus in Honors and Advanced Placement courses. Because of the difficulties in placing someone at a school with so many issues, MNW had experienced a carousel of principals in recent years. We do not believe that the School District was in any way deliberately trying to create a lack of stability in the stewardship of the school, but we implore the District to do its best to end this revolving door.<sup>6</sup>

##### **A. Bad Decisions And A Failure to Follow Policy**

On October 20, 2006, Principal Bernard found himself at the head of MNW School with a major problem on his hands. He was at a zone school which was clearly under the gun to get better, not worse. He had just been informed by school administrators of a crime that had taken place at the school involving two of his students, one of them a star

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<sup>6</sup> It appears that the District tried to stop the instability by bringing in Principal Bernard. In its apparent desperation to bring someone in, we heard that Principal Bernard's salary was approved at a significantly higher rate than that of other incoming principals. We also understand that this caused anger and frustration in the District.

player on the football team. They had informed him that the crime was a felony; an adult having sex with a fourteen year old. They also advised him that it had to be reported. A scandal like this would set the school back and would certainly be devastating for the brand new principal brought in specifically to fix all the problems. The last thing that he needed was a disgrace like this. How would it affect the football player and the football program? How would disclosure affect those ardent athletic supporters who favored sports over academics? The principal had choices, and to the detriment of his students, he made the wrong choice. He informed the administrators that he would take care of it and then proceeded to do nothing. Notwithstanding the School District's policies on this, Principal Bernard never reported the crime to the police.<sup>7</sup> The ineffectiveness of his role as principal at the school was revealed in that decision.

The cover-up would not be discovered until the end of the regular football season. Two separate criminal investigations were commenced. The entire sordid tale ended up on our television screens and was plastered over the newspapers. The media was also reporting allegations that administrators at the school knew about the incident and intentionally failed to report it to the police. The cat was now out of the bag.

In brief, the investigation into the sex crimes confirmed the above described incidents and resulted in the arrests of several of the boys and men involved. More specifically, the football player admitted his involvement to the police, was arrested on December 7, 2006 and charged with Lewd and Lascivious.<sup>8</sup>

Another example of Principal Bernard's ineffectiveness as an administrator is reflected in his actions after the cover was blown off the incident and after the football player was arrested. MNW's football team had made it to the finals for the state high school championship. The game was scheduled to be played on Saturday, December 9, 2006, just two days after the arrest of the star running back. Against the backdrop of what was happening with the school's football team, the football player's arrest created two significant pressing issues which had to be handled by Principal Bernard. The two issues were directly related: 1) Should the football player be suspended; and 2) Should the football player be allowed to play in the state championship football game?

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<sup>7</sup> A detailed discussion of the various policies follow later in this report. See, pp. 13 - 15.

<sup>8</sup> After filing criminal charges the State Attorneys Office referred the defendant to a special program designed for adult males in this age group who commit this type of offense. If he successfully completes the program the SAO will drop the charges. The victim's mother agreed to this disposition.

The answer to the first question is clearly set forth in the Code of Student Conduct for the Miami-Dade County Public Schools (the Code). The Student Code of Conduct is a manual written to inform (primarily) students and parents of school policies with reference to a student's conduct, including criminal acts, and the corresponding consequences. The procedures outlined in the Code apply to all students under the jurisdiction of Miami-Dade County Public Schools (Code, p. 1.) and "address not only the role of the parents, the students, and the school, but also address:

- Grounds for disciplinary action;
- Procedures for taking disciplinary action, including suspension and expulsion; and
- Responsibilities and rights of students. (Code, p. vi)

Certain acts of misconduct and criminal activity constitute violations of the Code. The Code of Student Conduct defines distinct violations, which are divided into six groups. Depending on the severity of the misconduct, certain administrative action is **mandated**. Sex violations, identified as offenses against chastity or common decency are deemed Group V violations. (Code, p. 12)

Some violations have "recommendations" of optional courses of actions that can be imposed by a principal. However, the Disciplinary Actions for Group V violations are **mandatory** and include the following:

- Parent contact / parent conference
- Administrator / parent conference
- **Ten-day suspension and recommendation for expulsion.\***<sup>9</sup> (emphasis added)
- Refer criminal acts to the Miami-Dade Schools Police and the local police agency for appropriated legal action.\*\*<sup>10</sup>

Principal Bernard refused to follow any of the **mandatory** administrative actions set forth in the Code. He did not make any contact with the little girl's mother, nor did he schedule a conference to meet with the mother. Further, although the same football player had earlier been suspended by a prior principal for a weapons violation (ironically, also a Group V offense), Principal Bernard refused to impose the mandatory ten-day suspension, nor did he make a recommendation for expulsion for this Lewd and Lascivious battery. As to the fourth mandated

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<sup>9</sup> \*A footnote here in the Code indicates that the notice of suspension must be mailed to the parent.

<sup>10</sup> \*\* A footnote here in the Code reflects that criminal acts shall be reported in accordance with the directives contained in the document's Procedures for Promoting and Maintaining a Safe Learning Environment.

action, at the time the arrest was made, there was clearly no need for Principal Bernard to make a referral to the police department. He should have made the referral when the incident was initially brought to his attention in October, 2006. Had he done so, many of the subsequent detrimental acts that befell the little girl might have been avoided. (Code, p. 12)

We are simply at a loss to understand why the ten-day suspension was not imposed against this football player. After the arrest, there was no question as to whether the incident had occurred. The football player admitted it to the police and a statement to that effect was included in the Arrest Affidavit, a public document. The proof was there and the sanction was clear. Although the Code permits school administrators “the prerogative to seek the waiver of any portion of or all mandatory disciplinary action,” (Code, p.9), there is no indication that such a request was ever made by Principal Bernard.

Had Principal Bernard imposed the suspension, there would have been no need to address the second question, namely, whether the football player should be permitted to play in the championship football game. It would have been a moot issue. We cannot help but wonder whether that reality is what led Principal Bernard to decide not to suspend the football player. Was he concerned about the reactions and criticisms that would be leveled at him by the coaches, students, alumni and area residents who felt they had the state championship in their grasp? Was he also consumed by the power of football? It appears that the answer to both questions is yes. In fact, in lieu of making the decision himself (which was clearly his to make); and by virtue of his inaction, he punted and the issue ended up at the District Office. Principal Bernard passed the buck instead of taking a courageous stand. We believe his inactions tainted the school as well as the team. We also believe his failure to act sent a resounding message that has become the norm at too many of our colleges and universities also: If your athletic ability is stellar, we will bend the rules for you. You will be treated differently. You will avoid consequences for behavior that will get others in deep trouble. This is **not** the appropriate message for our students or our athletes. Principal Bernard had the opportunity to make a powerful statement. Instead, he succumbed to the pressure. He did not suspend nor did he recommend expulsion. The policy was in place. He just refused to follow it.

