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DANGEROUS CONSEQUENCES:
OFFICIALS AT BROOKLYN TECHNICAL HIGH SCHOOL
FAIL TO REPORT ARMED ROBBERIES TO THE POLICE

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Introduction

This report focuses on two armed robberies committed at one of the City's most prestigious schools, Brooklyn Technical High School ("Brooklyn Tech"). Both robberies occurred on March 21, 2000, one in a school bathroom and the other in a stairwell. Four students were victimized, and two were injured. At least four Brooklyn Tech students took part in committing the robberies.

Our investigation originally concentrated on the failure of school officials to immediately report the robberies to the police. This office has undertaken several investigations focusing on that issue.¹ The reporting failures in this case had grave consequences. Many of the assailants were never caught; they continued to attend classes at Brooklyn Tech, where they posed a threat to both students and staff. Only two were arrested, and even those arrests came about through happenstance – school staff did little to help the police investigation, and did much to hinder it.

The school's internal investigations were designed to bring about disciplinary charges against some of those who committed the robberies. Two students were suspended for 30 days, and a third for five days. The charges against a fourth were dismissed. The internal investigations, as well as the disciplinary proceedings that

¹ See, e.g., Letter from Edward F. Stancik, Special Commissioner of Investigation, to Harold O. Levy, Chancellor, New York City Board of Education (Sept. 21, 2000) (IS 278K and MS 180Q), *Toy Story? An Investigation Into the Recovery of an Eight-year-old's Loaded .32 Caliber Revolver at PS 181* (March 1999), Letter from Stancik to Rudolph F. Crew, Chancellor, New York City Board of Education (April 1, 1998) (IS 125X), *The Death of John Morale: An Investigation Into Midwood High School's Handling of An Assault On a School Aide* (April 1998), *Opportunities Lost: How Personnel at August Martin High School Mishandled a Breach of Security and the Rape of a Student in Classroom 324* (Sept. 1997), *The Final Report of the Joint Commission of the Chancellor and the Special Commissioner for the Prevention of Child Sexual Abuse* (Oct. 1994), *Treating the Victim as the Accused: Interim Acting Principal Jewel Moolenaar's Serious Mishandling of the Complaint of a Sexually Abused Child at CS 129X* (Sept. 1992), (reports at www.specialcommissioner.org).

followed, raise disturbing questions about how the disciplinary process works when serious crimes happen in schools.

School deans interviewed witnesses, conducted identification procedures, and followed up leads. At best, this activity would be duplicative of police work. As carried out by Brooklyn Tech staff, however, crucial information was kept from law enforcement officials. For example, neither the police nor prosecutors learned of the existence of two critical eyewitnesses to the first robbery, because the school's dean did not tell them. School deans twice frustrated police efforts to arrest a suspect by alerting the student and his family that the police were coming to Brooklyn Tech to arrest him.

The motivations for the school officials' actions are difficult to discern. In previous cases, we have been troubled that school personnel were more interested in preserving a school's reputation than with successful arrests and prosecutions. Given the great reputation of Brooklyn Tech, there is cause for that worry here.² School deans also displayed an attitude toward law enforcement that ranged from indifference to outright hostility. This was epitomized by one dean's statement that "the police don't have a right to investigate in the schools."

The disciplinary proceedings themselves were even more disturbing. The hearings, at least when applied to serious criminal activity, can be a boon to the accused and his attorney, while posing substantial risk and inconvenience to the victim and

² Brooklyn Tech is one of three specialized academic New York City public high schools; admission is based on a competitive examination. More than 98 percent of its graduates go on to four-year colleges, and its alumni include Nobel laureates. *See*, Annual School Report, Brooklyn Technical High School, New York City Board of Education Division of Assessment and Accountability (1998-99), *at* www.nycenet.edu; Brooklyn Technical High School (web site) (Nov. 16, 2000), *at* www.bths.edu.

witnesses. Victims and witnesses can be compelled to testify in the presence of the accused and his attorney in a strange setting far from school. In this case, one student witness was so frightened that she went home in tears. At one hearing, there were over 300 pages of witness testimony and cross-examination. Such a record can present a real impediment to subsequent criminal proceedings, especially where witnesses are not prepared and questioning is open-ended. Police and prosecutors were not even aware of the hearings and record on the Brooklyn Tech robberies until this office told them in the course of our investigation. Prosecutors must know about disciplinary hearings, because they may have to produce the records from the disciplinary action in the criminal case.

We recommend disciplinary action against school staff who failed to report the robberies to the police and who improperly withheld information from law enforcement. We also believe that the Board of Education (“BOE”) needs to be continually vigilant that student safety is not sacrificed to preserve a school’s image. We are also very concerned with how student disciplinary proceedings are conducted when serious criminal activity is involved. Our investigation does not purport to be a system-wide review of how disciplinary proceedings and investigations are handled. Nor do we take lightly the needs and rights of those accused. From the law and regulations pertaining to disciplinary actions, from our experience and that of other law enforcement personnel with whom we have spoken, it is clear that the problems detailed below are not limited to Brooklyn Tech. When serious crimes are involved, we believe that disciplinary proceedings are secondary to a successful criminal prosecution. We recommend,

therefore, that the BOE and other appropriate government institutions carefully examine the interface between serious criminal charges and school disciplinary charges, so that the legitimate interests at stake can be properly balanced.

The Crimes

A. Robbery #1: March 21, 2000, 10:56 a.m., Fourth Floor Boys' Bathroom

Three male students assaulted and robbed a fifteen-year-old student in a bathroom at Brooklyn Tech. Displaying a knife, one student demanded money and shoved the victim against a wall. A second student held the victim as a third male applied an electric stun gun to his chest, shocking him four times. The robbers took eight dollars from the victim's wallet, and a gold chain from his neck. As his attackers left, the victim was told, "Don't come out of the bathroom or you will get cut," and, "Don't go to the police about this."

B. Robbery #2: March 21, 2000, 2:00 p.m., Northeast Stairwell

Three fifteen-year-old male students were robbed by three males in a stairwell at the school.³ One of the robbers threatened one student with a knife and took his jacket; another attacker displayed a knife, punched and bloodied a second victim, and took his wallet and cash. A third student was also robbed of his wallet and cash.

C. Origin of the Brooklyn Tech Investigation

This investigation began when an Assistant District Attorney ("ADA") from the Kings County District Attorney's Office contacted this office on March 24, 2000, and

³ One victim reported that the assailants were part of a larger group of eight males.

expressed concern that the school might not be reporting to the police all robberies occurring at Brooklyn Tech. The ADA who was prosecuting Robbery #1 also informed the office of the Special Commissioner of Investigation (“SCI”) that there were allegations that other robberies at Brooklyn Tech were reported to school officials who did not, in turn, call the police.

