

ORIGINAL

IN RE: : IN THE COURT OF COMMON PLEAS
: DAUPHIN COUNTY, PENNSYLVANIA
:
: NO. CP-22-MD-1266-2013
:
THE EIGHTH DAUPHIN COUNTY :
INVESTIGATING GRAND JURY : **NOTICE NUMBER: 08-2013-01**

ORDER OF COURT

AND NOW, this 30th day of *January*, 2014;

IT IS HEREBY ORDERED that Report Number 1 is accepted and shall be filed as a public record with the Dauphin County Clerk of Court pursuant to 42 Pa. C.S. §4552. The Report may be inspected by any person. After a review of the record, the Court makes a finding that the Report is based upon facts received in the course of the various investigations authorized by this Court and is supported by a preponderance of the evidence. The Clerk of Court is directed to distribute a copy of the Report along with this Order to each of the individuals listed below.

BY THE COURT

Todd Hoover

TODD A. HOOVER
SUPERVISING JUDGE

P.J.

DISTRIBUTION:

The Honorable Mike Folmer, Chair of the Senate Education Committee, Senate Box 203048, Harrisburg, PA 17120-3048

The Honorable Andrew E. Dinniman, Minority Chair of the Senate Education Committee, Senate Box 203019, Harrisburg, PA 17120-3019

The Honorable Paul I. Clymer, Chair of House Education Committee, 216 Ryan Office Building, P.O. Box 202145, Harrisburg, PA 17120-2145

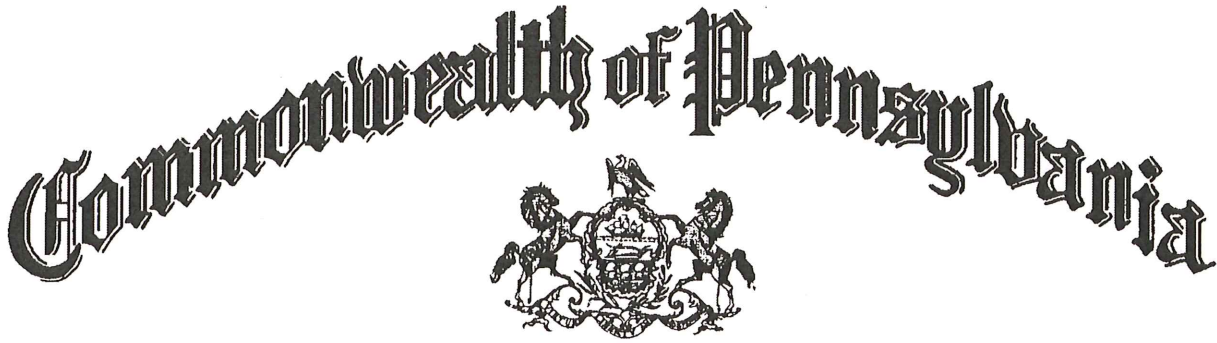
The Honorable James R. Roebuck, Jr., Democratic Chair of the House Education Committee, 208 Irvis Office Building, P.O. Box 202188, Harrisburg, PA 17120

The Honorable Carolyn Dumesq, Secretary of Education, 333 Market Street, Harrisburg, PA 17126

Dr. Susan Kegerise, Superintendent, Susquehanna Township School District, 2579 Interstate Drive, Harrisburg, PA 17110

Edward M. Marsico, Jr., District Attorney

Francis T. Chardo, First Assistant District Attorney (2)
Clerk of Courts



**THE EIGHTH DAUPHIN COUNTY
INVESTIGATING GRAND JURY**

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TO THE HONORABLE TODD A. HOOVER, SUPERVISING JUDGE:

REPORT NO. 1

We, the Eighth Dauphin County Investigating Grand Jury, duly charged to inquire into offenses against the criminal laws of the Commonwealth, have obtained knowledge of such matters from witnesses sworn by the Court and testifying before us. We make the following findings of fact upon proof by a preponderance of the evidence and issue these recommendations for legislative, executive or administrative action in the public interest. So finding with no fewer than twelve concurring, we hereby make this Report to the Court.

Foreman – Eighth Dauphin County
Investigating Grand Jury

DATED: 1/30, 2014

INTRODUCTION

We, the members of the Eighth Dauphin County Investigating Grand Jury, having received evidence pertaining to matters occurring in Dauphin County, Pennsylvania, pursuant to Notice of Submission of Investigation 08-2013-01, do hereby make the following findings of fact, conclusions, and recommendations.

FINDINGS OF FACT

The Susquehanna Township School District (referred hereinafter as “the School District”) provides public education to the children of Susquehanna Township. The School District has four schools—the Susquehanna Township High School, the Susquehanna Township Middle School, Sara Lindemuth Elementary School, and Thomas Holtzman, Jr. Elementary School. The superintendent of the School District for the last six years has been Dr. Susan M. Kegerise. Dr. Kegerise holds a doctorate in education from Widener University and has worked in education since 1974. The School District has two assistant superintendents, Dr. Cathy Taschner and Dr. Kimberly Donahue. Both have served in that capacity for the last several years. Dr. Donahue’s responsibilities relate principally to curriculum, grants and teacher development. Dr. Taschner’s responsibilities include special education, hiring and personnel.