As reported by many of our witnesses, the principal has the ultimate authority over the imposition of disciplinary actions (such as suspensions) against students at the school. The principal also has the authority to take additional administrative action, if, in the principal's opinion, the nature of the misconduct warrants it. (Code, p. 9) Thus, even if he felt the suspension was too severe a sanction, he could have ordered that the football player not be allowed to dress out for the game nor play. Such action would have sent a clear message that criminal acts committed by athletes will not be tolerated or willfully ignored. Athletic prowess will not prevail over the need to maintain discipline and appropriate standards of conduct within our schools. It would have also sent some message to the little girl that the school did finally impose some type of disciplinary action against the person who took advantage of her.

### **B. A Bad Policy**

Our investigation also revealed something that we find is in defiance of any common sense or logic. The District, in the process of changing the way school administrators are evaluated, has adopted a policy whereby school administrators receive monetary bonuses if they meet certain benchmarks. Some of these benchmarks are perfectly reasonable, for example, increasing school attendance and elevating students' grades. However, one of the benchmarks is reducing the number of suspensions. There are some in the District that espouse the philosophy that, "After all, if a kid is suspended, he/she is not learning." Let us take a moment to examine this statement. First, this philosophy grants no consideration to the other students in the classroom who are behaving perfectly appropriately and deserve to learn. If there are students in the classroom who should be subject to suspension, they should be removed for the sake of the others. To do otherwise is giving the priority to the wrongdoers and the troublemakers. We must teach them to behave, now and later in life, and this message begins in school. Suspensions can be a useful tool in imparting this message. Second, it is the responsibility of the District to place the students under suspension in a separate environment where they will continue to learn. In that regard, there is great logic to doing away with outdoor suspensions. The reality is that outdoor suspensions provide nothing more than wrongfully obtained vacation days. But, in the proper indoor suspension environment, there actually could be some positive effect achieved, for both the troublemaker and the well behaved.

Of course, the proper way to achieve this benchmark is to reduce suspensions by having well-behaved students, thereby doing away with the need for suspensions. By initially imposing many indoor suspensions to send the message that trouble making will not be tolerated is a good start. This, naturally, will exponentially increase the number of suspensions for an unspecified period of time. By including this particular benchmark in the school administrators' evaluation, the District has created a personal economic incentive to do exactly the opposite, and resist meting out punishment where it otherwise should have been imposed. Perhaps this, coupled with other motivations discussed herein, influenced some of the otherwise inexplicable actions taken here.

Therefore, we recommend:

- *That monetary bonuses for school administrators no longer be tied to a reduction in suspensions*
- *That the District adopt a policy whereby schools utilize indoor suspension as a general practice and outdoor suspension as a last resort*

## **V. THE APPARENT FAILINGS OF PRIORITY AT THE DISTRICT LEVEL**

Sadly, we have learned that the culture of football has permeated almost every crack and crevice of our school district. This conclusion is corroborated by the actions taken and the decisions made when the post-arrest issues were brought to the attention of those at the district. On the day the football player was arrested, District Administration (as opposed to the administration and others at MNW) made it crystal clear that its priorities were skewed, too. The State championship game was to be played in a few days, specifically, on December 9, 2006. The big question on the day of arrest was, "Should the kid play?" Not, "How is the little girl?" but, "Should the kid play?" Ultimately, after several meetings and much consultation, the decision was made that, yes, indeed, he should play. Apparently, the sworn arrest affidavit recounting the victim's statement and the defendant's confession were not enough to indicate that a crime had actually occurred. Surely, one of the District Administrators was familiar with the school policy in the Code that mandated suspension and a recommendation for expulsion. Surely, they were all aware of the fact that this issue should not have even been placed before them for consideration in the first place. Surely, the victim's statement and the defendant's confession was enough to call the code's mandatory consequences into play.

It is unfathomable that a question like this should have been brought to District

Administration and reveals how significant the MNW football program is among the District's priorities. Matters pertaining to the suspension of a student and consequent eligibility to participate in athletic events are squarely and appropriately within the authority of the principal alone. The school is his territory, his fiefdom, his realm to be controlled responsibly. Principal Bernard failed to perform his job in this instance. With position comes the obligation to make difficult decisions. He let the matter go downtown and thereby washed his hands of it. This brings us to a discussion on the need to clarify exactly how and when the sanctions in the Student Code of Conduct will be imposed. The rules should be clarified so that a "convenient" or "goal specific" interpretation of the rules cannot occur. See, p. 21.

Instead of involving itself in an individual student's disciplinary matter, the District should have immediately directed the question back to the principal. They failed to do so. Instead a decision usually made by a principal, was made by District Administrators and attorneys for the School District. Their decision was to let him play. Again, we do not believe that this is the message that should have been sent to the students and athletes who attend schools within this district. This decision indicates to us that the perversion of educational values goes beyond the level of the school straight to the heart of the District.

Our concerns about the District's actions did not stop with the issue of whether the star athlete would play in the championship game. Another decision was soon to be made and it proved to be of even greater concern to us. It appeared that an effort was made by a high level district administrator to halt the criminal investigation which was specifically looking into the failure of the MNW personnel to report these crimes to the school police. We decided to take a very close look at these events.

## **VI. THE FAILINGS AND PROBLEMS AT THE SCHOOLS POLICE DEPARTMENT**

When the SRO assigned to MNW became aware of the September incident and discovered that the crime had occurred almost three months prior, he contacted his superiors immediately. He knew there would be an issue over the amount of time that had transpired from the school's knowledge to the school's reporting. He was right.

### **A. The Shutdown of a Criminal Investigation**

When the case finally came to the attention of the Miami-Dade Schools Police, the cover-up within the school was no longer feasible. A detective from the General Investigative Unit



(GIU) responded to MNW to begin interviewing witnesses in conjunction with the failure to report the incidents. This investigation was specifically targeting school employees, not students. The mission was to determine who amongst the school employees knew about the crimes and when did they receive that information. The initial interviews revealed that, as stated previously, twenty-one (21) school employees knew about the first incident. Seventeen (17) school employees knew about the final incident. Each of these employees knew well before the school police had the slightest inkling that crimes had occurred on campus. The list of employees who knew covered just about every category of employee at the school, including teachers, administrators, coaches and counselors. Surprisingly, while the police investigation was still underway, the high level District Administration<sup>11</sup> stepped in and, to some, seemingly reinitiated the cover-up attempted by the administration at MNW.

