FRAUD IN THE COMMUNITY SCHOOL BOARD ELECTIONS

I wouldn't say there was no concern about [voter fraud], Mr. Chairman, but I would think it is fair to say that I was less concerned about it ... than with the idea that we needed to encourage parent participation. I think it is a fair statement to say, that if someone is interested in perpetuating a fraud on the system, they probably will be able to do so.

• Lawrence E. Becker
Counsel to the Chancellor

The point I want to make is, I think, really, you can have safeguards against voter fraud, and at the same time not discourage parent participation ... We can have both. We don't have to choose one or the other. We don't have to open the floodgates [to fraud] out of fear that somebody is going to become concerned about voting. You can have both.

• James F. Gill
Chairman

At the end of 1988, in an attempt to enhance the integrity of the community school board elections, the Legislature adopted a package of reform legislation, generally known as the Serrano law. And, for months before the election, representatives of various parent and voter groups repeatedly tried to encourage the Board of Education and the Board of Elections to take what steps they could to rule out the possibility of voter fraud, emphasizing that the closeness of many of the school board races provided a special reason for diligence.

However, the Board of Elections failed to take any steps to implement the law's new campaign financial disclosure requirements in a meaningful way, and affirmatively misled candidates about their responsibilities under that new law. Furthermore, the Board of Elections took no steps to monitor compliance with the requirements, although many of the statements filed clearly did not comport with the law.

At the same time, the Board of Elections undermined an all-out effort by civic groups to increase parent participation in the election by its shoddy handling of parent registrations. In the Commission's case-study, fully thirteen percent of the registration forms mailed to the Board of

Elections never found their way on to the voting rolls. Moreover, five percent of the voting cards of enrolled parents somehow did not manage to make it to the polls.

If these results hold true across the board -- and there is no reason to believe they do not -- fifteen percent of the parents who attempted to register for this election were effectively disenfranchised by the Board of Elections' mismanagement.

Even worse, both the Board of Education and the Board of Elections carried out their obligations under the new reform law so shabbily that it would have been possible for even one corruptly-motivated person to "steal" an election. In fact, one of the Commission's investigators, in a test of the system's vulnerability to fraud, was able to vote 33 times, by the ironic expedient of pretending -- repeatedly -- to be a parent-voter.

Most shocking was the reason the system was left vulnerable to this type of fraud. For, the Board of Education could have prevented this type of voter fraud completely, and was mandated to do so by one of the provisions of the Serrano legislation.

The story of how, and why, the Board of Education deliberately ignored this legal mandate is a grim case-study, for it demonstrates all too clearly how the Board feels no need to follow the law itself and how the Board has let other considerations outweigh efforts to prevent fraud and corruption.

The Parent-Voter Certification Law

The law permits people to vote in school board elections in one of two ways. First, they can register and vote, in the normal way, as residents of the school district. Second, they can register and vote as parents, if they have a child attending one of the district's schools. However, they can only vote once, in the district of their choice.

This provision allows people to vote for the school board members who will make decisions affecting their children's lives, even if their children are, for some reason, attending a school outside the district in which they live. Similarly, parents who are not citizens, and would, therefore, be ineligible to vote in any other election, are able to vote in this election.

Prior to 1989, parent-voter registration was handled in a somewhat cumbersome and time-consuming way. While

regular residential voters could fill out their forms and send them directly to the Board of Elections, parent-voters were required to give their forms to the principal of their children's school. The principal then double-checked the school's records, certified that the child did, in fact, attend the school, and, then and only then, sent the form on to the Board of Elections.

Under the best of circumstances, this system of principal certification introduced some delay in registration, delay that apparently prevented some voters from being registered in time to vote. Furthermore, there had been frequent complaints raised in the past that principals were playing politics with the certifications. As the Chancellor's counsel, Lawrence Becker later explained, there had been allegations that the principals "were certifying or not certifying various people, based on their allegiance to a particular candidate."

In some instances, the complaint was that the principal had refused to certify a real parent to prevent that parent from voting for a candidate the prinipal opposed. In other cases, the suggestion was that the principal had packed the rolls with people who did not have children in the school, but who were willing to vote for the candidate of the principal's choice.

This type of voter fraud was particularly dismaying to those interested in the integrity of the school board elections. First, because of the closeness of these races, the impact of any fraudulent vote was disproportionately great: candidates often won or lost on the basis of a handful of votes.

Second, there was virtually no way anyone outside the school system could detect this type of fraud, for only the Board of Education's records show whether a child is enrolled in a particular school, and only the Board of Education's records contain the information necessary to determine whether the name of the supposed "parent" listed on a registration form matches the name of the parent of the child who attends the school.*

Thus, by falsifying these registrations, even a few politically-minded principals might be able to taint the results of an election without any risk of detection.

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* In contrast, anyone can walk down the street and see whether a residential voter's purported address is a real one, or can knock on the door and ask whether anyone inside answers to the name of purported voter listed for that address.

In the fall of 1988, the Board of Elections announced that it had changed the registration process, and eliminated the principal certification requirement. A new form was designed, which required a registrant to fill in the purported parent's name and address and the purported child's name and school, to swear that the information was true, and to mail the form directly to the Board of Elections.

This new system had two virtues: it eliminated the delay in registration that principal certification had required. It also eliminated the possibility that corrupt principals could disenfranchise legitimate parent-voters by refusing to certify their forms. However, it also made it possible for anyone to pad voting rolls, and vote repeatedly, by mailing in phony and untraceable registrations.

Furthermore, there was no way to detect these bogus registrations, since the information was locked away in the Board of Education's confidential student files. And, even if the fake registrations were detected, there was no way to identify the person who had mailed them in. Thus, any corrupt group that wanted to ensure its victory at the polls had nothing to lose by padding the "parent" registration rolls.

However, after the Board of Elections changed this registration process, the Legislature stepped in, and adopted a new provision that avoided the weakness of the old system, but without opening the floodgates to fraud. As part of the Serrano legislative package, the Legislature adopted Section 2590-C(3)(c) of the Education Law, a section that required the City Board of Education to certify that the purported parents registering to vote were, in fact, entitled to vote. That section provides:

> The city board [of education] shall compile a list of persons eligible to vote as parents and certify such list to the board of elections of the city of New York, in such forms as is required by the board of elections, no later than thirty days prior to the election.

This provision took care of both complaints that had surfaced in the past. The problem of delay was solved, since parents, like other registrants, could send their forms in directly and would be registered as of the moment the form was received. Then, after the forms were received the Board of Education would check them against its records to ensure that the names on the forms corresponded to real children and parents, not fictitious "parents" invented by people trying to steal the election.

The Board of Education Ignores
This Provision for Three Full Months

One might expect that the lawyers for the Board of Elections and the Board of Education would have conferred about how to comply with this new provision when it went into effect in December 1988. However, the Board of Elections' lawyer, Aaron Maslow never discussed the new requirement with Lawrence Becker, counsel to the Chancellor, or with Mary Tucker, counsel to the City Board.

Becker later said he did not even realize that the provision existed until sometime in early March. Tucker said she had never heard of the law until even later, on April 14, 1989, after the certification deadline had passed.

Becker did admit that he received the legislation shortly after it was enacted in December, and admitted that he was one of the people who worked on getting it "cleared" by the Justice Department in January, 1989. Somehow, though, he had never read this section. Tucker, too, had received the bill in December, but had failed to read this provision.

The only person at the Board of Education who read this section before March was Doreen DeMartini, the Deputy Director of the Office of Community School District Affairs, who was responsible for coordinating the Board of Education's election efforts. She discussed the requirement with Maslow shortly after it was enacted. These discussions, however, were not productive.

Sometime in January, 1989, Maslow informed DeMartini that the Board of Elections's computer would be printing out lists of all the supposed parent-voters and their purported children, and would send the computer lists to DeMartini in installments, so the Board of Education could certify the names that did correspond to real children and parents listed in the Board of Education's records.

Maslow soon realized that the certification was going to be a problem: DeMartini left him with the impression that the Board of Education would not be certifying the lists, because her office did not have the resources to do it. However, resources were not the stumbling block.

As she later explained, she "had a problem with" the whole idea of certifying the lists, because it did not seem "fair" to her when "the same scrutiny was not going to be applied" to residential registrants. In other words, she questioned the wisdom of the Legislature's decision to enact this statute and impose this mandate.

And, because she questioned the fairness of the statute, she took no steps at all to do anything to make sure that the Board could -- and would -- comply with the law.

She knew, for example, that the Board of Education maintained complete files on each student in computerized form. She had already enlisted the help of the man in charge of those files, Wayne Trigg; at her request, in December, 1988, Trigg arranged an individualized mailing about the election and how to register for it that was sent to the parents of each child in the system.

Trigg later explained that with the information already stored in the Board of Education's computers he could have designed a registration form that would have simplified and streamlined the process of registering and certifying the list of registrants.

Because of its expertise with similar problems, Trigg's staff could have designed and printed the form in a week. Not only could the forms have been mailed directly to each child's home, but parents could have received forms in the language they spoke, since Trigg's staff stores information about each student's "home" language.

Furthermore, with a well-designed form, the parent could just peel off a pre-printed label, stick it on the registration form, sign the form, and return it. A computer could scan the information on the form, and a list of registrants could be checked for accuracy overnight.

Trigg also explained that even if he and his staff had not been called in until after the registration forms were designed, they could have worked with the Board of Elections to design a data entry procedure that would have made certification relatively easy.

The key would have been coordination on some obvious points: making sure that the data were stored by the child's last name, for instance, since the Board of Education keeps track of students by their own names, not their parents' names. Similarly, coordination on how addresses would be entered and on how Latino and Asian names would be listed would have made checking the registrations easy.

There was, however, no coordination between the Board of Elections and the Board of Education. Nor did DeMartini even consult Trigg when the new registration form was being designed. And, even when DeMartini learned that the Board of Elections would be sending computerized lists, she did not talk to Trigg about coordinating matters between his staff and the computer staff at the Board of Elections.

Significantly, the Board of Elections did not begin to type in any of its parent-registrant information until the middle of February, two full months after the certification law went into effect, and at least a month after DeMartini's first discussions of the subject with Maslow.

DeMartini, however, never found out when the data entry would be done at the Board of Elections, because she never asked. She did not learn that the Board of Elections was making lists using parent's names, because she never discussed with anyone at the Board of Elections even such obvious matters about how to coordinate the cross-checking of information between the two Boards' records.*

Just as the lawyers for the Board of Education somehow overlooked this law for three months, DeMartini -- the person in charge of coordinating the Board's election efforts -- took no steps at all to coordinate at this critical juncture, beyond complaining to Maslow that she did not have the staff to check the lists he would soon begin sending.

The March Meeting: The Board Decides to "Think" About the Law

DeMartini did not discuss the certification law or seek guidance from anyone at the Board of Education about it until the first of the Board of Elections's lists arrived at the end of February, 1989.

When the lists arrived, she learned for the first time that the Board of Elections was including anyone who had ever registered as a parent on its lists of possible voters; not only the 26,000 who registered for 1989, but 29,000 more who had registered for the 1986 and 1983 election, or for elections even earlier.

DeMartini testified that she had never thought to ask about the status of these older registrations, and had never thought of notifying people that they might have to re-register if their former registrations were not going to be counted as valid. When she saw that the older registrations were included on the presumptively valid list, she did realize

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* Members of the Commission's staff warned the Board of Elections that lists of parents' last names might cause confusion for the Board of Education. The reaction to this warning was incredulity; in the words of the Board's lawyer, "How often could that come up?" In fact, parents and guardians quite often have different last names from their children.

that a great many of the people who had legitimately voted as parents in the past would no longer be eligible after the passage of years, either because their children had graduated, or because they had taken their children out of public school, or because they had moved from one district to another.

She brought that list, which was supposed to be checked and returned to the Board of Elections by March 13, 1989, to a meeting in early March that had been scheduled to address another provision of the Serrano legislation, which required the Chancellor to put together a report for the Legislature by March 15, 1989.

DeMartini explained what the list was and asked Becker and the others what she should do about it. She also explained her "personal opinion" that the law was "unfair." Becker agreed that the law was unwise, because he thought that any steps to check the list to identify phony registrants trying to masquerade as parents would somehow "deter" real parents from registering to vote.