In the course of our investigation into those allegations, we became aware of Robbery #2.

Brooklyn Tech’s Internal Investigations

A. Robbery #1: Disciplinary Investigation and Proceedings

After the crime, the victim immediately went to the cafeteria and reported the incident to School Security Agent (“SSA”) Dale Willis, who took him to the deans’ office.⁴ Once there, Dean **Enrique Rodriguez** interviewed the student (“**Victim A**”) about the assault and robbery.

Instead of summoning the New York City Police Department (“NYPD”) officer assigned to patrol Brooklyn Tech,⁵ telephoning the police, or notifying the assistant principal in charge,⁶ Rodriguez directed **Victim A** to fill out an “incident report,” and

⁴ Willis informed his supervisor, SSA Geraldine Sheftall, of the robbery by two-way radio and searched the cafeteria and the vicinity of the robbery before taking the victim to the deans’ office.

⁵ Police Officer Gail Suter, of the 88th Police Precinct, is assigned to Brooklyn Tech and was on duty at the school on March 21st.

⁶ Principal **Lee McCaskill** was attending meetings at the Superintendent’s Office and was not at Brooklyn Tech on March 21st. Assistant Principal Arthur Kettenbeil was in charge in McCaskill’s absence; Kettenbeil was not informed of either of the two robberies by Rodriguez or Dean Bert Yaged, to whom Robbery #2 was reported. *See* p. 21, *infra*. Nor did Rodriguez or Yaged report the robberies to their supervisor, Assistant Principal Kenneth Cuthbert, who was also in school on March 21st.

photographed the stun gun marks on his body.⁷ Rodriguez then directed the victim to try to locate the participants. SSA Willis, later joined by Rodriguez, escorted him to the school cafeteria in unsuccessful attempts to find the attackers. Later in the day, **Victim A** encountered a female student, **Witness A**, whom he had seen outside the bathroom immediately after the robbery. She told him the first name of the student she observed leaving the bathroom holding a gold chain and cash – the property stolen from the victim. Rodriguez was teaching classes in the later periods of the day, and so **Victim A** did not report the name of this attacker to him until the following day.

Victim A's father telephoned Rodriguez the next day, March 22nd, and asked why the police were not called after his son was attacked.⁸ Rodriguez told him that the police did not have a right to investigate in the school. Rodriguez also told the victim's father that it would take time to identify the students who committed the robbery, implying that it was his task to do so, rather than the responsibility of the police.

On March 22nd, Rodriguez summoned approximately six students whom he suspected might have been involved in the robbery to the deans' office. He arranged for the victim to view the students, one by one.⁹ **Victim A** identified the last student that he viewed ("**Assailant A**") as the person who wielded the knife during the robbery.

⁷ The "incident report" form is not an official BOE document, but was apparently produced with a word processor and photocopied at Brooklyn Tech. It has serious shortcomings. It does not distinguish between the date of the incident and the date of the report; it does not require the name of the staff member to whom the student reported the incident; the report notes whether the police were notified, but does not require an explanation if a staffer decides not to notify the police. Principal McCaskill admitted to an SCI investigator that the report format was incomplete, and said that it would be changed.

⁸ Rodriguez had informed **Victim A**'s father of the attack by telephone on the previous day. The victim's father (who lives outside of Brooklyn) then telephoned the 88th Police Precinct – the police station serving Brooklyn Tech – that evening to report the crime. He was told that he must come to the precinct to make a complaint, or that he could do so at the school in the morning. Due to the late hour and the distance from his home, the victim's father decided not to go to the precinct that evening.

⁹ Suspension hearing ("SH") Record 4/17/00 at 17.

Rodriguez did not inform Principal McCaskill of this identification – called a “show-up” by law enforcement professionals – although his office is two doors away from the deans’ office.¹⁰ Up to this point, BOE employees conducted all investigative efforts. The six assailants in the two robberies – at least four of whom were students – remained at large, and constituted a continuing threat to the safety of the other students.

NYPD Police Officer (“PO”) Gail Suter of the 88th Precinct is assigned to patrol Brooklyn Tech. By coincidence, she visited the deans’ office as the victim was viewing **Assailant A**; Rodriguez had not summoned her. PO Suter arrested **Assailant A** after the victim of the first robbery identified him.¹¹ **Victim A** then went to the 88th Precinct with his father at the request of the police.

Later on March 22nd, police officers at the 88th Precinct learned the name of a second student suspected of participating in Robbery #1. The officers then arranged a show-up outside of Brooklyn Tech. The police drove **Victim A** past the school. From the police van, the victim identified the student, **Assailant B**, as the person who attacked him with the stun gun. The police then arrested **Assailant B** and returned to the precinct. One assailant remained unapprehended.

As he conducted the show-up at the deans’ office earlier in the day, Rodriguez was aware that a female student (**Witness A**) reported the name of a third male student

¹⁰ A “show-up” – a one-to-one confrontation between a suspect and a witness to a crime – is a law enforcement procedure ordinarily conducted by police officers within a short time after a crime has occurred. Constitutional due process standards must be met if evidence of identification at a show-up is to be admissible in court. A show-up is to be contrasted with a lineup, in which the police present a number of persons fitting the general description of the suspect for viewing by the witness. Yaged was also present for this show-up, and directed a victim of Robbery #2 to view **Assailant A**. The victim did not identify him. See p. 21, *infra*.

¹¹ SSA Geraldine Sheftall was also present during the show-up.

(“**Assailant C**”), whom she had seen outside the bathroom immediately after the robbery. Rodriguez summoned that student to the office and planned to arrange another show-up identification before **Victim A**. However, the victim and his father left for the precinct before **Assailant C** arrived.¹² Rodriguez did not inform the police about **Assailant C**.¹³ Later that afternoon, PO Dominick Sartori of the 88th Precinct independently learned the name of **Assailant C**. PO Sartori then telephoned Rodriguez from the precinct and relayed this information. Rodriguez told PO Sartori that the suspect was with him in the deans’ office, and PO Sartori replied that he would come to the school.¹⁴ PO Sartori angrily reported to an SCI investigator that he visited Rodriguez at Brooklyn Tech approximately five minutes after speaking with him on the telephone, but that the suspect was gone when he arrived.¹⁵

Rodriguez later testified that he asked **Assailant C** to wait in the deans’ office for the police, and advised him that he might be arrested. He also telephoned the assailant’s father, and related the same information. Rodriguez said that he was “not sure” if he had also told **Assailant C** to go home if the police did not arrive by 3:00 p.m. Rodriguez then left the office to teach a class. He was also “not sure” if the suspect was still in the

¹² SH Record 4/14/00 at 18.