Miami-Dade Schools Police was in the process of conducting interviews when District administration ordered it to cease its investigation. Although the criminal investigation was incomplete, Miami-Dade Schools Police, for some unfathomable reason, actually acquiesced and stopped its investigation. While we were repeatedly told that absolutely no one within the District has the authority to stop a criminal investigation, such did not hold true in this case.

The missive that had the power to stop the ongoing active criminal investigation was an e-mail. It had been sent to various individuals, including Principal Dwight Bernard, and various members of the District Administration and the Miami-Dade Schools Police. The email, addressed to Principal Bernard, reads as follows:

“As we discussed last week and earlier today, please move forward with a concise, fair and timely Administrative Review regarding the allegations regarding two students (lewd/battery). GIU will cease its investigation until such time that you submit your report to Mr. Nunez and Principal Woodard. If you should need any guidance or assistance during this time, please feel free to call on me!”

In the e-mail, Principal Bernard was instructed to continue his “Administrative Review” and the Miami-Dade Schools Police was directed to cease its criminal investigation. An “Administrative Review” is usually a non-criminal administrative

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<sup>11</sup> “District Administration” or “The District” refers to the Miami-Dade County Public Schools Administration, or in other words, the administration for the entire school system.

review of some action that has taken place involving school employees.<sup>12</sup> If the matter has any criminal aspects, the administrative review is conducted **after** the criminal investigation is completed.

When an allegation is made, the first step under PIM is to determine whether the allegation is criminal in nature. This determination is to be made by the Miami-Dade Schools Police, not school or District Administration. Obviously here, the allegations were both serious and, more importantly, criminal. In this situation, the District clearly violated PIM by ordering an administrative review. This is particularly troubling because PIM was (and remains) District's policy and was implemented by a high level District administrator.

Throughout the District, at the school level as well as the Administrative level, it is widely known that failure to report is a crime. To a person, all witnesses admitted knowledge of this fact. How then was an e-mail sent ordering the shutdown of what was clearly an investigation into criminal activity? Despite the denials we have heard and the statements that the high level District administrator did not know this was a criminal investigation, we cannot overlook the fact that everyone admitted that they knew "failure to report" was a crime. How could this same individual, who stated unequivocally that it was personally known that failure to report was a crime, claim that it was not known that the police investigation was criminal? It should be noted that the Miami-Dade Schools Police does conduct administrative investigations as an aspect of its Department's duties. But nevertheless, we find it unreasonable and unbelievable that it was not known this was a criminal investigation. Let us assume for one brief moment that it was not known. Surely the thought must have occurred. The passage of time alone should have raised this concern. (It is certainly unreasonable and perhaps irresponsible not to have even considered it. Given that, the very least that should have been done was to refer it for a

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<sup>12</sup> These matters and processes are covered in a school document entitled "Personnel Investigative Model" (PIM).. PIM is applicable here, as it dictates the guidelines for handling situations in which a school employee is accused of wrongdoing, including crime. (Here, obviously, a myriad of school employees were accused of "failure to report." Failure to report is both a crime and a violation of school policy.) If, and only if, the police determine that no criminal activity is involved, the case is referred to the Allegation Review Team (ART) for administrative investigative assignment. The ART determines the appropriate investigative route for non-criminal allegations. The relevant options are the Civilian Investigative Unit (for serious non-criminal allegations) and Administrative Review (for minor non-criminal allegations.)

criminal investigation.) How much of an effort would it have been to call the Police Department and inquire as to the nature of the ongoing investigation? We have heard, “no one responded directly to the e-mail.” Does that remove all responsibility to learn all you can prior to the shutdown of an ongoing criminal police investigation? We think not and reject any and all excuses for this completely overreaching act.

When we couple this order to shut down the investigation with the decision to “let the kid play,” we see impure motivations in the actions and inactions taken here within the school, the District and the Miami-Dade Schools Police.

This e-mail was profoundly upsetting, troubling, and offensive to the majority of involved members of the school police. Receipt of this e-mail started a flurry of frantic, and in some measure desperate, attempts to communicate with the powers that be. Seemingly everyone was reaching up in the chain of command in an effort to prevent the unthinkable. The unthinkable was that non-police personnel could have the audacity and apparent authority to interfere with an otherwise valid criminal investigation. However, all efforts were to no avail. The investigation was halted in its tracks before it was complete, before all statements were taken, before any assessments could be made, and certainly before anyone could be arrested.

Therefore, we recommend:

- *That the District refrain from any sort of interference in police investigations.*
- *That the Miami-Dade Schools Police maintain its autonomy and independence and conduct its investigations free from District meddling.*
- *That the Miami-Dade Schools Police investigate criminal matters only.*
- *That once the Miami-Dade Schools Police determines that an allegation is not criminal, that it direct those non-criminal allegations to the Office of Professional Standards (OPS)<sup>13</sup> for appropriate investigative assignment*
- *That the Miami-Dade Schools Police clarify in writing its policy and procedure for police report departmental approval.*
- *That the Miami-Dade Schools Police maintain its cooperative relationship and its policy of sharing information and police reports with all other law enforcement agencies.*

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<sup>13</sup> The Office of Professional Standards is defined in the Personnel Investigative Model as “The office that directs employment actions to maintain and promote ethical performance standards in accordance with School Board policy, contractual stipulations, state and federal statutes.”

## **B. Retaliation**

Retaliation at the Miami-Dade Schools Police is another issue that has come to the attention of this Grand Jury. It is a sad and disparaging commentary when a sworn police officer fears retaliation for doing what is right when it goes against the wishes of the school police administration or the district administration. This speaks to one of the alarming practices perceived by officers of the Miami-Dade Schools Police. Some officers even fear consequences for being perceived as cooperating with this investigation. Officers who came before the Grand Jury did so at the request of the Grand Jury. They were sworn to tell the truth and had no choice but to come in and answer truthfully. We sincerely hope that there is no retribution for fulfilling their oath and testifying truthfully before the Grand Jury.

As it relates to the issue of retaliation, the controversy surrounding the halted investigation did not end there. As is customary, the City of Miami Police Department as well as the State Attorney's Office, were provided a copy of the police report prepared by the GIU Detective. It included all the work that had been done up until the time the investigation was terminated. Upon the release of that report, which included a reference to the halting of the investigation, that proverbial cat was now out of the bag. A flurry of communications between school police and the District began yet again. This time it focused on the fact that outsiders had unexpectedly learned of the abrupt shutdown of the investigation.

Immediately after the shutdown, the Miami-Dade Schools Police completed a 26-page report detailing information obtained during the brief time period of the investigation. That report was approved and signed by a supervisor on December 18, 2006. The Miami Police Department requested a copy of the report, and again as is customary among police agencies, the report was provided to it. The Miami Police Department agreed to continue the investigation. The report had also been forwarded to the State Attorney's Office. It should be noted again that this, too, is customary.