The Susquehanna Township School District hired Shawn Sharkey as an assistant principal for the high school. Sharkey assumed that position in January 2013. Prior to coming to Susquehanna Township, Sharkey worked as an assistant principal in the School District of Philadelphia. Before hiring Sharkey, the Susquehanna Township School District never sought or obtained records relating to Sharkey held by the School

District of Philadelphia. This was in accordance with the standard practice of the School District.

The Grand Jury obtained the School District of Philadelphia records regarding Sharkey during this investigation. Those records did not contain any indication of sexual misconduct or predatory behavior by Sharkey. But, the Philadelphia records contained important information which, if known, might have caused the Susquehanna Township School District not to hire Sharkey. For instance, Sharkey's undergraduate academic record was not of the level one would expect for a high school administrator. His cumulative grade point average was 2.36, but that included grades of C in 21 courses. Tellingly, Sharkey failed a class in human sexuality and then achieved a D- when he retook the class the following semester. His grade in adolescent psychology was a C-.

In addition, while an employee of the School District of Philadelphia, Sharkey was notably deficient in maintaining his state certification. According to the documents in his Philadelphia file, Sharkey had an emergency teaching permit issued on September 1, 2004. Such a certificate may be issued on an emergency basis to a teacher who has not yet achieved certification when a school district experiences a vacancy "caused by resignation, death, or the recent creation of a new position." Such an emergency permit requires the permit holder to take steps to achieve certification and meet testing requirements within a limited period. Sharkey failed to promptly achieve certification and served on an emergency basis for the legal maximum of two years. His Philadelphia file shows correspondence admonishing him regarding his failure to promptly achieve certification. Sharkey failed to respond to the

admonishments such that the school district indicated that Sharkey would be terminated if he did not submit documentation regarding compliance.

Currently, school districts considering the hiring of a teaching professional from another school district do not routinely obtain the personnel file of the applicant. Such a school district could request that the applicant sign a release allowing the other school district to release his or her file. One could reasonably infer that an applicant who refuses to sign a release believes negative information is contained within that file. The Susquehanna Township administrators conceded that they would likely release their file on a current or former employee if they received such a release.

Shortly after starting as assistant principal at Susquehanna Township High School, Sharkey began a sexual relationship with a 16 year old female student designated here as M.S. While employed at the high school, Sharkey lived several hours away in Montgomery County, Pennsylvania. Sharkey would frequently stay overnight in Harrisburg area motels. Sharkey repeatedly and feloniously engaged in sexual intercourse with M.S. in these motels.

On May 21, 2013, Mrs. DiClemente, the vice president of the teachers' union, called Dr. Kegerise. Mrs. DiClemente indicated that two students had overheard two other students talking about a text and a picture in relation to Sharkey. Dr. Kegerise then notified Dr. Taschner. Dr. Taschner took the lead on making further inquiry of the matter. Upon arrival at the high school, Dr. Taschner found that Sharkey and another assistant principal had already questioned four students as a group about the rumor.

Dr. Taschner then interviewed numerous students including M.S. During these interviews students indicated that they had heard that there were pictures and text

messages passing between Sharkey and M.S. The focus of the inquiry was whether or not students were spreading false rumors about Sharkey, not whether or not a child was potentially being victimized. During her interview with School District personnel, M.S. denied any inappropriate relationship with Sharkey. Dr. Taschner could not and did not secure M.S.'s mobile telephone.

As a direct result of the School District interview, M.S. deleted evidence of her relationship with Sharkey from her telephone. Other students related that they had heard from other students that M.S. and Sharkey were "messaging around". This resulted in interviews of other students referenced. All of the witnesses interviewed denied direct knowledge of an inappropriate relationship between Sharkey and M.S. Dr. Taschner's inquiry was extensive and involved interviewing numerous students. However, the focus of Dr. Taschner's inquiry was "trying to get to the bottom of who started a rumor." The focus was not on whether or not Sharkey had engaged in sex crimes. Dr. Taschner concluded her inquiry after the interviews.

During a private conversation at the June 7, 2013, school board meeting, at the initiation of school board member Jesse Rawls, Dr. Kegerise explained to Mr. Rawls that there had been a rumor that Sharkey was having an inappropriate relationship with a student. School board member Michael Ferguson was also present. Mr. Rawls agreed that there should be no public discussion about the rumors.