Becker, therefore, believed a better law would allow the registrants to "certify" that they were parents; in other words, he thought the new registration forms should be "self-certifying," in spite of the fact that they could be mailed in with anonymity. Apparently, there was no discussion of the 29,000 old registrations that had no certification, or of the fact that many of these registrations, while legitimate once, would no longer be legitimate years later.

Because he disliked the certification law, Becker suggested that the Chancellor's report to the Legislature should include a call for its repeal. Burton Sacks, who was in charge of the Board of Education's lobbyists, disagreed. He pointed out the dangers of election fraud and the possibility that some voters might even mistakenly believe they were entitled to vote in each district in which they had a child attending school. He also pointed out that "there was absolutely no chance" that the Legislature would repeal the statute before the certifications were due on April 3, 1989.

Nonetheless, including a call for the law's repeal in the March 15th report was the only action the Board took about certification for more than a month. Becker told DeMartini she need not do anything about checking the lists, and Becker took no actions at all to comply with the law. He did not discuss the law with his client, the Chancellor. He

did not discuss this problem with the members of the Board of Education, or with their lawyer, Mary Tucker.*

Becker believed that this "deterrence" created a "delicate" problem, and so he wanted to find a way to "comply with the statute" and "certify" the list, but "without going out and checking on parents" in any way. This problem preoccupied him for the next several weeks:

> Q What steps did you take, between the March meeting and April 3rd, to find a way to certify parents without in any way deterring parent voters?
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> A Well, the first step I took was to think about it. I realize that sounds a bit -- I don't mean to sound facetious about it, but I did think about how we were going to do it ... I [also] talked to members of my staff.
>
> * * *
>
> Q What did you do between your March meeting and April 3rd to certify the list, or didn't you think about it?
>
> A I thought about it, I had discussions with my staff, talked to people about it. That is what I did.

In other words, for more than a month, the lists came from the Board of Elections and gathered dust in DeMartini's office. The April 3rd statutory deadline came and went. Still, Becker continued to think about the law, instead of acting to comply with its clear mandate.

The April Meeting: The Board Adopts a "Litigation Strategy"

On April 14, 1989, more than ten days after the statutory deadline for certification had passed, there was another meeting to discuss the statute's mandate. This time, representatives of the Corporation Counsel's Office, who had

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* Tucker did receive and review a copy of the Chancellor's March 15th report to the Legislature. She must have read the section calling for the repeal of the certification requirement, but she did not notice it or ask about it.

somehow learned of the Board of Education's failure to carry out its obligation and who feared that the integrity of the entire election might be put at risk, introduced the subject.

Mary Tucker was at this meeting, and for the first time, she learned about the statute's requirement. There was no question in her mind, or in the mind of the representatives of the Corporation Counsel, about what the law required.

The lists of purported parents must be checked against the Board of Education's records to ensure that all the people claiming to be parents were, in fact, parents. She believed the statute required every name to be cross-checked against the Board of Education's records so that suspect registrations could be put on a challenge list at the polls.

However, because the election was only two weeks away, Tucker and the others believed it was too late to do what the statute actually required. Instead, she and Becker settled on a litigation strategy: after a spot-check of some kind, they would deem all 26,000 of the 1989 registrations "self-certifying." And, they would make some unspecified kind of effort to check on the older registrations, to show that they had made a "good faith" attempt to comply with the law.

On the other hand, they did not even discuss what to do with any registrations that did not appear to be valid; the idea was not to divide the real parent-voters from the fake ones, it was simply to cover the Board of Education in the event their failure to obey the law was ever challenged.

The Board Finds it Cannot Identify Thousands of Supposed Parent-Voters

It was immediately obvious that the way to implement this "litigation strategy" was to contact Trigg and his staff. Within days, by pulling his staff off other projects and piling up expensive overtime, Trigg managed to do what could be done with the Board of Elections' records, many of which were indecipherable.

The Board's findings were sinister: only about half of the names of current registrants matched current students' records in the Board of Education's files. Yet, without any other effort to check on the validity of these registrations in any way, the Board of Education "certified" that all of these registrants were actual parents who were "eligible" to vote in the school board election.

Even fewer of the older registrations could be matched by the computer: of the 29,000 names sent by the Board

of Elections, the Board of Education's computerized records identified only 8,000 as legitimate voters. Worse, the computer recognized almost 2,000 older registrants as real parents whose children had graduated and, therefore, had no right to vote.

Finally, late in the afternoon of April 26, 1989, Becker asked the Auditor General, James Coney, for assistance in this project. Their first meeting to discuss the certification took place twelve days after the meeting with the Corporation Counsel's representatives, and only three working days before the election. Becker did not want Coney's staff to check on any of the questionable 1989 registrations, but only the 20,000 or so old registrations.

Coney protested this assignment, because he did not understand the point of sending people into the field to check on registrations when there was no plan to use any of the information they found in any way.

> ... I was concerned about, after going through this massive exercise, very labor intensive, what was going to happen with my results, because it was already Wednesday night; the election was scheduled for Tuesday.

Coney's protests were overruled. During the next few days, he pulled his entire staff off its other assignments to send them out to the schools all over the city to look through the files. On Thursday, he had his entire staff of 100 working on this project. On Friday, he "was able to beg, borrow or steal" 40 more Board employees, who worked on the project on Friday and Monday. Even on election day itself, 40 or 50 of his staff were checking the registrations. The cost of this effort was at least $120,000.

The findings were astonishing. Only 22 percent of the 20,206 registrations they checked could be verified as belonging to actual parents who were eligible to vote. The other 78 percent fell into two categories: (1) parents who could be identified from the records, but who were no longer eligible to vote, and (2) names that did not correspond to any record anywhere.

> Q Is it possible that some ... percentage of this 78 percent could be, in fact, fake enrollments?
>
> A Of the 78 percent, there is about 12,000 that we couldn't find anything on. So, you can speculate about the 12,000.

Q But is it, in fact, possible that it could have been, in part, fake enrollments?

A It could have been, yes.

The Board Certifies the Entire Registration List

In spite of these findings, on April 28, 1989, Becker sent Maslow a letter, purporting to "certify" all 55,000 registrations the Board of Elections had compiled as "eligible" voters. As Becker later explained, he "had always taken the position that one way to certify this list was simply to write Mr. Maslow and say, it's certified." After Trigg and his staff and Coney and his staff had spent countless hours and dollars on their project, in case of litigation, Becker fell back on that original certification "strategy."

All the 1989 registrations were "certified" solely because they had mailed in the new registration form with its affidavit signature. Becker deemed them "self-certifying," in violation of the plain language of the certification statute.

Becker dealt with the 29,000 older registrations in two steps. The 8,000 names that had been matched to actual "eligible" parents by the Board's computer were "certified" on the basis of the computer verification. As to the other 21,000 names, Becker stated:

> The remaining names on your lists consist of parent voters registered as of the previous Community School Board Election. These names are also certified subject to our pre-election verification, and thereafter post-election verification, if necessary.

Maslow had no idea what Becker meant by most of this letter; in fact, he testified that he considered the end of the letter "gobbledegook." Maslow certainly never called Becker to find out what "post-election verification" might mean, or how it could possibly be undertaken once a vote had been cast. If the Board of Education was willing to "certify" the entire list of 55,000 registrations as "eligible," no matter what the basis, the Board of Elections was satisfied.

And, of course, Becker never called Maslow to discuss the possibility of setting up a challenge procedure so that some kind of verification could be done if these unknown registrants did appear at the polls.

Thus, on election day, Becker knew that nearly 2,000 of the registrants were definitely ineligible to vote, and 12,000 others appeared to be entirely fictitious names. Yet, without even exploring the possibility of setting up a challenge procedure, the Board of Education certified that all of these people should be permitted to vote.

Later, Becker tried to minimize the magnitude of the Board's decision not to follow the certification law. He argued, for instance, that the total lack of safeguards about this aspect of voter registration "was not a major problem," because of "the small number of voter turnout overall, and even a smaller amount of parents who voted."

In fact, because so many races were decided by a mere handful of votes, the small turnout only magnified the potential impact of any fraud. Indeed, the Commission's experiment showed precisely how great an impact the Board's failures could have had. One investigator, who easily cast 33 votes, could have affected the outcome in two separate districts in which he voted.

Becker also tried to justify his failure to follow the law by asserting that he perceived little likelihood that parents would be more likely to file false registrations than anyone else, and that there was no reason to suppose that they were honestly confused about their eligibility and would turn up to vote in the wrong district or after their children had graduated. However, these arguments are simply red herrings.

The law was not based on a belief that real parents were likely to file false registrations, or vote improperly. The law was aimed at eliminating the danger that a corrupt group or individual would file false registrations and vote improperly by pretending to be a parent.

Becker also asserted that the law was unwise because he feared any certification process would deter parent-voters from registering and voting. In fact, an effective certification process would not have any impact at all on parent-voters, let alone a deterrent impact.

In the first instance, the Board of Education's computers would check the information on the registrations, a step that would not inconvenience the voters in any way. Whenever the computer check revealed an irregularity, the information could be double-checked against school's records, again without inconveniencing, or even notifying, the parent. In those few instances in which the irregularity could not be resolved, the registrations could be placed on a challenge list, just as residential registrations are placed on a challenge list when irregularities are discovered.

Thus, as Chairman Gill emphasized during the Commission's public hearings, the Legislature's mandate to certify could easily be obeyed without inconveniencing or deterring legitimate parent-voters. There is no need to choose between increasing parent participation in the election and safeguarding the election against fraud.

The Board's intentional decision not to comply with a law and prevent that kind of corruption is shameful and inexcusable.

Other Derelictions of the Board of Education

The parent-registration scandal was not the only evidence of the Board of Education's failure to protect the election's integrity. For instance, throughout the campaign, many people brought election abuses to DeMartini's attention. She referred these complaints to the Inspector General.

The Inspector General did investigate some of the election complaints he received. However, he did not believe that allegations of fraud by non-incumbent candidates fell within his jurisdiction, since these candidates did not -- yet -- have any ties to the Board of Education. These complaints, therefore, simply sat; he did not refer them to any other law enforcement office, and apparently did not even alert DeMartini to the distinction.

When he did investigate, his only action was to write a report on the results for DeMartini, although she had no power to bring disciplinary charges, or to take any other kind of action. The Inspector General thought she might mention the results in her post-election report. Apparently, though, she did nothing but file the reports.

One common complaint DeMartini heard was that some principals were refusing to hand out the registration forms to people they thought would not vote "correctly." DeMartini was asked repeatedly to arrange for the registration forms to be sent home with all the children, a task that would also relieve the parents of the need to hang around at the school to obtain the forms.

DeMartini never thought to include a form in the mailing she sent to each student's home. And, although she agreed that it was a good idea to ask principals to send the forms home with the children, she never actually managed to get enough forms to the schools so that it could be done.

Similarly, for months before the election, DeMartini and the Board of Elections were constantly prodded about the

problem of assigning the correct polling places to parents whose children are registered in one district but bussed into another because of overcrowding. DeMartini repeatedly promised to solve this problem. Nevertheless, the Board of Elections assigned the wrong polling places, since the Board of Education had never provided any clue about which schools and which parents were involved in this kind of busing.

Financial Disclosure Requirements

The derelictions of the Board of Education were mirrored by those of the Board of Elections. It, too, showed a shocking lack of concern about protecting the integrity of the election. For example, by its lack of action, the Board of Elections made a mockery of the Serrano legislation's new strict rules governing financial disclosure by candidates for community school board.

Under that legislation, each candidate was required to file four disclosure statements, and the information on the forms was to be, in some ways at least, far more inclusive than that required in other elections. In most elections, candidates must itemize expenditures only if more than $50 is spent, and must itemize contributions only if more than $99 is received.

Under the new law, a school board candidate was required to report and itemize all receipts, no matter the amount, and all contributions, even those of less than $100.

Yet, while the Board of Elections was obviously aware of this important change, it handed out a form to candidates to file that all but ensured that they would misunderstand their obligations under the law. In at least two places on the form, the instructions stated that contributions of less than $100 need not be itemized and that expenditures of less than $50 need not be itemized. Thus, the instructions of the form itself "repealed" this crucial facet of the Serrano legislation.