Everything was quiet at the Miami-Dade Schools Police until January 8, 2006, when it was discovered that the report had been forwarded to both the Miami Police Department and the State Attorney's Office. This became a very volatile issue in the Miami-Dade Schools Police and within District Administration because the report also

named the high level District Administrator who stopped the investigation. Thereafter, the GIU Detective was transferred to another department, where she received a loss of status and a reduction in pay. She had already been approved for a promotion to the position of Sergeant. However, after it was discovered that she had released the report to outsiders her promotion was undone. These events too, became the subject of great media scrutiny. Union representatives came to the aid of the former GIU Detective and were able to assist her in getting her promotion finalized. These events that transpired following the release of the report certainly give the impression that the actions taken against the Detective were directly related to her decision to do her job and to not assist in any type of cover-up. It clearly appears to this Grand Jury that the Detective was reprimanded and punished for simply doing her job and executing it well. The irony is that she had specifically been assigned to handle the “failure to report” investigation due to the quality and diligent manner in which she handled her assignments. The fact that her report was provided to the City of Miami Police Department and later to the State Attorney’s Office should never have caused these problems.

Both the Miami-Dade Schools Police and District Administration confirmed that they had a problem with the release of the report. However, they claim that the only problem with the report leaving their custody and control was one of embarrassment. They had been caught “unaware.” When contacted by outsiders and asked questions about the report, they had no knowledge of it. This, they say, was the source of the anger and concern within the Police Department and the District about the dissemination of this report. We wonder if the same result would have ensued had the report **not** cited the abrupt shutdown of the investigation. In light of other information received during our investigation it causes us to wonder if, as stated by witnesses, the Miami-Dade Schools Police and the District routinely engage in censorship of its reports. See, Missing and Altered Police Reports herein, p. 19.

### **C. A Need for Independence**

A third and more pressing issue confronting the Miami-Dade Schools Police is the lack of or the appearance of the lack of autonomy from the school district administration. As is corroborated by the aforementioned Sections, there is a belief that the Miami-Dade Schools Police, in some cases, does not possess the independence necessary to conduct

thorough and unbiased investigations. The existence of this problem is established by facts that came to our attention during the course of this investigation. For instance, the e-mail halting the GIU investigation was not from the school police but from a high level District administrator. It was sent **to** the police chief. Any directive concerning this investigation should have come **from** the police chief. How is it that a school administrator, without any law enforcement training or experience, could order the school police to cease a criminal investigation? There should be no way that something like this should or could ever occur, regardless of what excuse has been proffered by the high level District administrator.

An essential component of a free society is the independence of those within whom we place our faith to conduct investigations. That includes an entity such as the Miami-Dade Schools Police. The Department should be able to conduct its investigations free of interference from the District. If a governmental agency is honest and true, it has nothing to fear. If the District Administration has nothing to hide and therefore nothing to fear, their policy should be “hands off” when it comes to the Miami-Dade Schools Police.<sup>14</sup>

Therefore we recommend:

- *That the District refrain from interfering in criminal investigations conducted by the Schools Police Department.*
- *That the Schools Police Department maintain its autonomy and independence in conducting criminal investigations, in spite of any meddling from the District.*

#### **D. Missing and Altered Police Reports**

Retaliation is but one of the fears had by some officers within the Miami-Dade Schools Police. There are other issues that give some officers within the department cause for concern. One of those issues is that officers feel the need to maintain copies of their reports at locations other than the police station for fear that the reports will disappear or be altered. They simply

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<sup>14</sup> Lack of autonomy and the ability of investigators to work free from District interference is, sadly, not a new issue for M-DCPS. The Fall Term 2004 Grand Jury Investigation into M-DCPS dealt in part with the lack of independence of the Inspector General. The purpose of the Inspector General is to serve as an independent watchdog to investigate and/or prevent abuse, fraud, mismanagement and waste within a governmental agency. We are encouraged to report that a truly independent Inspector General is finally on the horizon. It was brought to our attention during this investigation that M-DCPS is exploring the possibility of contracting with the Inspector General for Miami-Dade County to also work with the M-DCPS.

don't trust the department's proficiency and honesty when it comes to record keeping. There is a concern that reports and/or files on certain ranked officials within the department have disappeared and/or been altered. There is no room or tolerance for this type of practice in a police department. If the community cannot trust the department's record keeping capabilities, how can it trust that the agency is committed to upholding the laws and protecting the community? This is a problem that must definitely be addressed, and eliminated.

Therefore, we recommend:

- ***That when the new, independent, Inspector General for M-DCPS is appointed, (in connection with a previous Grand Jury's recommendation), that Inspector General conduct an investigation into whether the practices described above actually exist.***

#### **E. Who Can the Police Investigate?**

Another issue that surfaced in the course of our investigation is that some school police officers fear that if they investigate certain school or police department administrators, there will be consequences for doing so and that nothing will result from the investigation. There is a directive within the Miami-Dade Schools Police which speaks to this very issue. This directive basically mandates that sworn school police officers must clear and get approval for investigation of a school employee with a police supervisor prior to initiating the investigation. In effect, this means a sworn police officer for the Miami-Dade Schools Police cannot investigate a M-DCPS administrator or employee without first obtaining permission to do so. It brings to mind this question: "Why is there special treatment?" There is no such directive for officers investigating students within the school district, so why are employees being treated differently and given some type of elevated status? The problem that this directive and practice creates is a lack of trust in the school police department to investigate and catch those who do wrong and/or break the law. It also lowers morale when it appears that some employees within the school district are above the law and therefore immune from investigations into their actions. Further, it sends a message that the school police department is merely a puppet of the school district.

Therefore, we recommend:

- *The Miami Dade County Schools Police Department should clearly state in writing that all subjects, including school administrators and other school employees, are to be investigated as vigorously as all others, and that this written statement of policy be delivered to each and every police officer within the department accompanied by training during which this policy shall be clearly announced.*

#### **F. Let The Police Make The Call**

Finally, a procedure should be created for the Miami-Dade Schools Police to screen all allegations that could possibly have criminal implications, no matter how insubstantial the allegation may be initially.<sup>15</sup> It should then be determined whether the allegation is criminal and if, therefore, it should be investigated or if it should be sent to OPS to assign to the appropriate entity for further follow-up or investigation. All initial screening and/or investigative duties into any matter that might be criminal should be completely removed from the duties of school administrators or their designees.

As to allegations against school employees, the Miami-Dade Schools Police should only investigate criminal matters and that the Office of Professional Standards should direct all administrative matters to the appropriate entities within the school district.