¹³ Rodriguez prepared official BOE Student Safety reports concerning Robbery #1, which are co-signed by McCaskill. The reports identify **Assailants A** and **B** by name, and note that a third assailant has yet to be identified. It is unclear when Rodriguez prepared the report; it is undated, and the report form does not require a date.

¹⁴ Rodriguez told an SCI investigator that he did not recall why **Assailant C** was in the deans’ office at that time. However, Rodriguez testified at **Assailant C**’s suspension hearing that he summoned **Assailant C** to the office after learning that **Witness A** observed him immediately after the crime. SH Record 4/17/00 at 18.

¹⁵ PO Sartori said that he placed the call between 2:30 p.m. and 3:00 p.m. The 88th Precinct is approximately 11 blocks from Brooklyn Tech.

deans' office when he returned from teaching.¹⁶ In view of Rodriguez's advance warning to the suspect that he might be arrested, it is not at all surprising that he left before the police arrived. When PO Sartori arrived at Brooklyn Tech in search of **Assailant C**, Rodriguez did not advise him of **Witness A**'s observation of the suspect immediately after the robbery. Aside from giving PO Sartori **Assailant C**'s home address, Rodriguez took no further action to assist the police.

Beginning on April 3rd, PO Sartori made at least three attempts to contact Rodriguez by telephone to learn if **Assailant C** was in school.¹⁷ When they finally spoke on April 10th, Rodriguez told PO Sartori that **Assailant C** had been suspended from school.¹⁸ Remarkably, Rodriguez did not tell the police officer that seven days earlier, he had obtained written statements from **Witness A** and two additional students who observed the aftermath of Robbery #1. In their statements, **Witness A** and another female student, **Witness B**, identified **Assailant C** as among those fleeing the boys' bathroom. Moreover, these witnesses stated that they observed **Assailant C**, whom they identified by his first name, holding a gold chain and cash at that time. PO Sartori did not learn of this compelling evidence of **Assailant C**'s culpability until informed by SCI in the course of our investigation.

Rodriguez obtained the statements by the student witnesses to Robbery #1 for use against **Assailants A, B** and **C** in superintendent's suspension hearings at the BOE

¹⁶ SH Record 4/17/00 at 19. **Assailant C**'s scheduled classes ended at 2:15 p.m.

¹⁷ On April 7th, Dean Bert Yaged took PO Sartori's call to Rodriguez and informed the officer that **Assailant C** was gone for the day. Brooklyn Tech records actually indicate that **Assailant C** was absent that day.

¹⁸ A superintendent's suspension had been initiated on that date. A letter from the BOE High School Suspension Review office dated April 10th states that **Assailant C** was suspended as of that date for (1) taking "money belonging to [**Victim A**]," and (2) "[**Assailant C**] was in possession of [**Victim A**]'s chain."

Suspension Hearing Office in Manhattan. Rodriguez had the task of coordinating the witnesses and evidence for the hearings. **Assailants A** and **B** were suspended on March 29th and their hearings were scheduled for April 4th. **Assailant C** was not suspended until April 10th; his hearing was scheduled for April 14th.

Rodriguez appeared at the hearing office on April 4th with **Victim A**, his father, and **Witness B**.¹⁹ **Assailant A** appeared at the Hearing Office with his father. Before the hearing began, they elected not to contest the charges against him and to accept the disposition directed by the superintendent. On May 9th, **Assailant A** was notified by letter that the superintendent sustained his suspension of 30 school days, after which he would be involuntarily transferred to another high school.²⁰

Assailant B, accompanied by his mother and father, chose to proceed with the hearing on April 4th. Hearing Officer Gail Rowan oversaw the proceeding. The hearing was brief, consisting of testimony by the victim, **Witness B**, and Rodriguez who also introduced written statements of the victim and witnesses. The hearing officer questioned the witnesses. **Assailant B**, his mother, father, and a family friend, who was not an attorney, were present in the hearing room during the testimony. The testimony of the victim and **Witness B** was consistent with their prior statements in all crucial areas. The victim described being attacked with a stun gun and robbed by three males, and his identification of **Assailants A** and **B** the following day. **Witness B** testified that she

¹⁹ **Witness B** was not accompanied by a parent or guardian.

²⁰ The maximum suspension that the superintendent (in consultation with the Executive Director of Student Support Services) may impose for such an offense is one year. Chancellor's Reg. A-41(II)(B)(18)(a)(1)(a) (Sept. 5, 1995) (current version at A-441(II)(B)(20)(a)(2)(a) (Sept. 5, 2000)). The superintendent also directed that if **Assailant A** is not the subject of another sustained suspension, the record of his suspension in this matter, and all references to it, are to be expunged upon his graduation or departure from New York City public schools.

observed **Assailant C** – whom she recognized and knew by first name – coming from the bathroom holding a gold chain and cash.²¹ Rodriguez then testified, primarily concerning the statements he had obtained from the students. He introduced several statements, including those of the victim and **Witness B**. He also introduced two written statements he had obtained from **Assailant B**. In the first, **Assailant B** denied being in the bathroom; in the second, **Assailant B** admitted to being in the bathroom, but denied involvement in a robbery. Instead, he stated that he saw **Assailant A** “horsing around” with another student in the bathroom.

Assailant B, his mother, and friend declined the Hearing Officer’s invitation to cross-examine the witnesses or to present evidence. **Assailant B** was notified of the disposition of the hearing by letter dated May 30th. Although a one-year suspension is mandated for students who possess and use stun guns,²² his punishment was the same as that given to **Assailant A** – a 30-day suspension followed by an involuntary transfer to another high school.²³

On May 31st, Assailants **A** and **B** pleaded guilty in Brooklyn Criminal Court to Robbery in the First Degree, a felony, and have been sentenced to probation. The ADA assigned to prosecute Robbery #1 was unaware of the three student witnesses to this incident, and of the written statements Rodriguez obtained from them, until an SCI investigator informed her on April 24th.

²¹ SH Record 4/14/00 at 41-42.

²² The one-year suspension may be modified by the superintendent on a case-by-case basis, but only in consultation with the BOE Executive Director of High Schools. Chancellor’s Reg. A-441(II)(B)(18)(a)(1)(a) (Sept. 5, 1995) (current version at A-441(II)(B)(20)(a)(2)(a) (Sept. 5, 2000)). There is no indication in the suspension file that the Executive Director was consulted concerning the suspension.

²³ **Assailant B**’s suspension will also be expunged if he is not the subject of another sustained suspension.

B. Disciplinary Hearing for Assailant C

The third suspect in Robbery #1 was the subject of a superintendent's suspension hearing conducted on April 14th and 17th. Patricia Collins presided as Hearing Officer. Again, Rodriguez was responsible for coordinating the witnesses and evidence. Rodriguez appeared at the Suspension Hearing Office on April 14th with **Victim A**, who was again accompanied by his father. **Witness A** attended, accompanied by her guardian; **Witness B**, unaccompanied, also appeared to testify again concerning the events of March 21st.