The form was so badly designed that it tricked candidates even about where to file: the only address on the form is the Albany address of the State Board of Elections, although the forms are supposed to be filed in the City. The State Board that received the forms only compounded the problem. It returned the forms to the candidates, rather than forwarding them to the local board, with a form letter that still did not give the candidate the correct mailing address; it simply said that "only candidates running for elected NYS office are required to file financial reports with us."

In spite of these fundamental problems, no one at the Board of Elections did anything about preparing a new form, or even a new set of instructions, that might have alerted school board candidates about their real obligations under the campaign finance law.

Two other fundamental problems exist in the disclosure law itself. First, the only impact of a failure to file the forms is that sometime down the line -- months and months after the election -- the candidate may face a $100 fine. This fine is not effective, as the hundreds of missing forms at election time demonstrated. Barring a candidate from the ballot for refusing to file the disclosure form might provide a real incentive to file.

Second, as it stands, candidates are permitted not to file a full disclosure form if they certify that they have collected and spent less than $1,000. Of the candidates who filed forms this year, fewer than 5 percent had collected or spent more than that limit. Thus, the $1,000 threshold effectively allowed many candidates to file disclosure forms with making any disclosure.

The Possibility of Double-Voting

The lackadaisical attitude the Board of Elections showed toward campaign disclosure was hardly an aberration. Like the Board of Education, the Board of Elections seemed to perceive no need to safeguard the integrity of the elections.

At one point, for example, a committee of advocates and parents tried to get the Board to address the danger of double-voting inherent in the system that allows people to register twice, as resident-voters in one district and as parent-voters in another. Maslow said the Board would recommend that anyone who committed that crime be prosecuted for it. This was tough talk. However, unless the Board established procedures to identify those voting twice, no prosecutions could follow.

The Board's complete lack of care to prevent -- or at least uncover -- double-voting is easily explained: it did not think this kind of fraud was important enough to guard against. The Board's Executive Director commented, for example, that there were only "a few" people who could vote twice anyway, so that he did not see that it was worth spending a lot of time worrying about it.

This casual attitude toward corruption is particularly troubling because there is a very simple way to deter double-voting. Since the Board knows who dual

registrants are, their ballots could be placed in envelopes at the polls and checked afterwards, as absentee ballots are. This simple solution would catch mistakes made by voters confused by the system and make sure their double votes did not have an impact on the integrity of the election. This system would also deter people from trying to undermine the integrity of the process.

The Board of Elections, however, did not take this step -- or any other -- to protect the integrity of the system from double-voting.

Status of Nominating Petitions Filed Early

Another result of the Board of Elections's inappropriate attitude was the confusion it generated about nominating petitions that were filed on the original due date, before the date was extended to February 27, 1989.

The law granting the authority to extend the date was signed into law on the original due date, February 6, 1989, at 6:00 p.m. Earlier that day, however, twelve candidates had filed petitions. The Board of Elections, of course, accepted these petitions for filing, since under the law then in effect, they were properly filed.

The question then became what to do with them once the law changed: should they be deemed filed on February 27, which was now the first day to file for all other candidates? Should the three day period to file objections start then on February 27, 1989? Or, should it run from the date on which they were actually filed and end on February 9?

The Board of Elections concluded that they could not "re-clock" the petitions and start an objection period on the 27, and it certainly had an argument on its side. However, the Board handled this problem in a way guaranteed to generate the maximum amount of confusion. The Board insured that anyone who relied on its own pronouncements during the critical period would have concluded that challenges to petitions should not be brought until February 27.

For example, the Board's staff apparently gave very misleading answers to callers requesting information about the deadlines. Committee members said they had been told that the petitions would be "re-clocked," and that the deadline for challenging any of those petitions would also be "deemed" to start on the "new" dates.

A similar problem was created by ambiguous language in the circular the Board of Elections sent out to candidates

on February 7th to explain the new deadlines. It stated that "the Board of Elections has EXTENDED THE FILING DATES FOR COMMUNITY SCHOOL BOARD NOMINATING PETITIONS, as well as other pertinent deadlines." This language magnified the confusion, since many people understandably thought that the Board had extended the "pertinent" deadline for filing objections, even to the twelve petitions that had already been filed.

Part of the problem was that the Board did not plan ahead to minimize the confusion. Instead, despite the fact that the bill was not even scheduled for a vote until the last minute, the Board deferred any discussion of the problem, apparently hoping against hope that the bill would not be adopted at all or that it would be signed into law "on time."

Even once they did decide, it was apparently next to impossible for anyone to decide what decision they had reached. The decision they reached at one meeting was "recalled" and redecided, in a meeting so confused that afterwards the Board's lawyer and one of the Commissioners could not even agree about what the decision had been. The upshot was that the Board of Elections did not reach any definitive ruling on this question until long after the decision needed to be made and communicated to the public.

Maslow's response, muttered loudly and repeatedly under his breath at one meeting, was that this issue did not make any difference, because only twelve petitions were involved. Once again, the Board's attitude was that inroads on the integrity of the process do not matter so long as there are only "a few."

Conclusions about the Role of the Board of Elections

Accustomed as they are to the larger turnouts in "regular" elections, the Board of Elections apparently views the Community School Board elections as a small and unimportant part of its job, which nevertheless manages to create a disproportionate amount of work and trouble.

This attitude leads the Board of Elections to scorn efforts to deal with "minor" problems, like the possibility that there may be a "few" instances of double-voting, a "few" objectors who may lose the opportunity to challenge, or a "few" parents who may be disenfranchised because their registrations fall through the cracks between the Board of Elections and Board of Education.

Some of the Board's problems stem from the difficulties inherent in the "proportional" representation system. A more basic flaw, though, is reflected in the Board

of Elections' apparent failure to investigate the possibility of making the system work. The general sense underlying this inertia seems best expressed by Maslow's lead-off comment to representatives of the Commission: "We don't have anything at all to do with schools, we just run the election."

Such a narrowly drawn view of its role inevitably leads to disaster. The failure to design safeguards for the integrity of the system, like the failure to plan for the complications inherent in a changing legislative picture, both seem to flow from a static sense that the Board of Elections "just" runs elections and has no connection to the ultimate goal (the school system) and no role to play even in ensuring the integrity of the elections they run.

One final comment is necessary: Maslow also stated that the level of confusion that now exists in the nominating and election process actually served a useful purpose: it weeded out "unsuitable" candidates. In his words, if these people expect to be trusted with multi-million dollar budgets they ought at least demonstrate the "intelligence" necessary to maneuver their way through the by-ways of the election process. To him, this form of Social Darwinism justified the retention of all of the most confusing aspects of the system.

That attitude is antithetical to the idea of decentralization: that parents and other "non-experts" should be given the opportunity to take an active and powerful role in the school system. Furthermore, the election-as-obstacle-course does not "test" for intelligence; it only "tests" for knowledge of the abstruse by-ways of the election law.

Thus, the current complications in the election process actually ensure that people with political backing (or electioneering experience) have an edge over people who spend the time between elections learning about education and the school system. By allowing the election process to remain as is, we are setting up a "natural selection" system that seeks to bar the very people who would have the most beneficial impact on the education given to our children.

Conclusions about the Role of the Board of Education

The actions and inactions of the Board of Education are even more difficult to understand, since they, at least, would seem to have a direct stake in the integrity of the process that elects the school board members.

However, it appears that the Central Board in this election was far more worried about maintaining an appearance that it was in favor of parental control of these local boards

than with actually ensuring that the parents would be given a fair chance at the polls.

The real stumbling block at the Board of Education appears to be the belief that some fraud is inevitable and that efforts to prevent it are worse than useless. As Becker put it, "if someone is interested in perpetuating a fraud on the system, they probably will be able to do so," so it was far more important to increase the number of real parents voting than to detect the fakers or prevent them from voting.

And, Becker considered these two goals to be mutually exclusive; he believed that the choice was to open the floodgates to fraud or else to frighten bona fide voters away from the polls. He repeatedly commented, for example, that he feared that real parents might be "deterred" from registering if they knew their registrations would be checked.

In fact, though, a well-handled verification effort would not have had this effect, and certainly would not have prevented anyone from voting, let alone a bona fide parent. Compliance with the law would have exposed fake registrations, or "deterred" people from filing them in the first place.

In the end, on this particular example, Becker was forced to concede that it would have been possible to take the steps the law required and deter voter fraud, without in any way deterring bona fide voters.

> Q If that coordination had taken place, and if that information had been accumulated properly and appropriately, and on time, and in a form that both computers wanted it, there could have been a check without any difficulty; am I right about that Mr. Becker?
>
> A I think you are correct. I did not mean to imply to the Commission that there shouldn't be better coordination. I think the statement which you made is accurate, and if there was better coordination, you know, it would have been possible to do what you just described.

As a result of the Commission's hearings on this subject, those safeguards have already been designed and will be in place for the next election.

The more difficult problem will be to eradicate the general attitude that infected the Board's approach to fraud prevention.

For as long as high officials of the Board of Education believe that corruption is inevitable, they will take no meaningful steps to prevent it.

And, as long as they themselves can knowingly fail to comply with the law, because of "personal" feelings that the law is unwise, the Board will have no safeguards against corruption.

Findings and Recommendations

Findings: Democracy works only if people vote.

Voters are mystified by the community school board elections.

There is almost universal agreement that the proportional voting system, paper ballots, and May elections result in voter confusion and open the door to corruption.

Recommendation:

♦ The Legislature should abolish proportional voting, move the community school board elections to November, and require the use of voting machines.

Findings: The Board of Elections has given lip service to protecting the integrity of community school board elections, but has failed to do so.

The Board of Education has given lip service to protecting the integrity of community school board elections, but has failed to do so.

Recommendation:

♦ The Board of Education and the Board of Elections should coordinate their election efforts to register bona fide voters and to prevent voter fraud.

Findings: The Board of Elections failed to take even the most minimal steps to implement the Legislature's new campaign disclosure law.

The Board of Elections affirmatively misled school board candidates about their obligations under the new campaign disclosure law.

Recommendation:

♦ The Board of Elections must take its campaign disclosure responsibilities seriously, and, if it fails to do so, its leadership should be removed and replaced with people with the competence and desire to do so.

Finding: Scores of voters are disenfranchised by the slipshod procedures of the Board of Elections.

Recommendation:

♦ The Board of Elections must alter its procedures to prevent the disenfranchisement of voters by the unexplained loss of registration forms delivered to it and the unexplained failure to deliver registration cards to the polls.

Finding: Experience during this election indicates that the $1000 threshold for campaign disclosure, included in the statute, allowed a great many candidates to hide the sources of their campaign funds and the nature of their expenditures from other candidates and from the public.

Recommendation:

♦ The Legislature should repeal the $1000 threshold and require all community school board candidates to file itemized lists of contributions and expenses.

Finding: Experience during this election indicates that a $100 fine is not sufficient to inspire school board candidates to file their campaign disclosure forms.

Recommendation:

♦ The Legislature should impose meaningful sanctions for failure to file campaign disclosure forms.

THE HIRING OF FRANK CARR: A CASE STUDY

CHAIRMAN JAMES F. GILL: I have the impression that Jack the Ripper could get through that system, from listening to your testimony. That is my feeling. I mean, if somebody comes in from out of state, with a record as long as your arm, and brings with him some bogus documents from schools that he supposedly taught at, and nothing comes back from New York State with respect to a record, he gets in, at least for six or seven months, until the FBI catches up; yes?

STEPHEN CONBOY (Chief Investigator, Board of Examiners): Yes, that is correct.

GILL: Is that appalling to you?

CONBOY: Yes, it is.

In February of 1989, Frank Carr applied to teach at Junior High School 22 in the Bronx, despite a record of nine arrests and three convictions, including a Connecticut conviction for sexually assaulting a female student and a pending New Jersey indictment for molesting two female schoolchildren. Carr lied on his application to hide his prior arrests or convictions, claiming he had never been arrested or convicted of any crime.

Yet, even though the FBI fingerprint check revealed a 1981 Connecticut conviction for breach of peace -- proving that Carr had lied on his application -- the New York City Board of Examiners, the agency entrusted with responsibility for conducting teacher's background checks, approved his license and allowed him into the classroom.