### **VII. FAILINGS WITH THE SCHOOL POLICIES**

The M-DCPS has policies and procedures directly applicable to the incidents described in Section II of this report. See, pp. 2 -5. Specifically, the Student Code of Conduct (the Code) and the Procedures for Promoting and Maintaining a Safe Learning Environment (PPMSLE) manual, govern the reporting of crimes occurring on campus when the offender is a student. However, in our review of those documents we have identified some inconsistencies, conflicts and omissions. We address our concerns below.

#### **A. “The Student Code of Conduct”**

As mentioned before, the Code is a manual written to inform (primarily) students

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<sup>15</sup> It is our intent that this initial screening and any resulting documentation remain private when students are the subjects of this initial screening.



and parents of school policies with reference to a student's conduct, including criminal acts, and the corresponding consequences.

There is nothing in the Code that informs the student, parent or school employee how one is to determine if the allegation is sufficiently demonstrated to warrant the consequence. In other words, how one is to determine if the allegation is accurate. One must look to PPMSLE to get that information. We ask the reader to take note of the inherent inconsistency and resulting confusion stemming from the reporting directions as stated in PPMSLE as opposed to the Code.

**B. "Procedures for Promoting and Maintaining a Safe Learning Environment" (PPMSLE)**

PPMSLE is a manual for school employees, more specifically for school administration, that includes the procedures for handling criminal offenses committed by students that occur on campus. This manual is confusing, vague, overreaching and in conflict with both state statute and other school documents.

Despite other school directives that require reporting of crimes directly to police, PPMSLE, in Chapter Two, instructs all school employees to report crime to school administration. Two of the twenty-one school employees who were told about the September incident reported what they had learned to Principal Bernard, as PPMSLE dictates. They also instructed him that he must report the incident to the police. Lamentably, Principal Bernard did not report the incident. It is therefore conceivable that these two employees would have believed that once they informed Principal Bernard of the incident, told him that he must report it, and he agreed to do so, their reporting requirement had been satisfied. The problem with this belief, as we saw in this case, is that the incident didn't get reported. Another and perhaps more alarming issue is that the law mandates that anyone given this information has an individual duty to report it to the police, and school policy seems to contradict state law in that aspect.

After instructing school employees to report crimes to their administrators, PPMSLE goes on to direct school administrators to conduct their own "investigation" prior to reporting a crime to police. This is yet another step built into the system that further delays the actual report to police and should be eliminated.

Our next question is: How are school administrators supposed to conduct their

own investigation into what is likely criminal activity? This brings us to PPMSLE's Guideline #14, which contains what are purported to be instructions for investigating crime (including some rather vague and amorphous advice about taking statements and impounding evidence.) It is mind-boggling to think that the District actually requires and expects school administrators to investigate crime, a highly specialized area of work, which is completely beyond the ken of most, if not all, school administrators. It further boggles the mind that this two-page instruction is relied upon to sufficiently teach school administrators the art of investigation. Moreover, it fails to educate the administrator as to the elements of the crimes to be investigated. How is one to determine if the facts add up to the crime if one does not know the basic requirements? It is abundantly clear that this area is best left to the professionals—the police.

PPMSLE further instructs the school administrator to report the allegations upon “**verification**” of the crime. What does this mean? Does this mean that there is a reasonable suspicion that the crime occurred? Or that probable cause exists to believe the crime occurred? Or that someone said the crime occurred? Or that there is DNA evidence, fingerprints, a confession and an entire Orange Bowl full of eyewitnesses? It is apparent that this is dangerously left to individual interpretation and rife with the possibility of subjective and inconsistent application.

There is a very simple solution to all of these problems. Adopt the initial reporting and investigation assignment concept as expressed in the Personnel Investigative Model (PIM). It is both consistent with the law and good school policy. It also has the advantage of already having been vetted and approved by the School Board in 2004. We are aware that PIM was created specifically for situations in which school employees have been accused of some wrongdoing. It must be adapted to serve the purpose of investigating allegations made against students.

Under PIM, school employees are clearly and unequivocally instructed to report any allegation of crime directly and immediately to the school police department. There is no direction to report to administrators, thereby avoiding the confusion and difficulties in PPMSLE.

Additionally, under PIM, the school police determine whether the allegations are criminal. If so, the police conduct the investigation, thereby avoiding all of the evidentiary

problems pointed out above. If the allegations are not criminal, there is no concern about untrained administrators taking statements of witnesses and impounding evidence. The Judicial System's Rules of Evidence will not apply. School administrators can be trained in conducting non-criminal investigations specifically tailored to the District's needs.

Once the police conduct their investigation, they will decide whether there is sufficient evidence to warrant criminal charges. At that point, it should be clear whether the sanctions laid out in the Code should be imposed. Probable cause is clearly sufficient proof for a school to act to remove a danger from the school campus.

However, there are some instances when waiting until an investigation is completed and an arrest made will have the effect of allowing a dangerous situation to fester and become worse. We find there is frequently a need for immediacy when criminal acts may be involved. There is clearly an urgent need to remove danger from the school site. There is also an urgent need to remove the possibility of reoccurrence of the crime. Furthermore, there is a critical need to send an immediate and powerful message to students that criminal activity will not be tolerated. If left undone, a dangerous situation is not brought under control and our educational obligation is not met. It is imperative that under these circumstances, the Principal must, as the leader of the school, step up and make expeditious and fair decisions to maintain safety and order in the school.

Once the police are involved, however, the principal must be careful not to interfere with the police investigation. When the police arrive on the school campus, it is their investigation and their scene. It is no longer the principal's kingdom to control at will. No one, including employees extending up to the District, should interfere with an investigation being conducted by the police.

Therefore, we recommend:

- ***That the initial reporting and investigation assignment concept in the Personnel Investigative Model (PIM) be adopted and applied to investigations of students.***
- ***That any necessary modifications to the initial reporting and investigation assignment concept in PIM be made so it will be appropriately applicable to students.***

- *That all school employees be required as individuals to report any and all allegations of child abuse directly to the Miami-Dade County Schools Police and/or the Department of Children and Families; that informing a school administrator or supervisor will not suffice and that this policy be clearly stated in writing and delivered to each and every school employee accompanied by training during which this policy will be clearly announced, explained and discussed.*
- *That all school employees receive in writing a clear statement explaining the law and statutory reporting requirements re: Sexual Battery, and/or sexual conduct as currently defined in the Code of Student Conduct and receive training in which the law will be explained and discussed.*
- *That all school employees be trained on all reporting requirements within the law and school policy.*

### **VIII. 9<sup>th</sup> GRADERS IN HIGH SCHOOL**

The Grand Jury believes that placing fourteen-year-olds in the same location with high school seniors is a major contributing factor for the type of inappropriate behavior that occurred here.