The evidence that Rodriguez gathered for the hearing against **Assailant C** – but declined to share with the police – was compelling. **Assailant C** took **Victim A**'s wallet from behind; the victim did not see his face, but he accurately described his race and height, and the fact that he took his cash. **Witness A** provided strong corroboration of **Assailant C**'s involvement in the robbery; she observed **Victim A** enter and leave the bathroom. In the meantime, she saw two boys and **Assailant C**, whom she knew by first name, enter and then run from the bathroom; **Assailant C** held money and a gold chain in his hand. The three males then ran toward the stairwell. She saw **Victim A** later in the day and told him the first name of **Assailant C**. **Witness A**'s observations jibed with the victim's account, and were precisely corroborated by another impartial observer, **Witness B**. She observed **Assailant C**, whom she also knew by first name, coming from the bathroom and looking at money and a gold chain in his hand; she then saw **Victim A** come from the bathroom.

Despite this strong evidence, at the conclusion of the hearing the superintendent “dismissed for merit” the case against **Assailant C** on the recommendation of the Hearing Officer. Rodriguez’s handling of the suspension hearing – including his own testimony – may well have contributed to this outcome. His handling of the case against **Assailant C** was, at best, incompetent. Principal McCaskill was notified by fax on the previous day that an attorney would be participating in the hearing. Just before the hearing commenced, the Hearing Officer, recognizing that **Assailant C** was represented by a lawyer, asked Rodriguez if he wished to obtain the assistance of a staff advisor from Brooklyn Tech to present the school’s case; he declined.²⁴

As shown below, Rodriguez’s refusal to call on a colleague for help placed the school, the victim, and the witnesses at a serious disadvantage. Because he was to testify at the hearing, Rodriguez – the only person knowledgeable about all the evidence against **Assailant C** – was not permitted in the hearing room during the testimony of the victim and the two student witnesses. Thus, the students were left with strangers, in an unfamiliar environment, to confront the assailant. Rodriguez knew well in advance of the hearing that the student witnesses were frightened by the prospect of testifying against **Assailant C**. Rodriguez stated in his own testimony at the hearing that they expressed this fear to him when he obtained their statements.²⁵ In these circumstances, his failure to obtain assistance and support for these students at the hearing is especially inexcusable.

²⁴ A school is permitted to have a staff advisor present its case where an attorney represents the student. The advisor is charged with preparing and coordinating the school’s case, questioning the witnesses, objecting when appropriate, and making opening and closing statements. If the school is not advised in advance that an attorney at the hearing would represent a student, it is entitled to an adjournment to assign an advisor to present the school’s case. Chancellor’s Reg. A-441(II)(B)(13)(1), A-441(II)(B)(16)(c) (Sept. 5, 1995) (current version at A-441(II)(B)(18)(f) (Sept. 5, 2000)).

²⁵ SH Record 4/17/00 at 33–34, 40.

The students were questioned by the Hearing Officer who, with no prior knowledge of the case, could not be expected to elicit all pertinent evidence from the witnesses. With no one present to object on their behalf, the students were rigorously cross-examined by the attorney representing **Assailant C** (“the attorney”). As in any such proceeding, there were arguable inconsistencies in the testimony of the witnesses. These were greatly exploited by the attorney because the school had no one present to counter his argument, or to clarify the testimony in subsequent questions of the witness or succeeding witnesses.

Victim A was the first to testify at the hearing.²⁶ He described the incident in detail, and told the Hearing Officer that **Assailant C** – whose first name he learned from **Witness A** on the day of the robbery – removed his wallet during the attack.²⁷ Consistent with his prior testimony and statements, he said that he did not see **Assailant C**’s face, but was able to note, and later that day describe, his race, hair, and height. He testified that **Assailant C** was brought to the deans’ office on the following day, but, not having seen his face during the attack, **Victim A** did not identify him.²⁸

Perhaps the most damaging consequence of Rodriguez’s failure to obtain an advisor occurred during the testimony of the next witness. **Witness B**, a sophomore at Brooklyn Tech, appeared in response to a subpoena issued by the dean. She had previously identified **Assailant C** by name in a written statement to Rodriguez on April 3rd, and in sworn testimony at the suspension hearing for **Assailant B** on the following day.²⁹ **Witness B** first learned from Rodriguez on the way to the hearing that she would

²⁶ **Victim A**’s father was present during his testimony.

²⁷ SH Record 4/14/00 at 28, 71, 119.

²⁸ SH Record 4/14/00 at 33–34.

²⁹ SH Record 4/4/00 at 41.

be in the same room as the assailant. She later told SCI that she was “nervous and scared” during the proceeding. Rodriguez had contacted **Witness B**’s mother in advance and obtained permission for her to attend the hearing. However, **Witness B**’s mother later told SCI that Rodriguez did not explain that her daughter would be in a room with the assailant and his parents, or that she would be cross-examined by an attorney. Her parents later said that if they had known that their daughter would be placed in this position, they would not have permitted her to attend the hearing.

Witness B had previously testified and written that she saw **Assailant C** emerge from the bathroom, and that he looked at a gold chain and cash in his hand. In accordance with the procedural rules, Rodriguez provided a copy of the statement to the attorney before **Witness B** testified. The record does not indicate whether the Hearing Officer had the statement, or her prior testimony, at the time the witness testified; neither the Hearing Officer nor the attorney made any reference to the previous statements during the witness’s testimony. **Witness B**’s direct testimony was consistent with her previous accounts. However, during an aggressive cross-examination, the attorney told **Witness B** that the proceeding was a serious matter, that his client’s future was on the line, and that it was all right to admit if she did not know something. With this preface, the attorney then asked the witness whether she could “look me in the eye and tell me for sure that that was [**Assailant C**] with the chain in his hand and the money.” The witness replied no, contrary to her prior sworn testimony and written statement. **Witness B**’s next words were, “Can I leave now, because I have to go?”³⁰

³⁰ SH Record 4/14/00 at 104.

Witness B's eagerness to leave may well demonstrate that her inconsistent testimony was the product of the fear and nervousness that she had previously expressed to Rodriguez. Her predicament was compounded by having to endure a hostile atmosphere alone. The Hearing Officer did not ask **Witness B** about her prior inconsistent statements on this crucial evidence – she was apparently unaware of them. Rodriguez did not introduce the statement to the Hearing Officer until three days after the witness's testimony, when the girl was unavailable. He did not introduce, or even refer to, her prior testimony. With no advocate for the school present at the hearing to ask the witness to explain herself, the Hearing Officer allowed her to leave. Rodriguez may not have even learned of **Witness B**'s contrary testimony; he made no reference to it in the hearing record.