At no time did Board investigators call either of the two New Jersey schools where Carr had taught to inquire whether his performance had been satisfactory. Nor did the investigators contact the New Jersey or Connecticut state police to ask whether there were any pending charges outstanding against Carr, information which, in accord with federal regulations, would not have been provided by the FBI.

William Green, the principal who hired Carr, had known Carr since 1970 when the two played semi-pro basketball together for the Hamden (Connecticut) "Bics." Once Carr was hired, the two men frequently socialized together after work. Green also shared an apartment in Manhattan with Carr and collected rent money from him -- in cash.

While Carr was teaching in the school, Green overheard allegations that Carr had a history of "touching" students and staff and wife-beating. Green's only response was to ask Carr about these allegations; when Carr denied them, Green let the matter drop without reporting the matter to anyone.

During the summer break in 1989, Green learned that Carr had been arrested and taken to New Jersey to face pending charges of sexual molestation of children in a school where Carr had previously taught. Yet, Green still did not report the matter to anyone, and instead rehired Carr at the beginning of the new school year in September.

Finally, acting on an anonymous tip, the Commission discovered Carr's criminal record and the lies he had told about it, and police officers assigned to the Commission arrested him. He was subsequently indicted by a Kings County grand jury for three felony counts and one misdemeanor count for lying on his application.

After Carr's arrest, two female students in Green's school came forward and told school officials that Carr had molested them in mid-November. Carr had insisted on a "hug" and then pushed his pelvis against their bodies and pressed them with his penis. In direct violation of reporting requirements, Principal Green and personnel from the District 9 Superintendent's office failed to report the incident to the Board of Education's Inspector General's office or to the appropriate law enforcement agencies. Instead, after their own "investigation," the girls were chastised for "trouble-making" and were forced to stand by while a school administrator publicly related the story to their classmates and announced that the story was not true.

The story of how Frank Carr came to be licensed and hired to teach in the New York City school system pinpoints four major areas where the system fails to protect its children: the slipshod and amateur Board of Examiners' licensing procedures, the lack of controls on the Temporary Per Diem assignment and hiring process, the community school district's failure to check the discretionary actions of principal Green, and the stunning lack of compliance with reporting mandates by school and district personnel.

The Board of Examiners Licensing Procedures

The Board of Examiners should serve as the first line of defense against people like Frank Carr. In addition to administering examinations to guarantee professional

competence, the Board is empowered to conduct background checks on those who seek employment in the city schools, including verification that past employers were satisfied with the individual's performance and a thorough background check of the applicant's criminal history.

Unfortunately, the slipshod and amateur procedures used to license Carr -- despite his admitted lies and his shocking prior record -- were not the exception, but rather the norm.

First, as the Board's Chief Investigator admitted, the Board routinely allowed people into the classroom well before it had obtained the results of the FBI background check. Although it could take up to six months to arrive, the Board relied, in the meantime, solely on a check with New York state police. For New York State residents, this procedure was chancy enough; it provided no safeguard at all when out-of-state applicants were involved.

> COMMISSIONER CURRAN: Anyone who applies from out of state has a free ride for six months?
>
> CONBOY: Absolutely.

Ironically, since Carr flunked the written part of the examination the first time, the delay while he re-took the test allowed the Board to receive the results from his FBI check prior to licensing him. Unfortunately, the Board mistakenly believed that the "rap-sheet" it received from the FBI contained a full list of Carr's arrests and convictions.

While the FBI did provide the Board with information about Carr's 1981 Connecticut assault conviction, it did not include information about Carr's New Jersey child molestation indictment and numerous earlier arrests for such crimes as issuing bogus checks, possession of a loaded violation, violation of probation, and criminal sexual contact.*

Federal regulations prohibit the FBI from releasing information to a civilian agency like the Board of Examiners, except when there has been a disposition or when the case is less than one year old. Incredibly, it was left to the Gill Commission to inform the Board of this long-standing rule (implemented in 1974 and codified in the Code of Federal Regulations, Title 28, Part 20, Section 23). The Board's

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* The FBI was not aware of Carr's 1981 Connecticut conviction for risk of injury to a minor, public indecency, and sexual assault in the 4th degree for exposing his penis to a girl student in a New Haven school.

Chief of Investigations, a 20 year veteran of the agency, had been laboring under the misconception that the Board received an applicant's full arrest record on an FBI fingerprint check.

> CHAIRMAN GILL: When did you find out, for the first time, that you weren't getting arrest information from the FBI that was more than a year old?
>
> CONBOY: When [Mr. Campriello and I] met in November [of 1989].
>
> GILL: ... So, you were in the dark from 1974 until you met with Mr. Campriello; is that right?
>
> CONBOY: Yes. . . .
>
> * * *
>
> COMMISSIONER CURRAN: You just assumed it [the FBI record] was complete?
>
> CONBOY: Yes.
>
> CURRAN: Without discussing with the FBI if it was complete or not?
>
> CONBOY. Yes.

Even with the little information available from the FBI, it was plain that Carr had lied about his past criminal record, conduct which is itself an E felony. However, in the Board's eyes, lying on the application did not disqualify an applicant from becoming a teacher.

Elmer Yearwood, Assistant to the Chairman of the Board of Examiners, sits on the Review Committee, the group that reviews the applications of those who are found to have lied. He explained that the Board rarely forwarded the cases of those who were caught lying on their applications to the District Attorney for prosecution. In fact, in his twenty years of experience, Yearwood recalled only one instance in which evidence had been referred to a prosecutor.

Not only does the Board fail to hold admitted liars criminally accountable, the Board generally excuses the lie altogether. In almost surreal testimony, Yearwood explained that there was no policy to deny a candidate a license for lying about his criminal record automatically, no matter how serious the crime he tried to conceal.

Q [I]f the person concealed the fact that he had been arrested for the charge of sexual assault against a minor, would that person be denied a license?

A I believe he would be.

Q But you're not sure?

A Well, nothing is automatic. We have to give the applicant a chance to explain the circumstances.

Even more astonishing, after having caught the applicant lying once, the board was generally willing to accept his excuse for the lie at face value. In the vast majority of cases, the Review Committee accepted the admitted liars' "reasons" for the lies without any further investigation to check on their new stories, and then went on to issue them their licenses to teach.

This policy had serious consequences in the Carr case. When Carr's FBI check revealed a 1981 conviction for breach of peace, Carr said he had "forgotten" about his arrest and conviction, and dismissed the incident as a simple "shoving match" that had resulted from a dispute at a Motor Vehicles office in Wethersfield, Connecticut.

Had a Board investigator contacted the Connecticut police, they would have discovered that Carr's explanation for the incident was yet another lie, and that the crime he committed was far more violent and serious than he led them to believe. Carr had assaulted an employee of the Motor Vehicle Bureau so seriously that hospitalization was required, and then had fled the scene. He was eventually tracked down and arrested for third degree assault. When Chief Investigator Conboy tried to explain the Board's willingness to assume that the conviction was a minor one, without even making a phone call to check, the following dialogue ensued:

Q You have been doing this job for quite a while; right?

A 29 years.

Q You know that it is routine, in metropolitan locations throughout the United States of America, to plea bargain; correct?

A Yes.

Q And you know that something that can be quite serious often gets plea bargained down to something, which, on its face, doesn't look so serious?

A Yes.

Q You know, as well as I know, that something that says on a rap sheet, breach of peace, could have started off as something more serious?

A Yes.

It was not only the applicant's criminal record that was "checked" in this slipshod way. As Chief Investigator Stephen Conboy admitted, he and the Board asked applicants to produce documentation of prior teaching employment, but were willing to rely on the applicant to secure the verification. This failure to check the bona fides of the documentation was an open invitation to fraud.

Q In other words, the applicant can come in and hand-deliver to you what he or she claims is the verification that he or she claims was received from a prior employer?

A Yes, that is correct.

Q You don't insist on it coming directly from the employer to you?

A No, we don't make an issue of that.

Q So if, for example, I had letterhead of a previous employer, I could create my own, if I were that kind of person, verification of my own employment; true?

A Yes, that is possible.

In the case of Frank Carr, the Board accepted at face value Carr's hand delivery of a letter from the Administrator of the Montclair Board of Education -- even after the Board knew that Carr had lied on his application.

Had the Board called to verify Carr's employment, they would have discovered that Robert Schaefer, the personnel director in Montclair, had ceased to employ Carr when he learned that Carr's record made him "inappropriate for teaching in the New Jersey public schools." Said Schaefer,

"if they had asked, I would have told them." Moreover, had Board investigators contacted the East Orange school system, they would have been alerted about Carr's pending indictment for molesting two 7-year-old girls at the East Orange school where he taught gym in 1984.

Instead, no inquiries were made and Carr was given a license to prey on two more innocent victims in JHS 22.

Of course, the Board's immediate "explanation" for all these failures was that it lacked the resources to do a more thorough and professional job. However, by their own admission, the Board's investigative unit does only 700 background investigations a year. Since that unit consists of three full-time investigators, and two part-time employees, each person can devote more than a day to making the phone calls necessary for each investigation. Moreover, in his twenty years with the Board, Conboy had never made a formal request for additional staffing.

Conboy also attempted to excuse his unit's performance on the grounds that the two part-timers have no experience in investigatory work; one is a retired principal, the other, a retired English teacher. It is difficult to see, though, why they could not be trained to make the type of phone calls necessary to conduct a proper background check.

Moreover, the procedures the unit actually used were cumbersome, time-consuming, and wasteful. Astonishingly, Conboy explained that he needed to sit down and write out instructions for each and every case before it could be assigned to one of his staff. The instructions told the investigator what areas they were to look into and what actions they should take to complete the background check. Indeed, this procedure appears to have taken on an almost talismanic quality:

> Q Wouldn't it be more efficient to teach him [the investigator] how to do it right once, and hope he does it right, and follow up a little?
>
> A Yes; I can't argue that point.
>
> * * *
>
> Q Have you thought, in the past twenty years, about changing the procedure to make it work a little better?
>
> A No, I can't say that I have.

Plainly, the policies and procedures used by the Board in determining who should receive a Temporary Per Diem teaching license have been followed almost mindlessly for years, although they are wholly inadequate to prevent people like Frank Carr from lying their way into the classroom.

The Hiring and Use of Temporary Per Diem Employees

Unlike certified, full-time teachers, who are hired by the Central Board of Education and assigned to a particular school, temporary per diem ("TPD") teachers are hired directly by the individual school principal and reappointed in each successive school year at the principal's discretion. This circumvention of the regular procedures gives the principal an unusually high degree of latitude over which people are hired and reappointed. The story of how Frank Carr came to be employed at JHS 22, and what happened once he got there, is an excellent case in point.

In the summer of 1988, William Green, principal of JHS 22, ran into Carr at the New York Giants training camp, where Carr was employed as a security guard. The two had first met in the 70's when they played semi-pro basketball in Connecticut. Carr said he was looking for work and Green explained how to go about obtaining a New York City teacher's license. When Carr later notified Green that he had failed the written part of the examination, Green encouraged him to re-take the test. Carr passed the test, was licensed, and Green immediately hired him.

After Carr was hired, he and Green maintained an extensive social relationship after school hours. Along with other JHS 22 employees, including another former semi-pro basketball player, who was also a TPD, Green and Carr frequently socialized together and the two routinely played basketball together. Green also sublet his Manhattan apartment to Carr.

Furthermore, although Carr was licensed to teach health and gym, and all his experience had been in that area, Green assigned him to teach mathematics. Green could make this assignment, because there is no requirement that a TPD teacher be assigned to teach in accordance with his license or that he be re-certified before being assigned to teach a different subject.

Nor is there any requirement that a principal obtain permission from the Board of Examiners or any other body within the Board of Education, or even to notify anyone, before assigning a TPD to teach a different subject. Instead,

individual assignments and performance evaluations are left entirely to the discretion of the hiring principal.

Green's determination that Carr was qualified to teach junior high school mathematics is difficult to understand. Green explained that "[a]fter talking with" Carr on his first day, "I was convinced that he could teach elementary school mathematics." Clearly, whatever motivated Carr's assignment, little or no weight was given to whether he was capable of teaching math. Said Green, "To put him in health ed, leave a math vacancy vacant, that would mean the students would get no education in mathematics."