Many of our high school students turn eighteen before they graduate from high school. However, with the advent of policies that dictate holding students back if they fail the FCAT, we see a future where fourteen-year-olds will be attending high school with nineteen and twenty-year-old seniors. These “adults” who have greater sophistication and different social skills are **not** the role models we want for our 9<sup>th</sup> grade student population. We received testimony that indicated ninth graders are at a critical stage in their social and educational development. These “kids” are much more malleable, and as seen here, the consequences of mixing them with adults in high school can be disastrous for them.

In that regard, we were pleased to hear that the School Board has instituted a pilot program that will explore the concept of Ninth Grade Academies. This may very well be a solution to this problem. The Ninth Grade Academy is designed to separate the ninth graders from the older student school population and prepare them to transition from middle to senior high school. We believe if you can grab a ninth grader and make sure that they take the right path at this important juncture, there is a much greater chance of that child succeeding in school, and ultimately in life. Perhaps this could have protected the

little girl here.

Therefore, we recommend:

- *That the M-DCPS place ninth graders in middle schools or in the alternative, create ninth grade academies in all senior high schools.*

## IX. THE CRIMINAL CHARGES

Because of his actions, inactions and fraudulent behavior, this Grand Jury opted to file charges against Principal Dwight Bernard. Specifically, we have issued, with the release of this report, an Indictment charging him with two counts of Official Misconduct.

The grounds for the charge in Count I include: his failure to report the initial incident to school police; coupled with his representation to the Assistant Principals and others that he would do so; and his position as Chief Administrator at the school. We will briefly address each item here.

Principal Bernard, in addition to others at the school, received credible information that a crime had taken place on the campus of MNW. We believe he knew of the requirement to report the incident to the police. However, even if he did not know initially, several of the other school administrators told him emphatically that there was a statutory obligation as well as a school policy to make the report. He did not do so.

Worse than “not reporting” was the fact that Principal Bernard told those who reported it to him that he **would** report the incident. This is troubling on several levels. First, he outright lied to his subordinates on this matter of great significance. Second, his pronouncement that he would take care of it somewhat absolved the others who knew of their obligation to report the matter to the police.<sup>16</sup> As indicated earlier, PPMSLE instructs the school employees to report the matter to the administrator. They did that and received assurances that it would be reported. One of the Assistant Principals was so insistent on informing the police, that “but for” Principal Bernard’s comment, the matter might have been reported months earlier. Had that occurred, the little girl might have

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<sup>16</sup> The Grand Jury wrestled with this issue a great deal. We do not feel that simply telling the Chief Administrator absolves the employees of the obligation to report Level V offenses to the police. Had that been the end of the matter, other school administrators would most probably have been indicted too. Principal Bernard’s statement that he would take care of it” was the single most important fact militated against filing charges against other administrators and employees at the school.

been spared some of the other horrible experiences she endured. She would have received help in a much more timely fashion. Unfortunately, that did not happen due to the actions and inactions of Principal Bernard.

As principal of the school, Principal Bernard was the ultimate authority for matters occurring at Northwestern Senior High. With that position comes an awesome amount of responsibilities. Those responsibilities extend to students, parents, teachers, administrators and other school employees. As for “students,” it applies to all students – the star football player as well as the 14-year-old honor student. By failing to report, Principal Bernard failed to fulfill his duties and responsibilities to this little girl. The aftermath of the failure demands that charges be filed against him.

Count I of the indictment charges Principal Bernard for his conduct before the Miami-Dade Schools Police found out about the September incident. Count II addresses equally egregious conduct which occurred after the police investigation began.

As previously stated, generally there are two types of investigations usually conducted within the Miami-Dade County Public Schools: criminal investigations and Administrative Reviews (pp. 14 - 15). Criminal investigations are conducted by the General Investigation Unit of the Miami-Dade Schools Police. Administrative Reviews are generally conducted by non-law enforcement personnel.

Due to the extreme length of time that passed from the date the September incident was initially reported to school officials and the date it was finally reported to the schools police department, a decision was made to conduct a criminal investigation of the apparent failure to report the crime to the police in a timely manner. As indicated earlier, that investigation was abruptly halted and a directive was given that an Administrative Review would be continued by the principal, Principal Bernard.<sup>17</sup>

In connection with his review, Principal Bernard submitted a document to the Executive Administrators at the District Office. A copy of that document was obtained from the School Superintendent, Rudolph Crew.

As reported in the document, Principal Bernard acknowledges that in early

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<sup>17</sup> The conflict of interest that arises under these facts is glaring. We are at a loss to understand why the principal would be directed to conduct a review of what was obviously criminal conduct. The fact that Principal Bernard would, in essence, be conducting an examination and review of his own wrongful conduct underscores how outrageous it was to take this course of action.

October 2006 he became aware of a sexual encounter that occurred between the two students mentioned earlier. Principal Bernard claims he directed one of his assistant principals to investigate the rumor. Allegedly, the assistant principal conducted an investigation and reported back that the rumors were unsubstantiated. Principal Bernard reports that, as a result, he also deemed the rumors unsubstantiated. . His designee has denied being asked to conduct any type of investigation. In reality, he did absolutely nothing.

During the course of our investigation, we heard from and/or received evidence regarding each of the Assistant Principals, including the one identified in the report Principal Bernard submitted to the District Office. Based on the evidence we received, the Assistant Principal named in Principal Bernard's report did not receive any such instructions from Principal Bernard, nor did she conduct an investigation or report back any findings. The same result applies for the other Assistant Principals. No one received any instructions to look into the rumors and no one reported back that the rumors were unsubstantiated. The statement to that effect set forth in Principal Bernard's report is simply false. We cannot countenance such a blatant attempt by Principal Bernard to cover up his failure to report the criminal conduct.

For all these reasons, we determined that Principal Bernard's conduct was of such a nature that it was appropriate to file charges against him for his criminal acts.

**X. REFERRAL TO DEPARTMENT OF EDUCATION FOR POSSIBLE SANCTIONS**

The State of Florida's Department of Education (DOE) conducts investigations and imposes sanctions against teachers and administrators who violate the policies, guidelines and dictates of Section 1000 of the Florida Statutes. We will be forwarding a copy of this report to the department asking it to vigorously investigate the failures of the school employees to report this act of child abuse. As to sanctions, we believe some of the witnesses should be granted leniency due to their extensive cooperation with our investigation. However, the most severe sanctions possible should be levied on those who had prior knowledge, resisted all efforts and suggestions to report, refused to cooperate, and/or tried to maintain the cover-up.