Witness A testified next. Her guardian was present in the room during her testimony, which was essentially consistent with the written statements she provided to Rodriguez on March 28th and April 3rd. As she had in her previous accounts, she identified **Assailant C** by his first name. She stated that she observed him coming from the boys' bathroom holding a gold chain and cash in his hand, and that she saw the victim in the cafeteria later that day and told him **Assailant C**'s first name.³¹

Although a member of her family was present during her testimony, **Witness A** was clearly frightened by her encounter with **Assailant C** at the hearing. Rodriguez later

³¹ SH Record 4/14/00 at 119. Rodriguez later introduced **Witness A**'s April 3rd statement to the Hearing Officer only after she testified. He did not introduce her March 28th statement, although it was consistent with her other statement, and closer in time to Robbery #1. Both statements identified **Assailant C** by his first name. Rodriguez did not explain at the hearing why he did not introduce the earlier statement.

told the Hearing Officer that she left the hearing in tears, and that her guardian refused to allow her to return for further testimony.³²

The Hearing Officer then adjourned the matter until the following Monday, April 17th. Although the Hearing Officer had told Rodriguez that she needed the victim and witnesses to return on that date, none did. Rodriguez explained that the victim and his father said that they had missed five days of school and work, and would not return. Rodriguez said that he had spoken to the parents and guardian of the witnesses. The guardian for **Witness A** refused to allow her to return after her upsetting experience. **Witness B**'s parent said that she had given her testimony, and that she would not return.

The absence of the witnesses on April 17th proved to be very harmful to the case against the assailant. The Hearing Officer announced to Rodriguez and the attorney that there were conflicts in the testimony of **Witness A** and **Witness B**. She said that without their presence, she would have to resolve the inconsistencies – which she did not specify – in a manner favorable to **Assailant C**. The Hearing Officer then told Rodriguez that he must decide whether he wanted to proceed with the hearing without the witnesses deemed critical to her decision.³³ She asked if he wished to take a recess in order to contact the school. Inexplicably, Rodriguez declined to do so, and asked to proceed with the hearing.³⁴

³² SH Record 4/17/00 at 5.

³³ While we submit that the inconsistencies in the witnesses' accounts were minor and irrelevant to the issue of **Assailant C**'s culpability, the Hearing Officer chiefly cited this reason, and the subsequent unavailability of the witnesses to resolve the inconsistencies, as the basis for her dismissal recommendation. Letter from BOE School Programs and Support Services, to [**Assailant C**'s parent] (Nov. 16, 2000).

³⁴ SH Record 4/17/00 at 9. When it later appeared to the Hearing Officer that the hearing might carry over to a third day (it ended on the second) Rodriguez did not ask if he could produce the missing witnesses at that time. SH Record 4/17/00 at 63-64.

Rodriguez then testified as the school's final witness. His testimony is rife with inconsistencies and inaccuracies, some of which call his credibility into question. On cross-examination, he was forced to admit several of the errors in his investigation. Most absurdly, he agreed with the attorney's characterization of the case against **Assailant C** as weak and circumstantial.

Rodriguez's testimony leaves the false implication that he called the police on March 21st, the date of the robbery. When asked by the Hearing Officer what he did when the victim first came to him, Rodriguez said, in part, "We had to call his parents. We also had to call the police because this was an assault case and because conditions have changed between the school and School Safety and they being part of the police, new procedures are involved. So that's what we have to do and to call the parent as well."³⁵ This contrasts with all other evidence, including Rodriguez's acknowledgment to SCI – two days after his testimony – that he did not call the police at all.

Rodriguez knew that PO Sartori attempted to arrest **Assailant C** at Brooklyn Tech on the day after the robbery. One week before his testimony, he also returned one of PO Sartori's several telephone calls to Brooklyn Tech in which Sartori asked if **Assailant C** was in school. Despite this, Rodriguez testified that the police did not pursue the case against **Assailant C**, and that they "decided to disregard him."³⁶ He offered no affirmative statement or conduct by PO Sartori – or any police officer – to support his conclusion. His inaccurate testimony enabled the attorney to argue that because the police had no regard for the matter, the Hearing Officer should follow suit.

³⁵ SH Record 4/17/00 at 12.

³⁶ SH Record 4/17/00 at 24, 81.

Rodriguez's testimony also highlighted the many errors he committed in the course of his investigation. This proved to be detrimental to the outcome of the hearing, as it is to the prospects for a successful criminal prosecution of **Assailant C**. He stated that he learned of two female witnesses on March 28th, but that he did not speak with them until April 3rd, nearly two weeks after the assault.³⁷ He also let a week pass before he contacted **Witness A**.³⁸ He stated that all of the student witnesses "expressed fear" to him, but that he did not call the police, or even inquire as to the specific reasons why the witnesses were afraid.³⁹ Rodriguez testified that six to twelve students were brought to the deans' office for "show-ups." He admitted that he discarded the victim's initial written statement because, until he learned of the student witnesses, he did not think that the matter was worth pursuing.⁴⁰ He neglected to bring the second page of the victim's subsequent statement to the hearing.⁴¹

Finally, on cross-examination, Rodriguez agreed with several arguable theories put forward by the attorney for the benefit of **Assailant C**. He agreed that the victim could not have known the race of the attacker.⁴² He agreed that "we did not have much to work with" in making the case against the assailant, notwithstanding the two student witnesses.⁴³ He agreed – without any evidence – that the student witnesses were "partial."⁴⁴ He gratuitously stated that he "told the principal that the case was too

³⁷ SH Record 4/17/00 at 40. **Witness A** informed Rodriguez of the two witnesses. Apparently, she was initially reluctant to divulge their names.

³⁸ SH Record 4/17/00 at 35.

³⁹ SH Record 4/17/00 at 33, 40, 88.

⁴⁰ SH Record 4/17/00 at 23

⁴¹ SH Record 4/17/00 at 28. It was faxed to the hearing office later that day.

⁴² SH Record 4/17/00 at 77.

⁴³ SH Record 4/17/00 at 78.

⁴⁴ SH Record 4/17/00 at 83.

circumstantial.”⁴⁵ The latter comment invited the Hearing Officer to infer that Rodriguez did not believe that the case had merit, but that he was presenting the case only at the behest of his superior.

Assailant C did not testify at the hearing. The attorney presented his girlfriend, who testified that she was elsewhere in the school with the assailant during the attack. Another student then testified that he saw the assailant and his girlfriend (also a friend of the witness) at the time. Rodriguez did not cross-examine these biased witnesses, or seek to present any rebuttal evidence. It appears from the record that he may not have been in the room during their testimony.