Carr did not do all that well with his math assignment, and received a fairly negative evaluation from the assistant principal who observed his class. Nonetheless, Carr was rehired at the start of the next school year. In September, Carr was re-assigned to teach in the school's reading lab, which was designed to provide individualized remedial attention to students who are having problems with their reading skills. The lab is assigned a paraprofessional and has a smaller class size, usually about 13 students. Because of the nature of the assignment, it is usually given to a senior teacher with experience in teaching reading.

Green's basic explanation of Carr's re-assignment was that Green "had a need for a teacher in the reading lab." He later added, "Since Mr. Carr wasn't a licensed math teacher, I felt he could do better as a reading teacher with the support we give him ... I thought this was a better program for him."

Green did not seem at all concerned about assigning someone who had initially flunked the written Board of Examiners test to teach students having difficulties with reading skills. Explained Green, many teachers fail the written portion of the exam because they "overwrite."

> Q So, it really isn't particularly significant [to you] that he happened to fail the first time?
>
> A By him failing that exam does not give me an indication as to whether he can teach reading or not.
>
> Q What did you do to satisfy yourself that he could?
>
> A I saw he had the proper desire. He prepared properly.

The System's Failure to Curb Principal Green's Misconduct

Running throughout the Carr case is the highly unprofessional behavior of Principal William Green. From the recruiting of Carr in the summer of 1988, to the egregious mishandling of the charges of sexual assault lodged against Carr by two young students, Principal Green was allowed nearly unlimited and unscrutinized discretion over affairs at the school. Green's conduct with respect to Carr was thoroughly unprofessional, and in many cases, constituted a clear violation of Board of Education policy.

From the testimony arises the rather unsavory picture of a school dominated by personal, rather than professional, concerns: a school in which supervisors routinely socialized with employees after work and in which supervisors and employees made unrecorded cash payments or loans to each other.

One example of Green's unprofessionalism was his decision to offer Carr the use of a rental apartment Green maintained in Manhattan. At the hearing, Green objected to characterizing the arrangement as a sublease, yet Green received $408 each month from Carr for use of the apartment and Green, in turn, paid $408 per month to the building's landlord. Green was unable to provide any documentation for the arrangement: all payments by Carr were made in cash and Green kept track of the money "in his head."*

By far, the most shocking outgrowth of this attitude was the way in which Principal Green continued to cover-up for Carr even after his arrest. Green's personal and economic relationship with Carr appears to have severely affected his professional judgment in handling the allegations of molestation at his own school. At best, his judgment was clouded; at worst, he engaged in a deliberate cover-up to save his friend.

Equally troubling was the conduct of officials from the District Office, who also responded inadequately to allegations that Carr had molested two of his students and failed to monitor Green's response to the charges properly. From start to finish, the entire matter was handled in direct contravention of Board of Education policy, which requires employees to contact the Inspector General's office prior to

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* The secret housing arrangement violated Chancellor's Regulation C-110, which precludes Board of Education officers and employees from "entering into situations where private interests may conflict with official duties."

initiating any investigation of a complaint of sexual abuse.

Carr was arrested by police officers assigned to the Gill Commission on November 29, 1989 and was led out of JHS 22 in handcuffs. The story of his prior history of molesting schoolgirls in Connecticut and New Jersey received substantial media coverage. Yet when Emily and Lisa,* emboldened by Carr's arrest, approached school authorities to report Carr's behavior, they were held up for public ridicule, scorned, and humiliated. In sum, the incident was grossly mishandled, at an unknown psychological cost to the two girls.

"Linda", a friend of Emily and Lisa, first contacted Carla Lewis, her homeroom teacher, to report the incident. Lewis, who had formerly dated Carr, proceeded to lecture the class that they should not make accusations that were untrue.

Getting nowhere, the two girls went to speak to the Assistant Principal, Minnie Goka. They were interviewed first by Goka and then again, by the school's guidance counselor. Emily and Lisa were then both brought down to Principal Green's office. Green interviewed the girls in front of Goka and the guidance counselor, and then called Emily and Lisa's parents. Green also called Linda's mother, and, when she arrived, Green reprimanded Linda as "trouble-maker" for her role in bringing this matter to the school's attention. He delivered this tirade in front of the two victims themselves, even before asking them what had happened to them.

Finally, Green contacted the District Office. Deputy Assistant Superintendent Victor Lozano arrived and proceeded to interview the children, once again. At this interview, Emily's mother, Goka, the guidance counselor, and Green were all present. Lozano solicited a written statement from the girls and Emily's mother, and dismissed the meeting. Lozano then directed the whole class to come down to the office. In front of Emily and Lisa, he told the class that the two girls had claimed that Carr had molested them, stated that it was not true, and then asked if any other child in the class had been the victim of sexual abuse. Predictably, no one responded.

In the eyes of Green and the District administration, the matter was put to rest when Green sent a memorandum to the District office concluding that there was no evidence indicating that Carr's actions had constituted anything other than a "friendly hug." Incredibly, throughout

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* In the interest of confidentiality, these names have been changed.

the course of that day, or the days that followed, no one in the "cast of thousands" who participated in the affair ever contacted the Inspector General's office or the police.

Instead, after the "investigation" someone in the school had the students write letters in support of Carr.*

Lack of Compliance with the Chancellor's Reporting Requirements

Along with Green, the staff of the District Office must share responsibility for the failure to deal properly with the incident at JHS 22. Their response to a charge of sexual misconduct by a teacher who, just the day before, had been taken away in handcuffs for an incident involving child molestation was simply inexcusable.

When Lozano was informed that Emily and Lisa alleged that Carr had sexually abused them, he too responded in direct violation of Board of Education regulations. The Inspector General's Field Advisory One, directed to all Community School Board Presidents, District Superintendents and Deputy Superintendents, and all school principals, explicitly requires that allegations of sexual abuse be reported to the Inspector General's office "before ... preliminary review or investigation." The purpose of the policy is to assign the Inspector General's specially trained investigators to handle all allegations of sexual abuse.

When asked to explain his actions, Lozano, who is the District's designated liaison with the Inspector General's office, acknowledged that Field Advisory One was in his files, but said that he had never read the memo. Lozano admitted that "technically I did violate [Field Advisory One]." Although Lozano admitted the violation, he blamed his failure to follow procedure on his being too busy to read his mail. He also suggested that it was reasonable for him to have disregarded the advisory because it did not say on its face that it reflected a change in prior procedures.

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* Whoever engineered this public relations stunt did not screen the letters carefully before passing them along to the Superintendent's Office. Reads one letter:

> Mr. Carr was a good teacher, he never disrespect me, he taught me very well, but he talked too much and he look under Miss [ ]'s skirt when she used to sit down. Mr. Carr was very nice and polite.

While Lozano may have been uninformed about board procedure, he was aware that a charge of sexual assault should, at some point, be reported to the Inspector General's office. Yet Lozano make absolutely no effort to follow-up with Green to make sure that the incident was reported to either the Inspector General or the police.

Apparently, Lozano was also too busy to read Emily and Lisa's written statements or Green's final report when they were submitted to the District office on November 30, 1989. Lozano testified that he did not read Green's report until two days before he was scheduled to appear before the Commission -- over a month and a half after his initial visit to the school. Had he read Green's report, he would have seen that there was no indication that Green had taken steps to involve the Inspector General's office. Indeed, Green never bothered to contact the Inspector General or the police, a fact that Lozano was "surprised" to learn when he was later informed of it by the Gill Commission.

When asked why he did not take steps to insure that Green had reported the incident, or did not simply contact the Inspector General himself, Lozano told the Commission he had simply "assumed" that it had been taken care of. Similarly, Dr. Annie Wolinsky, the Superintendent of District 9 and Lozano's immediate superior, could shed no light on why no one who participated in the school's "investigation" had ever contacted the Inspector General or the authorities.

> CHAIRMAN GILL: In a nutshell, everyone was waiting for the I.G. to arrive on the scene to solve this problem, but no one ever called them. Isn't that right?
>
> WOLINSKY: That is correct.

Conclusion

Carr was convicted of two counts each of sexual assault and endangering the welfare of a child by a Newark, New Jersey Superior Court jury on March 28, 1990. This conviction was obtained, thanks in part to the testimony of the two girls from JHS 22, who told the jury about how Carr had molested them to help establish Carr's intent to molest the two young girls in the Jersey case. Their testimony helped demonstrate beyond doubt that his conduct in New Jersey was deliberately sexual in nature, and not accidental.

As of this date, Bronx District Attorney Robert Johnson has declined to prosecute Carr for molesting the two Bronx students.

The Brooklyn indictment against Carr for false filing on the Board of Education application is still pending.

Principal William Green has been removed from the school and reassigned to the District Office. Disciplinary charges against Green are still pending.

District 9 Superintendent Annie Wolinsky was removed for other reasons, and no charges are contemplated against Deputy Superintendent Lozano.

Findings and Recommendations

Finding: The Board of Examiners has failed to safeguard public school children, since its screening of potential teachers has been woefully inadequate.

Recommendation:

♦ The Legislature should abolish the Board of Examiners.

Finding: There has been no true accountability for the screening process, because the Board of Examiners and the Board of Education have traditionally blamed each other for any failures.

Recommendation:

♦ The Legislature should empower the Chancellor to assume the functions of the Board of Examiners, and a new unit should be created to implement this reform.

Finding: Thorough criminal and employment checks, both in New York and in other states, are necessary to prevent unfit people from obtaining access to our classrooms.

Recommendations:

♦ The Chancellor's unit should include personnel with professional experience in criminal investigations.

♦ Its background employment checks on all teaching candidates must, at a minimum, include independent verification of previous employment.

♦ Its investigators should contact the state police in every out-of-state applicant's prior state of residence to obtain his or her arrest record.

♦ No candidate should be certified until receipt of the results of the FBI fingerprint check.

♦ Upon discovery that an applicant has made a false statement in the application, the Chancellor should refer the matter to the appropriate district attorney for follow-up.

Finding: There has been little or no scrutiny of the assignment of temporary per diem teachers, a failure that has allowed improperly motivated principals to assign teachers to jobs they are unfit to fill.

Recommendations:

♦ The Chancellor should impose greater controls on the use of Temporary Per Diem teachers.

♦ The Chancellor should require that candidates be assigned to work only in areas for which they have been tested, unless a specific waiver is obtained.

♦ The Chancellor should require principals hiring temporary per diem teachers to report any prior relationship to the individual.

Finding: Board employees at all levels have ignored reporting requirements, even about matters as loathsome as sexual molestation of students by teachers, and they have done so with impunity.

Recommendation:

♦ The Chancellor should file disciplinary charges against anyone who violates the rules about reporting allegations of sexual assault, corporal punishment, and other sensitive matters.

FISCAL IRRESPONSIBILITY

... That would be what I would do [about a fiscal problem]. If someone brings something to my attention, I follow through with a memo ...

• Dr. Annie Wolinsky
Superintendent, District 9

Q Now, do you recall telling me ... that June was a bad month for you in terms of reading your mail, that you may well never have bothered to read that memorandum?

A True.

Q And, in fact, you told me that even when June went by, when you got into July, you often didn't bother to go back to see the stuff you hadn't caught in June?

A June, July, August are very busy months.

Q If someone writes you a memo, letter, in June, July, August, it is a hit or miss thing whether it's ever going to make it into your mind; correct?

A Yes.

• Michael Stolberg
Director of Fiscal Affairs
District 4

In an audit of the telephone bills of District 4 in Manhattan and District 9 in the Bronx, the Commission discovered an appalling pattern of waste and abuse over the course of at least the 18 months beginning in January 1988.

Both districts squandered thousands of dollars on unnecessary late charges merely because they could not manage to pay their bills on time. Even more dismaying, both districts paid tens of thousands of dollars for calls that should never have been made.

Each month these districts paid for hundreds of calls to information by employees too lazy to use the telephone book.

Each month, these districts paid for hundreds of long-distance collect calls from out-of-state or overseas, in which the district incurred an extra charge because the caller did not dial direct and seek reimbursement.

Each month, these districts paid for long distance "third party" calls -- from one residence to another -- simply because the unidentified callers "charged" the call to the District Office, in direct defiance of Board regulations. Many of these calls were from out-of-state or overseas; there were more than 90 calls in which one person in Puerto Rico, for instance, would call another person in Puerto Rico, and charge the call to the District 4 Office in Manhattan.