Therefore we recommend:

- *That the Department of Education perform a thorough and uncompromising investigation into the action and inactions of the Miami Dade County Public School employees who were involved here and impose appropriate sanctions.*

## **XI. CONCLUSION**

The tragic and frightening consequences that have befallen the little girl are inexcusable. They could have been completely avoided. The priorities were skewed and the safety of the little girl was far from paramount. This must change. M-DCPS must take every measure possible to correct this and we feel our recommendations offer a pathway to this goal. Championships are glorious, but fleeting. Academics must trump sports if we wish to provide our children with a realistic future.

## **XII. SUMMARY OF RECOMMENDATIONS**

1. *That monetary bonuses for school administrators no longer be tied to a reduction in suspensions*
2. *That the District adopt a policy whereby schools utilize indoor suspension as a general practice and outdoor suspension as a last resort*
3. *That the District refrain from any sort of interference in police investigations.*
4. *That the Miami-Dade Schools Police maintain its autonomy and independence and conduct its investigations free from District meddling.*
5. *That the Miami-Dade Schools Police investigate criminal matters only.*
6. *That once the Miami-Dade Schools Police determines that an allegation is not criminal, that it direct those non-criminal allegations to the Office of Professional Standards (OPS)<sup>18</sup> for appropriate investigative assignment*
7. *That the Miami-Dade Schools Police clarify in writing its policy and procedure for police report departmental approval.*
8. *That the Miami-Dade Schools Police maintain its cooperative relationship and its policy of sharing information and police reports with all other law enforcement agencies.*
9. *That the District refrain from interfering in criminal investigations conducted by the Schools Police Department.*
10. *That the Schools Police Department maintain its autonomy and independence in conducting criminal investigations, in spite of any meddling from the District.*



11. *That when the new, independent, Inspector General for M-DCPS is appointed, (in connection with a previous Grand Jury's recommendation), that Inspector General conduct an investigation into whether the practices described above actually exist.*
12. *The Miami Dade County Schools Police Department should clearly state in writing that all subjects, including school administrators and other school employees, are to be investigated as vigorously as all others, and that this written statement of policy be delivered to each and every police officer within the department accompanied by training during which this policy shall be clearly announced.*
13. *That the initial reporting and investigation assignment concept in the Personnel Investigative Model (PIM) be adopted and applied to investigations of students.*
14. *That any necessary modifications to the initial reporting and investigation assignment concept in PIM be made so it will be appropriately applicable to students.*
15. *That all school employees be required as individuals to report any and all allegations of child abuse directly to the Miami-Dade County Schools Police and/or the Department of Children and Families; that informing a school administrator or supervisor will not suffice and that this policy be clearly stated in writing and delivered to each and every school employee accompanied by training during which this policy will be clearly announced, explained and discussed.*
16. *That all school employees receive in writing a clear statement explaining the law and statutory reporting requirements re: Sexual Battery, and/or sexual conduct as currently defined in the Code of Student Conduct and receive training in which the law will be explained and discussed.*
17. *That all school employees be trained on all reporting requirements within the law and school policy.*
18. *That the M-DCPS place ninth graders in middle schools or in the alternative, create ninth grade academies in all senior high schools.*
19. *That the Department of Education perform a thorough and uncompromising investigation into action and inactions of the Miami Dade County Public School employees who were involved here and impose appropriate sanctions.*

<u>NAME OF DEFENDANT</u>	<u>CHARGE</u>	<u>INDICTMENT RETURNED</u>
DONIECE ROBBINS	Murder First Degree	True Bill
JOEL BISMARCK VIGIL	Murder First Degree Robbery Using Deadly Weapon or Firearm	True Bill
(A) RAYON MATHEW SAMUELS (B) SEAN N. CONDELL, (C) DAMIAN DEWAYNE LEWIS, (D) BJON RASHID LEE, and (E) JOSE LAUREL ESTACHE	Murder First Degree Murder First Degree Murder/Premeditated/Attempt Deadly Weapon or Aggravated Battery Murder/Premeditated/Attempt Deadly Weapon or Aggravated Battery Murder/Premeditated/Attempt Deadly Weapon or Aggravated Battery Murder/Premeditated/Attempt Deadly Weapon or Aggravated Battery Attempted Felony Murder With a Deadly Weapon or Aggravated Battery Attempted Felony Murder With a Deadly Weapon or Aggravated Battery Attempted Felony Murder With a Deadly Weapon or Aggravated Battery Attempted Felony Murder With a Deadly Weapon or Aggravated Battery Burglary With Assault or Battery Therein While Armed Robbery/Home Invasion/Armed/Attempt Attempted Armed Robbery Unlawful Possession of a Firearm While Engaged in a Criminal Offense (B Only) Unlawful Possession of a Firearm While Engaged in a Criminal Offense (E Only)	True Bill
ANTHONY JAMES LEWIS	Murder First Degree	True Bill
DANQIONG YANG	Murder First Degree	True Bill
(A) JOSE MINGUEZ, (B) KEITH GRANT (C) MICHAEL ARGUETA (D) MALCOLM BURNETT	Armed Burglary Grand Theft Third Degree/Firearm Grand Theft Third Degree Criminal Mischief / \$200-\$999.99 Attempted Armed Burglary Criminal Mischief / \$200-\$999.99 Armed Burglary Grand Theft Third Degree Criminal Mischief / \$200-\$999.99 Aggravated Assault with a Firearm Attempted Second Degree Murder/Deadly Weapon/Aggravated Battery	True Bill
STEVE STERLIN	Murder First Degree Firearm Weapon/Possession by Convicted Felon or Delinquent	True Bill
WEDER VILSAINT	Murder First Degree Possession of Firearm by Convicted Felon Armed Burglary with Assault or Battery Therein Violation of Injunction	True Bill