On September 17, 2013, based on new information received from female student, A.S., the School District requested a police investigation into the relationship between Sharkey and M.S. Police interviewed A.S. that same date. A.S. indicated that M.S. had told her during the previous school year that she was engaged in a sexual

relationship with Sharkey. M.S. indicated that she and Sharkey first had sex on February 1, 2013. M.S. had indicated that Sharkey intended to leave his wife to be with her once M.S. turned 18 years old. Based on this information, the Dauphin County District Attorney's Office immediately obtained court orders for call detail records for the mobile telephones used by Sharkey and M.S. Based on the call detail records obtained by this means, on September 18, 2013, Susquehanna Township detectives used search warrants to seize the mobile telephones of Sharkey and M.S.

Police interviewed M.S. She confirmed that she had a sexual relationship with Sharkey during the prior school year. She indicated that she had sexual intercourse with Sharkey on numerous occasions in his motel rooms in the Harrisburg area. All the sex acts between Sharkey and M.S. occurred while M.S. was a student at the High School and Sharkey was an assistant principal there. Based on this information, on September 20, 2013, Detective Michael Mull of the Susquehanna Township Police charged Sharkey with three felony offenses, institutional sexual assault of a minor, corruption of a minor, and unlawful contact with a minor. These charges are currently pending formal arraignment before the Dauphin County Court of Common Pleas. In short, law enforcement agencies working together developed probable cause to arrest Sharkey within 3 days of initiating a criminal investigation. This investigation used resources unavailable to the School District.

CONCLUSIONS

School district administrators lack training needed to conduct a meaningful investigation into whether or not physical or sexual abuse has occurred. Administrators

lack access to investigative resources such as search warrants, court orders for records of telecommunications, wiretaps and grand jury subpoenas. Administrators lack training in the questioning of victims, witnesses, and suspects. Very often, a preliminary investigation will tip off a suspect and foreclose the availability of the investigative resources described above even once the police become involved. For instance, initial questioning of a suspect may make impracticable a police interception of communications between the suspect and the victim pursuant to one-party consent under 18 Pa. C.S. §5704(2). For this reason, immediate referral to law enforcement agencies of any indication of physical or sexual abuse of a student by a teacher, administrator, employee, volunteer or agent of the school or school district should be mandated.

The School District did not formally refer the rumor regarding an inappropriate relationship between Sharkey and M.S. to the police prior to the summer break. The administration refrained from making a report to the police on the advice of the solicitor for the School District, the law firm King, Spry, Herman, Freund & Faul. Attorney Paul K. Blunt gave this advice to Dr. Taschner who reasonably relied upon it. However, this advice unnecessarily delayed discovery of Sharkey's criminal conduct against M.S. and potentially endangered other students.

Administrators of the School District testified that immediate referral of such a matter upon learning of the rumor would not have interfered with the academic mission of the School District. The School District should have referred the matter for police investigation. If there was sufficient information to prompt the inquiry by Dr. Taschner, there were reasonable grounds for a police referral. However, in light of Dr. Taschner's

reasonable reliance on the advice of the solicitor, criminal charges are not warranted in connections with the failure to report this incident in Spring 2013.

RECOMMENDATIONS

Based on the above findings of fact, the Eighth Dauphin County Investigating Grand Jury makes the following recommendations for legislative, executive, or administrative action in the public interest:

1. The Grand Jury recommends that every school district and private school in Dauphin County institute a policy of immediately reporting **any** indication of physical or sexual abuse of a student by a teacher, administrator, employee, volunteer or agent of the school or school district to the Dauphin County District Attorney's Office and the police agency or agencies with primary jurisdiction where the possible act or acts of abuse may have occurred. Such an indication warranting immediate reporting may be based on mere rumor.

2. Upon receiving any indication of possible physical or sexual abuse described in ¶1 above, an administrator, as defined in 23 Pa. C.S. §6351, and all school employees should refrain from any internal investigation including informal interviews of possible victims, witnesses or perpetrators until the investigation by law enforcement authorities is completed. The Grand Jury found that even a preliminary investigation to determine if referral is warranted can impede a subsequent police investigation.

3. The Grand Jury recommends that the General Assembly consider legislation further defining when the obligation to report allegations of physical or sexual abuse is mandated consistent with the above. The Grand Jury is aware that the

General Assembly is in the process of considering legislative change in this area. The Grand Jury recommends that the legislative change make it clear that the reporting requirement is triggered by receiving information about such abuse from any source including rumor. The law should preclude school officials from making preliminary inquiry into the veracity of the information.

4. The Grand Jury recommends that all school districts in Dauphin County, prior to hiring a teacher or administrator such as a principal or assistant principal, seek to obtain copies of the complete personnel files of any applicant from prior education employment as well as copies of all academic transcripts. The Grand Jury recommends that school districts request applicants for such positions to sign releases permitting disclosure of these documents as part of the application process.

5. The Grand Jury recommends that the General Assembly consider legislation to create a central repository for records of disciplinary action against persons licensed as teachers or administrators. The Grand Jury recommends that the General Assembly consider mandating that schools forward such records to the central repository such that future prospective employers in education would have access to these records. The Grand Jury recommends legislative action to prevent problem teachers from moving from one school district to another without consequence.