Most shocking of all, month after month, from the schools and offices of these districts, people were making hundreds of unauthorized calls to "specialty" lines, for which the districts paid anywhere from $2.00 to $35.00 a minute. Some, although clearly an improper expenditure of funds, were relatively innocuous: calls to weather lines, sports trivia lines, lotto lines, or horoscope lines. Other calls were made to "party" lines, "dating" lines, or "gab" lines.

But, many were made to dial-a-porn lines of all kinds: the Dirty Joke Line, the Erotic Fantasies Line, City of Sluts Line, the Kinky Line, and the Cross-Dressing Line. There was a whole series of calls in which the party dialed an exchange and a four-letter word. These calls ran the gamut: from 550-GIRL and 550-GENT to 970-BABY and 970-PAIN, as well as an entire group of calls in which the caller dialed an exchange followed by an expletive.

The following chart lists a sampling of the lines called from school and office telephones in these two districts; many other specialty lines were called, but they were never identified.

Specialty Numbers Called

Hottest Adult Fantasies	City of Sluts	970-PREP
The Urban IV Line/"Bisexual"	550-WILD	Dial-A-Hunk
The Pleasure Kingdom	Insane Trivia	970-LUST
Marilyn Chambers Advice Line	New York Scene	Babylon Hill
Cross Dressing Line	The Heat Line	Kinky
Sports Trivia Game	Weather Track	970-COME
Wrestling/Fantasy Girls	Health Line	540-CASH
Hardcore Trivia Line	The Skin Line	970-TITS
Newsday Information Service	999-LIVE	Winners
Kingdom Cum Hot Line	970-NUDE	970-BUTT
Black Jack Casino	Trivia Quiz	SMUT
The Hispanic Date Line	Singles Activity	USA Freddy
True Confessions	The Give Line	550-FUNN

Fantasy I Line	The Roxx Line	970-CUNT
The Sting Sports Picks	Scary Story Line	550-GENT
Jean Dixon's Horoscopes	Spanish Tarot	550-GIRL
Music Trivia Games	Gal's Dreams	550-LIVE
The Ultimate Male Connection	Dial-An-Insult	550-LOVE
New York Post Sports Trivia	Erotic Exchange	970-BABY
Tarot Card Reading	970-FREN(CH)	I Confess
540-SOAP/Soap Opera Updates	970-FUCK	LoveStars
Lucky Lotto Numbers	550-RAPP	Punchline
Programa De Oportunidad	970-HOTT	970-STER(N)
Telefriend Seniors	550-CHAT	970-DEEP
The Man to Man Line	Latino Connection	Classiphone
Party Line: TV/TS Adult	The Hugg Line	970-PAIN
Party Line: Gay Adult	The My My Line	Fonetasia
Pleasurable Feelings	550-ROCK	550-SOUL
Jean Simpson's Hot Numbers	Auto Loan Store	Punchline
Spanish Dial-A-Porn	Erotic Fantasies	Condom Sense
The Sensuous Switchboard	California Line	970-LICK
Spanish Horoscopes	970-BABE	Romance Line
News & Moral Beliefs	970-BOOB	Foreign Love
Long Island Love Connection	La Linea Feliz	970-ELLE
Pleasure Palace	Call for Cash	970-KISS
Dirty Joke Line	Dream Machine	970-GENT
Consumer Ski Reports	Adult Tapes	970-GIRL
Adult Fun Line III	550-TEEN	970-INYA

The money wasted on these thousands of improper telephone calls and charges was staggering. In District 4, for instance, between January 1988, and September 1989, these abuses accounted for thirteen percent of the district's phone bill, a total of $55,761.47.

District 4 Telephone Abuses

Type of Abuse	Total Wasted
Specialty Calls	$11,024.95
Late Charges	$18,386.74
Information Calls	$20,880.83
Collect Calls	$1,850.32
Third Party Calls	$3,618.63
Total Wasted	**$55,761.47**

Similarly, in District 9, these phone abuses also accounted for thirteen percent of the phone bills, for a total of $34,149.81 during the period.

District 9 Telephone Abuses

Type of Abuse	Total Wasted
Specialty Calls	$6,877.40
Late Charges	$12,048.74
Information Calls	$14,122.32
Collect Calls	$699.45
Third Party Calls	$401.90
Total Wasted	**$34,149.81**

The smaller total in District 9 might, at first glance, seem to indicate a less severe problem. Unfortunately, that initial impression is misleading. In the first place, District 9 simply could not locate a great many of its bills, so that the "total" is really only a fraction of the actual expense. Indeed, District 9 was unable to provide any bills for four months of the period, and could not locate hundreds of other bills. Thus, the magnitude of the waste in District 9 is understated by this analysis.

One good indicator of the real magnitude of the problem is that District 9 actually spent almost $20,000 more than District 4 on phone bills during fiscal year 1989. And, in District 9 -- as in District 4 -- thirteen percent of what appeared on the bills found was waste. Therefore, given that the total bill was larger in District 9, it is likely that the total wasted during the period was greater than the $55,000 wasted in District 4.

One other sobering note: in both districts, there were indications of other forms of telephone abuse. For instance, there were hundreds of direct-dialed long distance calls being placed from the district's business offices and schools made without any apparent business justification. Like the collect calls, these direct-dialed calls were often made to places outside New York or even outside the United States. And, like the collect and third-party calls, these

long-distance calls were often made late at night or on weekends or on holidays.

For instance, there was at least one series of calls made on New Year's Eve and New Year's Day, in which it appeared that someone was using Board of Education funds to call all his or her friends and wish them a Happy New Year.

Thus, the $90,000 worth of waste and improper calls identifiable the face of the bills themselves is just the tip of the iceberg.

Why Did the District Business Managers Allow These Abuses To Exist?

How could these two districts allow these abuses to go unchecked month after month? Certainly, it was not because the abuses were difficult to detect. On the contrary, all of these abuses appear prominently on the bill.

Nor was it because it was difficult to put a stop to these abuses. After all, the tens of thousands of dollars of late charges could have been avoided by the simple expedient of paying the bills on time.

The improper calls could have been prevented just as easily. For a modest one-time charge, all of the phones in District 4 could have been blocked electronically to prevent specialty calls and information calls from being made and collect calls and third-party calls from being accepted. Even long-distance calls could have been blocked on most phones, leaving only the supervisor or principal with a phone that could make the few long-distance calls the educational system really required.

In District 9, as well, many of the phones could have been equipped with this kind of electronic block. And, even for phones that could not be blocked, there were simple, practical solutions: turning the phones off during the summer months when they were not in use, or installing a lock on the phone itself to prevent unauthorized use.

Why did no one in these districts take any of these obvious steps to prevent the money from being wasted in this way? The responsibility lies, first, with the districts' Business Managers: Michael Stolberg, Director of Fiscal Affairs for District 4, and June Cohen, District Business Manager for District 9.

June Cohen, a high school graduate with some college courses in humanities and no formal education in accounting or

economics, was the business manager in charge of District 9's 110 million dollar budget from October, 1987, until the end of June, 1989.* Within a month after she became Business Manager, Cohen did realize that there was a pattern of serious telephone abuse in District 9. Many of the bills contained unauthorized calls and many of the supervisors were failing to return the bills to the business office promptly, making late charges inevitable.

Cohen's standard procedure was to attack a problem with a memo. She summed up her experience:

Q ... when a problem arises, often the response is to write a memo, true?

A Depending upon the circumstances, yes.

Q And then to see if anything happens; correct?

A Yes.

Q And then if nothing happens, one writes another memo, true?

A True.

Q And if nothing happens, time goes by; correct?

A Yes.

Q And then one often writes another memo; true?

A Or makes a phone call.

Q ... Then, if nothing happens, one waits a little while longer and writes another memo; true?

A No.

Q What happens then?

A One goes to the Superintendent.

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* At the time of the Commission's public hearings in October, 1989, Ms. Cohen was Assistant to the Deputy of City-Wide Programs, Division of Special Education, and was in charge of their budget and finance.

Q Then what does the Superintendent do; write a memo?

A It depends what her decision is.

According to this standard procedure, her initial response was to send a memo in November, 1987, reminding all the principals and office supervisors that they should curb these abuses. She also asked them to review the bills to identify any unauthorized calls and to do so promptly, so that the bills could be paid on time.

That memorandum had no discernible effect on the pattern of abuses. Accordingly, Cohen had a meeting with her superintendent, Dr. Annie Wolinsky, and suggested that Dr. Wolinsky send the principals and supervisors a memo about the telephone abuses. Cohen also suggested that, in the memo, they should threaten to "hold up the balance of their business affairs, for example, not process their purchase orders, in other words, hold them hostage," if they did not send in their telephone log sheets in a timely way.

In her opinion, threatening to "hold" a school's affairs "hostage" was a "normal way of doing business" in the Board of Education; in fact this technique had been recommended to her by another Business Manager. Dr. Wolinsky apparently agreed that the memo was a good idea; she sent it out to the district.

Like the memo before it, this memo had no effect. No "hostages" were taken, though. The plan had simply been to make the threat and neither Cohen nor Wolinsky ever even discussed taking any further action when the threat did not work.

If any threats had been carried out, Dr. Wolinsky and Cohen should have been among the first targets for "reprisals." According to the clerk in charge of the telephone bills, Dr. Wolinsky refused to review and sign the bills for the district office at all until Cohen had signed them, and Cohen never got around to it. In fact, the district office bills sat around until the clerk finally decided months later that they ought to be paid and paid them without any authorization.

There the matter rested until the spring of 1988, when Cohen was called to a meeting with some people from the Division of Business and Administration at Central, who cautioned her that she should do something about paying vendors in a more timely manner. After this meeting, Cohen had a meeting with Dr. Wolinsky, and they submitted a "loose

plan" to Central "documenting how we would pay the vendors in a more timely manner."

Part of the plan was to pay the phone bills without waiting for the reports to be returned by the schools and supervisors. Cohen had a meeting with the clerk in charge of the phone bills and told her to pay the bills on time. She learned later, however, that the clerk had been confused by various directives on different subjects and had somehow concluded that she should be waiting ninety days before paying the bills -- thereby causing two months of late charges to be added to the bills. Although she knew that the delay was costing the district money, Cohen never did anything to correct this misunderstanding on her subordinate's part.

Cohen also never did anything to have the telephone lines electronically blocked to prevent the unauthorized calls, although the clerk drew them to her attention at several points. Cohen said she "was not aware that could be done."

Cohen's ignorance on the subject is somewhat mystifying. In June, 1988, the Central Board's Office of Telecommunications sent each of the District Business Managers a memorandum not only explaining that this kind of calls could be blocked, but giving the name of the person at the phone company to call to arrange it.* Cohen apparently never read this memo.

Michael Stolberg, the Director of Fiscal Affairs in District 4, and the person in charge of the district's $56 million budget, also apparently never read this memo, although it was found in his files. He offered an explanation for his failure to read the June memo from Telecommunications:

> Q Now, do you recall telling me ... that June was a bad month for you in terms of reading your mail, that you may well never have bothered to read that memorandum?
>
> A True.

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* The clerk in charge of paying the bills had been so shocked to see the sex line calls that she had asked about blocking herself. Unfortunately, the person she asked was Wayne Naylor, an excessed teacher who worked in the District Office and was in charge of installing phones and getting beepers. Naylor erroneously told her that blocking was impossible.

Q And, in fact, you told me that even when June went by, when you got into July, you often didn't bother to go back to see the stuff you hadn't caught in June?

A June, July, August are very busy months.

Q If someone writes you a memo, letter, in June, July, August, it is a hit or miss thing whether it's ever going to make it into your mind; correct?

A Yes.

Q Even when September comes around, you don't go back and look at the June, July, and August stuff; right?

A You said you found that in my files ...

Q ... I have no question that it is in your files. My question is: Did Stolberg ever bother to see it?

A I don't recall.

Stolberg's failure to read the memo was actually not all that important, however, because he had already considered the idea of electronic blocking sometime the year before. He rejected the idea, because it would have required payment of a one-time fee of $2,500.

Of course, since the monthly average spent on blockable calls was more than $1,700, blocking would have paid for itself in less than two months. Over the next two years, Stolberg never reconsidered his decision, even when the clerk in charge of the telephone bills repeatedly drew the abuses to his attention.