<u>NAME OF DEFENDANT</u>	<u>CHARGE</u>	<u>INDICTMENT RETURNED</u>
AHMAD RASHAD MILTON	Murder First Degree Murder/Premeditated/Attempt/Deadly Weapon or Aggravated Battery Attempted Felony Murder with a Deadly Weapon or Aggravated Battery Attempted Felony Murder with a Deadly Weapon or Aggravated Battery Attempted Felony Murder with a Deadly Weapon or Aggravated Battery Attempted Felony Murder with a Deadly Weapon or Aggravated Battery Attempted Felony Murder with a Deadly Weapon or Aggravated Battery Discharging a Firearm from a Vehicle Discharging a Firearm in Public	True Bill
JOSEPH A. GARCIA	Murder First Degree Aggravated Assault with a Firearm Firearm/Weapon/Possession by Convicted Felon or Delinquent Cocaine Trafficking/Armed 28 GR>/<150 K	True Bill
JOSE LUIS DE LA ROSA	Murder First Degree	True Bill
EMMANUEL JEAN, RICHARD PETIT and LAZARO ESTEBAN CORTES	Murder First Degree Robbery Using Deadly Weapon or Firearm Robbery/Armed/Conspiracy Firearm/Weapon/Possession by Delinquent (A Only)	True Bill
EDWIN F. IVALDI and CHRISTOPHER HERNANDEZ	Murder First Degree Robbery Using Deadly Weapon or Firearm Firearm/Possession by Convicted Felon or Delinquent (A Only)	True Bill
MARCO DAVIS, also known as STEVEN COEUR	Murder First Degree	True Bill
TYREE PATRICK WALKER	Murder First Degree Robbery Using Deadly Weapon or Firearm	True Bill
MARVIN JASSIR LAGOS	Murder First Degree	True Bill
LESTER CHARLES DILBERT	Murder First Degree	True Bill
ANTWYNE LATRON TOMLIN, also known as "LEE JOE"	Murder First Degree Firearm/Possession by Convicted Felon/ Delinquent	True Bill
ANTWYNE LATRON TOMLIN also known as "LEE JOE"	Murder First Degree Robbery Using Deadly Weapon or Firearm Firearm/Possession by Convicted Felon or Delinquent	True Bill

**INDICTMENT**

<u>NAME OF DEFENDANT</u>	<u>CHARGE</u>	<u>RETURNED</u>
(A) BYRON EDWARD CURRY, (B) GEORGE THEO KNOWLES, (C) GERALD GOODS, (D) CHRISTOPHER GOODS, and (E) TRAVIS DENZEL WASHINGTON	Murder First Degree Conspiracy to Commit Robbery	True Bill
JASON COLON and CHRISTIAN G. VILLAFANE	Murder First Degree Kidnapping With a Weapon	True Bill
TIMOTHY STEWART	Murder First Degree Attempted First Degree Murder Shooting Into an Occupied Dwelling	True Bill
ALRIC C. BERRY	Murder First Degree Attempted Felony Murder With a Deadly Weapon or Aggravated Battery Firearm/Weapon/Possession by Convicted Felon	True Bill
TONY BROWN, also known as ANDRE LAMAR GONZALEZ, also known as ANDRE GONZALEZ, also known as ANDRE GONZALES, also known as WILLIE McRAE	Murder First Degree Murder/Premeditated/Attempt/Deadly Weapon Robbery Using Deadly Weapon or Firearm Attempted Armed Robbery Firearm/Weapon/Possession by Convicted Felon or Delinquent	True Bill
KEITH FITZGERALD BROWN	Murder First Degree Murder/Premeditated/Attempt Deadly Weapon or Aggravated Battery	True Bill
WILLIAM MENDEZ	Murder First Degree	True Bill
MANUEL ENRIQUE MEDINA	Murder First Degree Human Body/Dead/Abuse Tampering With or Fabricating Physical Evidence	True Bill
ALFRED FARNELL	Murder First Degree Robbery/Armed/F/Armed	True Bill

<u>NAME OF DEFENDANT</u>	<u>CHARGE</u>	<u>INDICTMENT RETURNED</u>
(A) JULIUS STEVENS, also known as "JUDOG", (B) ERIC STOKES, also known as "ERIC STEWART also known as "CRAZY E", (C) JEAN HENRY, also known as 'HAITIAN JEAN", (D) EDDIE HARRIS, also known as "EDDIE BO", (E) CHAZRE DAVIS, also known as "CRIP"	I. RICO/Conspiracy (A-E) II. Racketeering/RICO (A-D) III. Cannabis/Conspiracy to Traffick (A-C) IV. Cocaine/Conspiracy to Traffick (A-C) V. Conspiracy to Commit First Degree Murder (E) VI. First Degree Murder (E) VII. Conspiracy to Commit First Degree Murder (A-C) VIII. First Degree Murder (A-C) IX. Conspiracy to Commit First Degree Murder (A-D) X. First Degree Murder (A-D) XI. First Degree Murder/Solicit (B) XII. First Degree Murder/Solicit (D)	True Bill
MARIO A. PEREZ and KRISTOPHER H. HOYOS	Murder First Degree Robbery/Carjacking/Armed Burglary with Assault or Battery Therein While Armed Arson Second Degree	True Bill
DARREL THRETES GIBSON	Murder First Degree Attempted Armed Robbery	True Bill
JAMMAL JOHNSON	Murder First Degree Murder Second Degree/ Felony Murder Second Degree/ Felony Burglary with Assault or Battery Therein While Armed Conspiracy to Commit Armed Burglary	True Bill
DWIGHT BERNARD	Official Misconduct/Public Servant Official Misconduct/Public Servant	True Bill

## ACKNOWLEDGMENTS

The commitment of seven months for Grand Jury duty was difficult and required that personal and professional sacrifices be made. Our Fall Term 2006 began a journey that was, at times, surprising, disturbing, enlightening, frustrating and most rewarding. It was an experience none of us will forget.

It was an honor to have had the opportunity to serve the Miami-Dade County Grand Jury and we encourage our fellow citizens to participate in this honorable civic duty when our local government calls them to serve. We are also grateful for having the opportunity to be an influential part of the judicial process.

We would like to take this opportunity to thank the following, who have all managed innumerable duties with cheerful and friendly attitude:

- Chief Assistant State Attorney Don Horn, for his professionalism, dedication and guidance. All twenty-one of us who participated as jurors are now better citizens after sharing his broad knowledge of our judicial system.
- Assistant State Attorney Susan Dehovitz for her professionalism, enthusiasm and zeal in questioning witnesses. She consistently led, enlightened and encouraged us.
- Assistant State Attorney Sandra Miller-Batiste, for her unrelenting fervor in uncovering and exposing the problems with the Miami-Dade School System and the Miami-Dade School Police.
- Honorable Judge Gisela Cardonne Ely, who stressed the importance of service on a grand jury.
- State Attorney Katherine Fernandez Rundle, for her advice, commitment and years of service.
- Rose Anne Dare, who took care of all administrative details for each and everyone of us.
- Nelido Gil, our Bailiff, who every day greeted us with a smile and made our days as jurors run as smooth as possible.

To those witnesses and experts who took time to come before us and answered all of our questions and concerns, we also thank you. It has been a privilege and honor to serve our community.

Respectfully submitted,

Elena M. Pelaez, Foreperson  
Miami-Dade County Grand Jury  
Fall Term 2006

ATTEST:

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Juliette Jean  
Clerk

Date: June 6, 2007