Rodriguez then delivered a closing statement consisting of four sentences. After this less than perfunctory summation of the evidence, the Hearing Officer asked, “Is that it, Mr. Rodriguez?”⁴⁶

Rodriguez’s repeated failures in the course of the investigation and hearing undoubtedly contributed to the decision of the superintendent, at the recommendation of Hearing Officer Collins, to “dismiss for merit” the case brought against **Assailant C**.⁴⁷ Thus, he was returned to Brooklyn Tech after the hearing, and remained in the same school with the victim and witnesses of Robbery #1 until **Assailant C** voluntarily transferred from the school in September 2000.

⁴⁵ SH Record 4/17/00 at 79.

⁴⁶ SH Record 4/17/00 at 127.

⁴⁷ Notwithstanding the requirement that a full report of the superintendent’s findings and disposition is to be submitted within five school days of the hearing, the report in this case was not submitted until seven months after the hearing. Letter from BOE School Programs and Support Services, to [**Assailant C**’s parent] (Nov. 16, 2000); Chancellor’s Reg. A-441(II)(B)(18)(c)(1) (Sept. 5, 1995) (current version at A-441(II)(B) (20)(c)(i)(Sept. 5, 2000)).

C. Robbery #2: Disciplinary Investigation and Proceedings

Two of the victims of Robbery #2 promptly reported the crime to Dean **Bert Yaged** on March 21st.⁴⁸ Yaged directed the victims to complete incident reports. One victim wrote, “We were all scared to report the gang because they might kill us.” Like Rodriguez, Yaged failed to immediately call the police or notify the assistant principal in charge, but instead investigated the robbery on his own.

On March 22, 2000, Yaged was also present at the deans’ office at the time of the show-up Rodriguez arranged for the victim of Robbery #1. Yaged, now aware that two robberies had occurred in the school on the previous day, still did not notify the principal about the crimes or the show-up. Instead, he directed one of the victims of Robbery #2 to view the show-up that Rodriguez arranged concerning the first robbery. Yaged knew that knives were displayed in both robberies, and he suspected that some of the same students were involved in both crimes.⁴⁹ He did not, however, share his suspicion with PO Suter, who was visiting the deans’ office at that time. **Victim B** viewed **Assailant A** as Yaged requested, but failed to make an identification.

Victim C came forward on the following day, March 23rd, and informed Yaged of the name of one of the participants of Robbery #2, **Assailant D**. Yaged directed the victim to complete an incident report, but he did not immediately inform the police of the participant’s identity.⁵⁰ Neither, apparently, did he inform Principal McCaskill.

⁴⁸ Yaged broadcast the report of the robbery to SSA Willis and SSA Sheftall by two-way radio. Willis then unsuccessfully searched for the attackers.

⁴⁹ There is no evidence, even now, to support the connection.

⁵⁰ The March 23rd report prepared by **Victim C** at Yaged’s direction also leaves the erroneous impression that the second robbery occurred on the date of the report, rather than on March 21st.

Notwithstanding evidence that **Assailant D** participated in a violent robbery, Principal McCaskill suspended him from school for a mere five days for unspecified “harassment of another student.”⁵¹ The file McCaskill reviewed before suspending **Assailant D** is incomplete. Three incident reports submitted to Yaged were missing from the suspension file when SCI obtained it. These include the March 23rd report by **Victim C** in which he identified **Assailant D** by name, and a March 21st report by **Victim D** which states that a knife was displayed by one of **Assailant D**’s accomplices. The three victims’ reports that were in the suspension file demonstrate that they were assaulted and robbed. When asked by SCI why he suspended the assailant for a mere five days, and why he did not initiate a superintendent’s suspension, Principal McCaskill said that he was not aware of the missing reports until SCI showed them to him. He further stated that he would have considered the matter differently had he been made aware of them.⁵²

After his five-day suspension, **Assailant D** returned to Brooklyn Tech on March 31st to complete the school year in the same building as the victims.⁵³

Yaged did not submit the incident reports to the police; officers obtained them from school files at their own initiative.⁵⁴ Two of the three assailants in Robbery #2 remain unidentified.

⁵¹ This is the maximum suspension that a principal may unilaterally impose; longer suspensions must be initiated by the superintendent’s office at the request of the Principal.

⁵² McCaskill, Interview, Oct. 27, 2000.

⁵³ **Assailant D** has since voluntarily left Brooklyn Tech.

⁵⁴ The police obtained the incident reports from the deans’ office on March 24th and March 28th.

D. Explanations Offered by the Brooklyn Tech Staff

SCI investigators interviewed Deans Rodriguez and Yaged in April of this year. Both professed ignorance that the Chancellor's Regulations mandate that crimes against students be reported to the police immediately.⁵⁵

Rodriguez told SCI investigators that although he believed the first robbery to be a serious crime, he did not notify the police or the assistant principal on the day of the incident because he did not know the names of the participants. Rodriguez admitted that he told the victim's father that the police were not permitted to conduct investigations at the school. Rodriguez told the investigator that this was his understanding of BOE policy. Rodriguez denied an allegation made to SCI by the victim's father; the father reported that Rodriguez tried to dissuade him from having his son assist in the criminal prosecution of **Assailants B** and **C**.

Yaged told an SCI investigator that "we" notified the police on the same day of the robberies, but could not state who at Brooklyn Tech made the report to the police. In contrast, PO Sartori told SCI that there are no police reports concerning these robberies dated March 21st in the files of the 88th Precinct. Yaged also said that he saw PO Suter "a couple of days after the reports were filled out," and made her aware of the robberies.⁵⁶

E. Fall 2000: New Emphasis Fails to Achieve Results

School officials are required to notify the police when felonies occur in school. The Chancellor emphasized this policy in an e-mail to principals last June. Principal

⁵⁵ Chancellor's Reg. A-412(III)(I) (Oct. 1, 1979) (current version at A-412(II)(A)(1) (Sept. 5, 2000)).

⁵⁶ PO Suter obtained some of the incident reports concerning Robbery #2 from the deans' office at her own initiative on March 24th and March 28th, and transmitted them to the 88th Precinct.

McCaskill told SCI that he advised the Brooklyn Tech staff at the beginning of this school year that, “If it looks or smells like a crime, the police have to be called.”