Instead, when she asked him about the bills, he simply "smiled" and "shrugged." As he later explained, the telephone bill was "maybe four or five thousands of a percent of the total budget," and he had to devote "90 percent" of his time to monitoring his payrolls.

Nor were the specialty calls on the bills the only problems brought to Stolberg's attention. One of the clerks tried repeatedly to discuss with him the fact that no one was sending out the bills for the principals and supervisors to review. Again, for more than two years, his only response to this problem was to shrug and smile.

Once, because of his clerk's "shocked" warnings about the telephone abuses, Stolberg did take some action: for a short time at least, he assigned a junior high school girl to take care of sending out the bills. When the principals failed to review them, Stolberg took the standard course:

> Q What did you do about [the problem] ...
>
> A I sent out a memo reminding the schools on procedure.
>
> Q After you sent out the memo, nothing improved; correct?
>
> A Correct.
>
> Q What did you do when nothing improved after you sent out the memo?
>
> A I don't recall.
>
> Q You don't recall?
>
> A No.
>
> Q Would it be fair to say, that basically you did nothing with respect to phones, other than send out the memo ... suggesting that people do what they were supposed to do?
>
> A Yes.

Thus, for more than two years, no one anywhere in District 4 even received bills to review to see if the hundreds of long-distance and international calls being made were authorized or to try to put a stop to the unauthorized calls.

Stolberg also identified, and then ignored, another problem: the existence of phantom telephones in his district. When he arrived in 1987, there was a district telephone directory that listed at least one extension for every school, every program, and every office. On the other hand, there were a great many other extensions that no one could identify. He did ask his subordinates to try to track down all of these extensions, and they did narrow the field somewhat. However, as Stolberg admitted, they never did manage to find out where all those extensions were.

Nonetheless, although he had no idea at all where these phones were or whether they served any educational

purpose, he took no further steps: he did not cut these extensions off or even send a memo threatening to cut them off unless someone stepped forward to identify them. Instead, he continued to pay for any and all calls made from these extensions.

Two years later, at the time of the Commission's audit in the summer of 1989, the deputy superintendent admitted that after weeks of effort there were at least three extensions that remained complete mysteries to her. And, Stolberg's staff had tried, but failed to identify a fourth extension, which repeatedly called the specialty lines and made or received hundreds of out-of-state or overseas calls every month. In fact, this line alone had racked up close to $5,500 worth of calls since January 1988.

Stolberg was warned about this phantom phone, but, as usual, he did nothing to stem the flow of wasted public funds. In July or August, when the clerk raised the problem, he commented that he guessed they should just cut off the extension. When he appeared for a private hearing before the Commission two months later, he had still not made, or authorized, the phone call to turn the extension off, although he again admitted that that was the simple and obvious solution. And, three more weeks passed before Stolberg's appearance at the Commission's public hearings, when he admitted that he still had not shut down the phantom telephone.

In the meantime, during his three years in the district, Stolberg not only failed to check on the phone usage, he failed even to pay the bills for months at a time. When his staff asked him about the bills and the enormous late charges the district was being charged, he gave his usual shrug and smile.

By the fall of 1988, the district had fallen more than $100,000 behind in its payments, and the telephone company -- finally fed up -- began to threaten to cut off phone service entirely. Stolberg spent months claiming that the district did not really owe this money, on the basis of some convoluted reasoning he could never satisfactorily explain and which even he later admitted was mistaken. Getting no satisfaction at the district level, the phone company contacted the staff at the Central Board of Education, who averted the cut-off, and promised to intervene with Stolberg to alleviate the problem.

Finally, in January, 1989, when the district phone bill had remained unpaid for seven consecutive months, and the phone company began threatening again to cut off service, the Central staff simply took over paying the district's phone

bills themselves for the next ten months. They found themselves forced to use funds allocated for school libraries and special education to do so.

Why Did the District Superintendents Allow These Abuses To Exist?

The superintendents are the chief operating officers of the community school districts. Why did they do nothing while tens of thousands of dollars were thrown away on dial-a-porn calls and other phone abuses? Why did they do nothing while their business managers allowed the bills -- and the late charges -- to pile up month after month?

The Superintendent of District 4 for about half of this period was Carlos Medina, who was subsequently fired for his own financial malfeasance. But for the first nine months of 1989, what was the role of Acting Superintendent Shirley Walker?

Part of the problem may be that Stolberg was apparently doing his utmost to keep her and the board in the dark. Stolberg apparently never told her about the specialty calls or the other patterns of abuse. He apparently never told his superintendent that the phone company was threatening to cut off service. Stolberg also apparently never told her that the bills were in arrears or that the late charges were piling up. She apparently learned that Central had taken over paying the phone bills when someone from Central gave her a copy of letter outlining the situation; that letter was addressed to her, but she had never read it.

On the other hand, there were some clear warning signs: Walker, after all, had been Deputy Superintendent in Charge of Personnel for years, including the years in which Stolberg had allowed the phone bills to be paid without being checked by the supervisors and principals. And, Walker admitted that, during all the months she had been superintendent, she had never received a single telephone bill to review or authorize.

Yet, despite these warning signs and despite what she learned from Central, she had never taken any meaningful steps to review and correct the telephone situation. In fact, when she testified at the Commission's public hearings, it had apparently not even occurred to her that she should have taken any action:

> Q Miss Walker, who in your mind, bears the ultimate responsibility for permitting

such financial irregularities to go unabated at District 4?

A It would have to be our Director of Fiscal Affairs; it is his responsibility.

Q And who is that?

A Michael Stolberg.

The situation in District 9 was frighteningly similar. Asked about responsibility for the dial-a-porn calls being made from her own district office, Dr. Wolinsky first mentioned the clerk whose job it was to send out the bills and then mentioned "the Business Office."

When pressed, though, she finally admitted that it was her own job to review the district office phone bills and to certify each month that the calls were all authorized calls. Yet, she still disclaimed any responsibility for the abuses going on in her own district office, saying:

> ... If something is brought to my attention, if it is brought to my attention that a call is made, that should not have been made, I would say that -- I would ask someone to check to see who made the call -- try to check. We would call the telephone company. I'm just saying the Business Office will do this. They will trace a call ...

In fact, though, she took no meaningful action even when these abuses were specifically drawn to her attention. When her business manager informed her in 1987 about the phone abuses, she sent a memo.

When her new business manager informed her about the dial-a-porn calls again two years later, she "sent a memo to all principals and program directors," telling them that they should provide additional security and that they should investigate the abuses. She explained:

> ... I thought that was the thing to do, as the executive leader in the district, to inform the schools that this is happening, and that they should look for such abuse, and also to take steps to prevent that.

Or, as she put it at another point:

> ... That would be what I would do. If someone brings something to my attention, I follow through

with a memo, and give suggestions and recommendations.

She had never seen any need to go beyond memos -- even as a means of correcting the dial-a-porn problem in her own district office. In fact, even after she was informed of the full magnitude of the problem, she did nothing to stem the tide of waste and impropriety:

Q When you testified in a private hearing [three weeks ago], did we not tell you at that point that these calls were being made, and that on at least some of your phones it could be blocked, and that at least some of the calls were being made out of the District Office, for which you are directly responsible?

A I said earlier that we are taking measures ... to see that that will be done.

Q What measures have you taken?

A I have alerted the District Office, I have sent this memo. This memo emanated from the District Office. It says we are looking at phones. We will continue to do so. We will continue to -- the first will be to follow through on the suggestion that was given, also, to remind everyone to monitor their phones.

Q Well, aside from sending the memo --

A And also --

Q -- reminding the people of their responsibility --

A And to cut it off at the telephone level.

Q -- have you taken any steps, or asked your Business Manager to take any steps [in the last three weeks] to contact the telephone company in order to institute that?

A We did not call the telephone company.

Dr. Wolinsky did assure the Commission that she "certainly" would call the telephone company once she got back to her district office.

Why Did the Central Board Allow These Abuses To Exist?

This picture of fiscal irresponsibility at the district level is bleak enough. But, even more disquieting, the Central Board's staff also learned of these shocking abuses and also took no meaningful steps to put a stop to them.

First, as early as spring of 1988, Central's Division of Business and Administration learned that all of District 9's bills were being paid late. This information prompted a meeting: staff from Central told staff from the district the bills should be paid in a more timely manner and demanded a "plan" to pay the bills in a more timely manner. Having received a "plan" from the district, however, Central apparently was content to let the matter drop, despite the fact that the district continued to accrue late charges on its phone bills and despite the fact that those charges rose to be more than $1,000 a month after the meeting took place.

Meanwhile, by June of 1988, Central's Bureau of Telecommunications, part of the same Division of Business and Administration, had learned that some districts were having trouble with these specialty calls. They also knew that the telephone company could block out these calls electronically at an enormous savings to the Board.

The response: like their colleagues in the districts they attacked the problem with a memo, writing to all the District Business Managers to outline the problem and the solution and suggest that the business managers follow up.* That memo, of course, had no impact whatsoever in either District 4 or District 9. Yet, having sent the memo, and shifted the blame for whatever followed, the Bureau of Telecommunications apparently considered its job done.

Intervention of a more active sort did occur in District 4, but only because the phone company itself became so fed up that it threatened to cut off the phones in the district entirely. Then, because the district was so far in arrears, because the district had no money at all allocated to pay for the phones, and because of the threat that phone

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* Apparently, they did arrange at some point to have the lines in the main Central Board offices blocked.

service would be lost, Central did intervene and begin paying the bills.

On the other hand, although Central's Division of Business and Administration began receiving the bills in January, 1989, and although the improper calls were listed so prominently they leaped from the page, no one at Central did anything to curb the abuses.

They received the bills and paid them month after month after month, without ever questioning why the bills were so high or even noticing all the calls that were being made in direct violation of Board of Education regulations. In fact, they paid for more than $7,800 worth of specialty calls themselves.

When questioned as to why the Board was paying the district's phone bills, while failing to spot the alarming number of questionable and unauthorized phone calls which were being made, John Chardavoyne, the Executive Director of Central's Division of Business and Administration, at first disclaimed any responsibility to screen the phone bills for unauthorized calls:

> That's [Stolberg's] responsibility. It's not my responsibility. I only got into it because he wasn't paying his bills on time.

However, Chardavoyne later admitted that he and his staff were "remiss" in not looking at the bills more carefully, although he still tried to insist that the "responsibility lies" with the business manager, even in a case of such glaring abuses as these.

In the meantime, however, other employees of Central's Division of Business and Administration were conducting an audit the phone bills -- and all of District 4's other bills -- to discover whether there was any pattern of fiscal mismanagement or impropriety from November, 1988, through April, 1989. These auditors did finally discover the dial-a-porn calls, the unauthorized overseas calls, and the enormous late charges. They also learned that no one was even checking on the bills at the district level.

And, they discovered that the handling of the phone bills was symptomatic: 97 percent of the purchases they examined had been improperly handled.

These auditors wrote a report, which they forwarded to their boss -- the same man who was receiving the district's phone bills every month. But, even his own auditors' findings about the dial-a-porn calls did not prompt him to take any

action, except, course, to send the audit report up the ladder to his boss, the Executive Director of the Division, John Chardavoyne.

Chardavoyne was very disturbed by its findings. He felt, in fact, that the audit suggested a "wilful intent" on the part of the District 4 business office "to ignore City and Board purchasing practices." His response was to send copies of the report all over the Central hierarchy: to his own boss, Harvey Robins, the Deputy Chancellor for Financial Affairs, to the Auditor General James Coney, to Inspector General Michael Sofarelli, and to Leonard Hellenbrand, the Director of the Office of Budget, Operations, and Review.

His prescription -- in May, 1989 -- was further study: "there are some issues which may need further investigation by [the Auditor General] and possibly the Inspector General's Office."

Auditor General Coney immediately responded that, as far as he was concerned, no further auditing was required. As Coney later correctly observed:

> ... there was no need for me going into District 4 at that particular point in time to further verify what was already known to be a fact.

The nature of the problem was already clear and what was needed was some kind of action, not another report "uncovering" the abuse.

Inspector General Sofarelli's response, on the other hand, was somewhat different. He had, in fact, known of these telephone abuses for months, and had had a group of his own "auditors" studying them for months. In fact, they had done a full-scale analysis of the district's phone bills from June to November, 1988, and written up their own "Confidential" report on April 10, 1989.

In other words, Sofarelli, too, had discovered the porn calls and all the other improprieties. He, too, had learned that blocking was possible to prevent these abuses. However, he had done nothing to follow-up on these findings, concluding that the best use that could be made of the information was to wait to see if it would come in handy at some point in Carlos Medina's disciplinary hearing as rebuttal evidence or for cross-examination.

In the meantime, of course, the dial-a-porn calls continued to be made, and the long-distance calls continued to be made and accepted. The Inspector General sat quietly on

his evidence of these abuses and Chardavoyne's Division of Business and Administration continued to pay for them.

Nor did any of this information trigger the bureaucrats at Central to look for the same kind of abuses in other parts of the system, although the same pattern was simple enough to find. The Commission discovered the problem in District 9 easily -- and quickly -- enough, by asking Central for a printout of the amount each district had spent in the previous year on telephones.

A glance at the top five districts revealed that, even with all the money it had wasted, District 4 was not at the top of the list: that distinction went to District 9, and it was not difficult to guess why.

All of this information pointing to the problem in District 9, and to the fact that it was probably an even larger problem than in District 4, was in the hands of the Central administration. But, because there was no crisis triggered by an outside threat to cut off service, apparently no one had ever thought to look for -- and prevent -- these kind of abuses anywhere else.

What Prevents the Central Board of Education From Preventing This Kind of Abuse?

Between them, Coney and Chardavoyne provided a dismal picture of the Central Board as a bureaucracy that is almost totally paralyzed in the face of the most flagrant fiscal abuses. Both of them, for example, pointed out that these phone abuses were only an infinitesimal part of the problem in these two districts, which had had budget deficits and other budget problems for years. In Coney's words:

> A As important, or as embarrassing or depressing or disgusting as the telephone abuses are, the larger issue is: Districts manage multi-million dollar budgets. You saw [the money wasted on the phones]. I'm concerned about what you didn't see, or what we don't see.
>
> Q You and I can agree that the telephone example is just that; it's a small example of a much more massive problem?
>
> A Absolutely.
>
> Q It's the tip of the iceberg?

A Yes.

Q Not just in District 4, but throughout the system; correct?

A Correct.

Q And the existence of that problem is no secret to the decisionmakers at Central; correct? None of this is hidden?

A ... It is no secret; you're right.

In Coney's eyes, the real problem was one of attitude: no one in a position to do so ever seemed to want to move from gathering information to acting on the information that was gathered.

Chardavoyne himself, whose staff had "uncovered" the abuses in District 4 and whose staff knew full well how to go about blocking the improper calls, succumbed to this bureaucratic paralysis. First, even after his own auditors filed their report about the porn calls, he sent the report "up" to his superiors and had meetings to discuss the problem with them and with the district personnel. Like the business managers and their superintendents, he never considered the simple step of calling the phone company and making the arrangements necessary for the calls to be blocked.

Furthermore, like his counterparts in the local districts, he disclaimed accountability. In his assessment, the "responsibility" for the problem lay with the District and with its business manager, or with his bosses on up to the Chancellor, who could have intervened by suspending the local board or superseding them on financial matters.

In the meantime, Chardavoyne had repeatedly recommended to his bosses that they should supersede the district board and fire Stolberg. He reluctantly shared his insight into why this recommendation was repeatedly ignored:

Q What do they say when you say that?

A I am only dealing with financial matters of the District; they have a number of other considerations that they have to weigh that go beyond the financial areas.

Q Such as?

A I don't know.

Q What do they say?

A I gave you the answer.

Q That they have other considerations, period?

A Other political considerations that they have to take into account.

Q Political considerations?

A Yes.

Conclusions about Telephone Abuses

Like the telephone company's threat to cut off service, the Commission's public hearings on the matter of the telephone abuses were catastrophic enough to provoke the Board of Education into action. Within days, the Chancellor announced that his staff at Central was arranging to have electronic blocking installed on every phone in the system. And, within days, in response to a warning that the Chancellor would supersede the local board if it did not act, Michael Stolberg was fired.

Expensive Toys for Public Servants

Q OK, how many other people got beepers?

A OK, uh, those are the two, uh, Mr. uh, Sohm [of the Media Department] asked me to get two more beepers for uh, for uh, Mr. Petrizzo, Joseph Petrizzo and Philip Bingham that worked with him. Uh, Mr. Levine got a beeper ... He was director of the Continuing Ed program and principal in 64. He got a beeper. He got one for Mr. Ortiz, who is now the assistant deputy superintendent. And they got some other beepers for, uh, some of the gentlemen that were supervisors that work in the Continuing Ed program namely, Anthony Fasolino, Stan Cominski, uh, Jimmy Delia, uh, yeah I believe that to be ... there were eight beepers in all for that group ... They had a new media team that came in and, and that media team knowing that the old media people had beepers came to me and asked me if I would get them beepers, which I did ... Ok, uh, there was a beeper for Craig Adams, there was a beeper for Julio

Ayala, there was a beeper for, uh, Willie Thomason, there was a beeper for uh ... let's see ... Kevin Adams had a beeper but he turned it back in uh ... (unintelligible) Arabu Steel had three beepers.

Q Why did he have three?

A Well he, he had one at first and then he asked for two more and I got them for him.

• Wayne Naylor, Payroll Supervisor, District 9

Instances in which an employee of the Board of Education has any solid justification for a luxury item like a beeper are obviously few and far between. The Inspector General's Office, perhaps, might need beepers, since field investigators doing surveillance cannot predict where they will be going or how long it will take, and will also often be unreachable by telephone for long periods of time. Thus, the nature of their work would justify the expense of a beeper.

Virtually all other Board of Education employees, on the other hand, have jobs in which it should be simple and trouble-free to track them down or for them to report in about where they may be found. Teachers and paraprofessionals and aides, after all, should be in their classrooms, and easy to find. Supervisors and school administrators should be in their offices, or at least somewhere within their schools. Security personnel obviously will need walkie-talkies, but they, too, should be within the school grounds.

Even with district personnel who must travel around the district from school to school, it is hard to see how their travels could be so unpredictable, or leave them so out-of-touch, that a beeper would be the only way to find them. A simple phone call by them or to them ought to suffice in all but the most exceptional circumstances.

Thus, except in the rarest circumstances, Board of Education employees do not have any legitimate, job-related need for a beeper. Particularly at the tune of $300 a year per beeper, they are a luxury the system should be able to do without.

It is, therefore, very difficult to understand why the Central Board of Education took no steps to control the use of beepers by Board employees at any point during the last ten years, or why the regulations about when and why public

funds can be spent on beepers were still "in the works" after all that time.

Furthermore, the information available in the Central Board's own records during this period should have given rise to some alarm about how much money was being used for these expensive toys. District 9, for instance, paid a single beeper company more than $17,000 in a single year. Since each beeper cost only $25 a month, it would have taken but a simple calculation to see that the district must have been paying for more than 68 beepers a month.

Nevertheless, despite this obvious warning sign that something might be amiss, the people at the Central Board took no steps to investigate the use of beepers in District 9 or to issue regulations governing their use. Instead, they simply processed these enormous bills without question.

The failure to examine the supposed justification for any luxury item would be bad enough. The failure to check into the use being made of all these beepers shows a particularly alarming complacency, in view of how easily beepers can be misused. After all, almost as soon as beepers came into fashion, they also became one of the hallmarks of drug trade. Significantly, the Chancellor's regulations forbid students from bringing beepers into schools for precisely that reason.

Had the Central Board noticed the beeper situation in District 9 and looked into it, it might have been able to save the district and the system, tens of thousands of the dollars being spent on these dubious devices. District 9 began ordering beepers for its community school board members in 1980, and they were soon made available to the superintendent, to the directors of various programs, and to various other employees in the district office.

When asked about the beepers in 1989, however, neither the business manager of the district nor the deputy superintendent had any records of who had been authorized to get a beeper, or even any firm idea of who had made the decisions to authorize the beepers. But, at the high-water mark, as far as anyone could remember, there were probably somewhere between 20 and 25 "authorized" beepers. Thus, the business manager and the deputy superintendent believed that they had "authorized" the expenditure of more than $6,000 a year on beepers alone, without any meaningful scrutiny of who was receiving the beepers or whether they were truly needed.

Instead, for ten years they had left this matter entirely in the hands of one man, Wayne Naylor, an "excessed" teacher who had worked in the District's Business Office in

various capacities over the years. The results of this total failure to supervise Naylor were drearily predictable. By 1983 and for the six years that followed, Naylor was running his own "private" beeper business out of the district office.

This "private" enterprise began as a notion of the director of the media department. The director had originally obtained "authorized" beepers for himself and for each member of his staff. After a time, the director decided he could no longer justify spending public money on the beepers for his staff. However, he told Naylor they did want to keep their beepers, and were willing to pay for them. As a courtesy to the employees, so that they would not have to pay security deposits, Naylor agreed to accept cash from the employees each month and forward it to the company, as if these were still Board authorized beeper accounts.

For a time, Naylor received the monthly payments, in cash, from these three media employees, and drew up a cashiers check for the beeper company. He eventually requested dozens of additional "private" beepers from the company. In fact, it was incredibly easy to get a beeper: he got beepers for anyone who worked for the district, and even for non-employees, as long as they knew an employee who would vouch for them.

When an employee wanted beepers for his friends, Naylor did not even ask who the friends were. He simply asked "are you gonna be responsible for payment of these things?" If the employee promised to pay, Naylor ordered the beepers. Some employees became "responsible" for five beepers at a time. Naylor had no idea at all who would be using any these "Board of Education" beepers. By 1988, at least 40 persons had unauthorized beepers in the district.

Until 1987, Naylor did give the beeper company a great many cashiers checks to settle part of the bills they sent each month to the District. He also claimed that he kept careful track of which beepers were which, first with a log and then in his head, although he admitted he might have made a mistake or two along the way -- paying for Board beepers with his own money and using Board money to pay for his "private" customers. Many of his "private" beeper customers were delinquent with their payments, and Naylor claimed he had to pay out of his own pocket to make up the difference.

Naylor's last cashiers check payment to the company was sometime in 1987. By the summer of 1988, Naylor had fallen more than a year behind in his payments, and the company began demanding immediate payment of the district's entire beeper bill, which then totaled $5,301. At Naylor's request, the company sent one comprehensive bill, reflecting the total, instead of the usual separate bills that listed

which accounts were which. Naylor said that a bill reflecting the amounts owing on specific accounts was too complicated, and that a "simplified" invoice would allow him to process the payment more easily.

Sure enough, this simplified invoice arrived, and Naylor used it to generate a lump-sum payment to cover all the arrears, using Board of Education funds. Both Business Manager June Cohen and Superintendent Anne Wolinsky signed off on this payment. Thus, no one at the district office -- or at Central -- even raised an eyebrow at the sight of a single beeper bill of more than $5,300.

By the fall of 1989, the beeper accounts had fallen into arrears again. In fact, the company had not been paid by Naylor or the District during the entire year. Again, the company called Naylor and demanded payment of the outstanding bill, in the amount of $5,100.

Once again, Naylor insisted on a "consolidated" bill, and, when he received it, he got Business Manager Allan Koenig and Superintendent Wolinsky to sign off on it. A clerk later asked Koenig about the lack of the required underlying documentation, and only then did Koenig think to ask what accounts were involved.

Conclusions about Beepers

In January, 1990, the Central Board finally issued regulations controlling beepers. While the devices are not outlawed entirely, they are heavily restricted, and can be obtained only for employees who spend 90 percent of their time in the field, in places in which there are no public telephones, and only when they can justify the need for immediate telephone communication with their offices. Each beeper also requires a written justification, signed by the District Superintendent or Executive Director, and approved by the Deputy Chancellor for Operations.

These regulations are, of course, an important step in the right direction. The key, however, will be ensuring that they are actually enforced.

Furthermore, in difficult financial times like these, the system should be putting the tightest possible lid on luxuries and "perks" for favored employees. Beepers are just one of any number of items -- like city cars, conventions, expensive food and drink at meetings of questionable value, to name just a few -- that should be rigidly controlled.