Notwithstanding this reinforcement of common sense, when another robbery of a Brooklyn Tech student by three other students, this time unarmed, was reported to Dean **Morris Martin** on September 20, 2000, he failed to call the police that day. Just as Yaged and Rodriguez did, Martin compounded this error by investigating the crime himself, and even conducted show-ups the following day. The police learned of Robbery #3 on the day it occurred only because a detective had a chance encounter with the victim at a pizzeria after school, and overheard him describing the robbery.⁵⁷

Moreover, Martin confounded PO Sartori’s most recent effort to arrest **Assailant C** for Robbery #1 at Brooklyn Tech during in the current school year. PO Sartori telephoned Martin on September 18th to ascertain that **Assailant C** was in school. Martin confirmed that he was in school, and they made arrangements for PO Sartori to come to Brooklyn Tech to arrest him the following day. Martin summoned **Assailant C** to his office on September 19th before PO Sartori arrived, informed him of the imminent arrest, and asked McCaskill for guidance on the matter. McCaskill told Martin to inform the student’s parents. While BOE policy requires that a parent be notified when a student is arrested, Martin telephoned the student’s father and informed him of the planned arrest *before* it could occur.⁵⁸ **Assailant C**’s father asked to speak with his son. Martin gave the telephone to the student, who had a brief conversation with his father, and then promptly left the building.

⁵⁷ While Martin was conducting show-ups of suspects in Robbery #3 on September 21, 2000, someone at Brooklyn Tech summoned the police. They reported to the school and arrested three students identified in the show-ups in connection with the robbery.

⁵⁸ Chancellor’s Reg. A-412(III)(i)(4) (Oct. 1, 1979) (current version at A-412(i) (Sept. 5, 2000)).

Conclusion

It is appropriate, as we did in recent investigations involving school officials failing to report serious allegations of sexual abuse at two middle schools, to view the events at Brooklyn Tech from the standpoint of its impact on New York's schoolchildren and their parents.⁵⁹ From that perspective, it is clear that this investigation is about far more than procedural miscues. The cost of school officials' failures to report these armed robberies to the police was extremely high.

To begin with, several assailants not only escaped arrest and punishment, but also continued to attend Brooklyn Tech, where they presented a danger to the victims of the robberies, as well as other students and staff. Since some may still be at the school, this danger is ongoing. Witnesses were identified to the assailants and their attorneys, but kept secret from the police and prosecutors. The victim and witnesses were intimidated, and criminal prosecutions jeopardized, by a series of school disciplinary hearings at which these students were compelled to testify while the assailants sat and watched, and to face cross-examination by an assailant's attorney.

All of this came about from a stupefying combination of blunders, misunderstandings, and overall incompetence by school personnel. School staff revealed troubling attitudes toward police involvement when crime occurs in schools. Some officials failed to cooperate with police to such an extent that their actions could be taken as outright hostility to law enforcement. Once again, we are troubled that crimes may not have been reported in order to protect a school's reputation, in this case a very prestigious

⁵⁹ Letter from Stancik to Levy (Sept. 21, 2000) (IS 278K and MS 180Q).

one.⁶⁰ Finally, the disciplinary hearings themselves posed serious risks to the victim and witnesses, and damaged the criminal prosecution of the offenses.

The two cases that are the focus of this investigation, both armed robberies in which victims were injured, occurred on the same day inside Brooklyn Tech. Logic dictates that police, rather than school personnel, should conduct the investigations into crimes like these. Yet, just the opposite happened.

When the victims of the crime reported the crimes to the school's deans, they did not notify the police about the robberies. Police became aware of Robbery #1 by happenstance when PO Suter chanced by the deans' office the day after the crime, as the school's internal investigation was already in full swing. PO Suter arrested the one assailant the deans had identified, and the police investigation the same day led to the arrest of a second assailant. That did nothing to persuade school staff to cooperate with the police, however.

Twice, on the day following the robbery and again in September, police from the 88th Precinct told deans at Brooklyn Tech of their intent to arrest **Assailant C**, who was in school on both days, for Robbery #1. On each occasion, the deans' subsequent actions led to **Assailant C**'s leaving the school and evading arrest. Dean Rodriguez learned of three eyewitnesses to Assailant C's involvement in the robbery, but never told police. This led to the absurdity of **Assailant C** and his attorney learning of the witnesses *long before the police did*, compromising a possible prosecution. Law enforcement officials

⁶⁰ Neither Brooklyn Tech officials nor SSAs submitted an official BOE School Safety Report or a School Safety Division Criminal Incident Report of Robbery #2. NYPD Officer Suter reported the robbery to the School Safety Division on March 28th.

became aware of the witnesses only when SCI discovered them in the course of this investigation and alerted the assigned police officer and prosecuting attorney for the Kings County District Attorney's Office.

Similarly with Robbery #2, Dean Yaged became aware of the crime when two victims came forward on the day the crime was committed. He never notified the police, however, and kept them in the dark about his investigative efforts. Only one of the assailants in Robbery #2 was ever identified in Yaged's investigation. While another assailant displayed a knife, **Assailant D** ordered one of the three victims to raise his hands and took a wallet, cash and personal belongings from his pockets. **Assailant D** was suspended for just five days for "harassment of a student," and remained in classes at Brooklyn Tech for the rest of the school year. The others, who were also likely to be students at the school, were never identified.

If the internal investigations of the robberies were amateurish and bumbling, Dean Rodriguez's performance at the disciplinary hearing for **Assailant C** in Robbery #1 was atrocious. He lost **Assailant C**'s first handwritten statement about the crime and forgot what it contained, while neglecting to bring other witness statements to the hearing. Because Rodriguez was a witness at the proceeding, he was not allowed to remain in the room while the other witnesses testified and declined an opportunity to have an advisor present to observe the testimony. He thus made the school's closing argument having heard little beyond his own testimony. It is not surprising that the argument was four sentences long and perfunctory in nature; astonishingly, however, he readily acceded to the assailant's attacks on the quality of the evidence, despite not having been in the room when it was presented.

Of course, Rodriguez is not trained in law enforcement proceedings, and his disciplinary investigation appears to be mandated by regulation. There can be no excuse, however, for his failure to notify the police and share the information he was gathering. He might have mitigated the damage done at the hearing if he had told police about the existence of the critical eyewitnesses, but he did not. Even worse, his testimony at the April 17th hearing differs markedly from his statement to SCI, which was given just two days later. The only conclusion we can draw is that he lied, either in his statement to SCI, in his sworn testimony at the hearing, or both.

The disciplinary hearings in Robbery #1 were an enormous imposition on the victims and witnesses. Hearings for **Assailants A, B, and C** were scheduled over three school days.⁶¹ The hearings were held in Manhattan, far from Brooklyn Tech. **Victim A** had to testify twice, missing two days of school.⁶² The boy's father, frustrated by how much school the boy was missing, not to mention his own absence from work to accompany his son, refused to allow the boy to testify at a third day of hearings. Two key student eyewitnesses testified on two school days, missing class to do so. One eyewitness, a female student, told SCI she was scared because she knew that when the hearing was over, she would have to face the assailant in school. The girl's mother said that she did not know the assailant would be in the room during her daughter's testimony or that her daughter would be cross-examined by his attorney. The hearings resulted in a court record of 341 pages of witness testimony, all to achieve two thirty-day suspensions.

⁶¹ **Assailant A** elected not to contest his suspension just prior to the scheduled hearing.

⁶² This was, of course, in addition to the time required of the victim by the police and the District Attorney's office.

The charges against **Assailant C** were dismissed. Anyone questioning why students and parents are reluctant to get involved in school disciplinary proceedings need look no further than the case of Robbery #1.

Both Rodriguez and Yaged exhibited disturbing views of the role of the police in the investigation of serious crimes occurring at school. Rodriguez told SCI and the victim's father that he did not call the police because they were "not allowed" to investigate in schools and that, in any event, he could not notify them until someone was identified as committing the offense. Yaged took a casual view of the armed robbery reported to him. He initially stated that "we" – meaning a school official or officials he could not name – contacted the police on the day of the crime. When told that the police have no report of the robbery on that date, he said he told a police officer "a couple of days" later. The deans' attitudes as stated are erroneous and misguided at best; more troubling, they suggest hostility toward law enforcement and pose a danger to the safety of students.

Nor can Principal McCaskill escape responsibility for the failures of Rodriguez and Yaged. As principal, he must ensure that his deans report crimes to the police. The principal says he was unaware of Robbery #2 until SCI informed him about it, and that he authorized the five-day suspension of **Assailant D** in the belief that he participated in a fight, not a robbery. It appears that the file on which he based his decision was missing some critical evidence regarding the details of the offense when he authorized the disciplinary action. However, the file did contain reports by the three victims; each of these reports state that the victims were assaulted and robbed. Whether or not McCaskill

was aware of all the details of this offense, his explanation raises concerns about his supervision of disciplinary cases involving serious crimes. He bears some responsibility for not clearly ascertaining the facts before directing this brief suspension.

Since the time of the robberies, the BOE has made efforts to improve the reporting of crimes on school grounds to the police. Most notably, Chancellor Levy issued detailed instructions on the need to report such crimes to the police immediately. Following the Chancellor's lead, McCaskill told us that at a Brooklyn Tech staff meeting at the beginning of September, he made it clear that crimes should be reported to the police.

But events at Brooklyn Tech since McCaskill's remarks indicate that his words have not yet translated into results. Dean Martin acknowledged attending the meeting and hearing this directive, yet **Assailant C** escaped arrest once again after police told Martin that they were coming to arrest him. The student voluntarily withdrew from Brooklyn Tech soon thereafter.

Another robbery occurred inside Brooklyn Tech this fall. Though the victim promptly reported the crime to Martin, the dean did not notify police and began his own investigation. Fortuitously, a police officer heard the victim talking about the robbery at a pizzeria. The officer followed up and ultimately arrested three suspects, all students at the school. It is clear that Brooklyn Tech still has a long way to go before serious crimes are handled properly.

Recommendations

A. Recommendations Regarding the Reporting and Investigation of Serious Crimes Occurring in Schools and the Student Disciplinary Process

We have repeatedly expressed our concerns about educators investigating serious criminal activity.⁶³ Most recently, in connection with first degree sexual abuse committed by 13 middle school students on school grounds, we stated: “We reiterate that school-based investigations of criminal activity are dangerous and can have serious consequences for the prosecution of the offenders. Superintendents and principals must be given a clear instruction to call the police without any delay and allow trained professionals to conduct the investigation.”⁶⁴ Brooklyn Tech’s handling of these two armed robberies offers powerful support for that position.

Chancellor Levy’s e-mail directive of last June concerning contacting police is an important step forward. It is clear from the Brooklyn Tech case, however, that even such a clear statement standing alone cannot eradicate the problem. The reporting and investigation problems at the school continued into the fall of 2000, months after the Chancellor’s directive. There is evidence that some school officials are resentful and hostile to law enforcement’s role in the investigation of serious crimes in school; this cannot be tolerated. Further, we recommend that the Board of Education exercise sustained vigilance of schools’ handling of criminal allegations, including punishment for those who violate the rules.

⁶³ See *supra* p. 2 and note 1.

⁶⁴ Letter from Stancik to Levy re: IS 278K and MS 180Q (Sept. 21, 2000).

Further, we recognize that there are many legitimate interests brought into play by the student disciplinary process. There is widespread concern over how to best balance those interests.⁶⁵ Most recently, school violence legislation, with important implications for the reporting of crimes in school and the student disciplinary process, was signed into law by the Governor.⁶⁶ Therefore, in addition to referring our findings to the Mayor's office, the Board of Education, and the New York City Department of Investigation, we refer them to the Governor's office, New York State's Division of Criminal Justice Services, New York State's Education Department, and the New York State Legislature. We urge them to review our findings and recommendations and take them into account in their continued efforts to make improvements in this area. Specifically, we believe that explicit authorization for an order of protection in disciplinary procedures would help ensure the safety of a witness or victim. Similarly, an explicit provision for putting disciplinary actions on hold while criminal actions go forward would also be helpful.⁶⁷

B. Recommendations Concerning Individuals

We recommend that strong disciplinary action, which could properly include termination of employment, be taken against Dean Enrique Rodriguez.

We recommend that strong disciplinary action be taken against Dean Bert Yaged.

We recommend that appropriate disciplinary action be taken against Principal Lee McCaskill.

⁶⁵ See, e.g., *Safer Schools for the 21st Century, a Common Sense Approach to Keep New York's Students and Schools Safe*, Task Force on School Violence, Lt. Gov. Mary O. Donohue, Chair (Oct. 1999), at www.state.ny.us/governor/lrgov/report.

⁶⁶ Project SAVE, S. 08236 (N.Y. 2000).

⁶⁷ This would require giving the school the ability to remove suspects from the school without full disciplinary proceedings.

We recommend that appropriate disciplinary action be taken against Dean Morris Martin.

We also observed problems with the SSAs at the school. SSAs are employees of the NYPD, though they are not police officers. We found evidence that SSAs knew about Robbery #1, but did not report it to police superiors until three days later. SSAs did not report Robbery #2 at all. School principals and SSAs have *independent* responsibilities to notify the local precinct of crimes within the school; the principal's responsibility is not discharged when an SSA is aware of the crime; the SSAs responsibility is not discharged when the principal is aware of the crime.⁶⁸ Here, it is clear that neither notified the precinct. The Police Department has already taken disciplinary action against the SSAs. Because we have no jurisdiction over police employees, we refer our findings to the Police Department for its review.

⁶⁸ See Chancellor's Reg. A-412(A)(1) (Sept. 5, 2000), Brooklyn Tech School Safety Plan (1999-2000).