Report of the Special Grand Jury on the Investigation of Loudoun County Public Schools
CL-22-3129
December 2022

Warning: This report contains sexually explicit material relating to minors, as well as profane language.

We, the nine members of the Special Grand Jury of Loudoun County operating in Loudoun County Circuit Court, impanelled at the request of the Office of the Attorney General pursuant to Va. Code § 19.2-206(A)(iii) to "investigate and report on any condition that involves or tends to promote criminal activity," submit this report to the public to document our findings.

Purpose for Convening

On October 7, 2021, the Loudoun County Sheriff's Office (LCSO) publicly announced a teenager had been arrested for sexual battery and abduction of a fellow student at Broad Run High School (BRHS). Just days later, press reporting indicated the assailant had also committed two counts of forcible sodomy on a fellow student at Stone Bridge High School (SBHS) on May 28, 2021. That sexual assault occurred in the female restroom while the assailant was wearing a skirt.

Community outrage ensued. Many questions surrounded how, and why, Loudoun County Public Schools (LCPS) allowed a student accused of anally raping another student to transfer schools, leading to another sexual assault. National outrage focused on Loudoun County because the student was labeled as gender fluid, LCPS had recently passed a transgender policy to conform with the Virginia Department of Education's model policy, and an article linking all of these facts was published just weeks before the highest-profile election in the country at the time, the Virginia gubernatorial contest.

In an effort to quell public outrage and deflect blame, LCPS released a statement on October 13, the superintendent held a press conference on October 15, and LCPS released an additional statement on October 21. In late October 2021, the Loudoun County School Board (LCSB) agreed to conduct an "independent review" of the situation regarding the two sexual assaults; this "independent review" was not announced, however, until over a week later, after the election had been held.

On January 14, 2022, LCSB announced operational changes to the school system purportedly stemming from the "independent review" but noted it would not be publicly releasing the review regarding how LCPS handled the two sexual assault incidents citing, in order, family privacy, student confidentiality, and the attorney-client privilege. This caused additional anger from a community that believed the report would be publicly released, and demanded to know what LCPS knew and when they knew it.

On January 15, 2022, the governor signed Executive Order 4 authorizing the attorney general to investigate LCPS and LCSB. On April 7, 2022, the Court, at the request of the attorney general, impanelled a special grand jury to investigate these entities.

Purpose of this Report

Under Va. Code § 19.2-213, a special grand jury impanelled by the attorney for the Commonwealth is not required to file a report with the court. However, given the intense local and national public interest in the events leading to the creation of this body, the members of the Special Grand Jury want to ensure transparency surrounding the investigation and report some of our findings.

While we do not go into every detail we have learned, we want to share high level thoughts with the community in an easily digestible manner and provide some recommendations in hopes that similar events will never occur again. The length of this report is reflective of the fact that we want all members of the community interested in learning about these events to be able to read it in one sitting.

While we do not expect this report to be well-received by all sides, the contents herein are an accurate assessment of testimony received and our collective thoughts regarding that testimony and all other evidence received by this body. We do not hesitate to point out shortcomings of individual or collective actions, and, unless otherwise stated, such criticisms should be viewed as nothing more than identifying for the public where breakdowns occurred allowing such horrible events to take place.

Although we heard testimony from more than 40 witnesses and reviewed over 100 pieces of evidence officially submitted into the record, only certain, key, documents are attached to this report so that the public can have faith our conclusions rest on solid evidence.

Overview

We believe that throughout this ordeal LCPS administrators were looking out for their own interests instead of the best interests of LCPS. This invariably led to a stunning lack of openness, transparency, and accountability both to the public and the special grand jury. There were several decision points for senior LCPS administrators, up to and including the superintendent, to be transparent and step in and alter the sequence of events leading up to the October 6, 2021 BRHS sexual assault. They failed at every juncture.

We conclude there was not a coordinated cover-up between LCPS administrators and members of the LCSB. Indeed, except for the May 28, 2021 email from the superintendent, the LCSB, both as a body and its individual members, were deliberately deprived of information regarding these incidents until after the October 6, 2021 sexual assault – and even then they learned not from the superintendent's office but instead from public reporting that the assailant was the same one from the May 28 incident.

We also believe the October 6, 2021 abduction and sexual assault of a female student at Broad Run High School could have, and should have, been prevented. A remarkable lack of curiosity and adherence to operating in silos by LCPS administrators is ultimately to blame for the October 6 incident. While we strongly believe LCPS bears the brunt of the blame for the October 6 incident and the transfer of the student from SBHS to BRHS, a breakdown of communication between and amongst multiple parties – including the Loudoun County Sheriff's Office, the Court Services Unit, and the Loudoun County Commonwealth's Attorney's Office – led to the tragic events that occurred.

Executive Summary

On May 12, 2021 - less than four weeks after students returned to in-person school from the pandemic - a teaching assistant at SBHS wrote to her superiors about one of her students (assailant), stating, in part:

> . . . but if this kind of reckless behavior persists, I wouldn't want to be held accountable if someone should get hurt.

Sixteen days later that student sexually assaulted a female student in the girls' bathroom at SBHS.

For nearly three hours after the sexual assault, the individual was missing and at-large in SBHS. At around 2:15pm the father of the girl who was sexually assaulted arrived at SBHS. He was very upset to learn what had happened to his daughter and became very loud after initially being denied entry into the building.

Shortly after 2:30pm the father had been escorted from the school, but the individual who committed the sexual assault was still at-large in the building. During this time, the Stone Bridge principal reached out to the superintendent's office about getting a "no trespass letter" against the father.

LCPS' chief operating officer arrived at the school that afternoon and talked with the principal. At 3:30pm, he sent an email to the superintendent and other senior staff stating, in full:

> The incident at SBHS is related to policy 8040. I will send a Teams appointment from 3:30 to 5 and will log in now and offer an update if you want to log in between now and then.

Policy 8040 addresses the rights of transgender and gender-expansive students. Six people joined that Teams meeting, including the superintendent and now-deputy superintendent. We believe this Teams meeting was the beginning of the complete lack of transparency by LCPS surrounding this situation.

Shortly after the meeting ended, at 4:10pm the superintendent sent an email to the LCSB alerting them of allegations of a sexual assault at SBHS.

At 4:46pm, the Stone Bridge principal sent an email to the community about what had occurred at SBHS earlier that day. The email neither mentioned, nor hinted at, the sexual assault that took place in the bathroom, instead focusing on the father of the victim who arrived at the school. This email was drafted by the public information officer and ultimately edited and approved by the superintendent.

At the June 22, 2021, LCSB meeting, the superintendent, in response to a question, said, "[t]o my knowledge we don't have any records of assaults occurring in our restrooms." We believe this statement was a lie. The superintendent later claimed he "was viewing the question in light of . . . policy 8040." Per the aforementioned Teams meeting, we know the superintendent learned shortly after the incident that the Stone Bridge assault was stated to be related to policy 8040.

On July 2, 2021, two petitions – arrest warrants for juveniles – were issued against the student for two counts of forcible sodomy pertaining to the May 28, 2021 sexual assault. As required by law, the court services unit notified the LCPS superintendent of these petitions. On July 8, 2021, the student was detained at the Loudoun County Juvenile Detention Center, but, per state law, he was released on July 26, 2021. As part of his release, the Court said the student could not return to SBHS, and the individual was subsequently transferred to BRHS.

In early September 2021, two female students at BRHS enrolled in an art class with the former SBHS student approached their teacher, asking to be moved away from him in class. The former SBHS student made them feel "uncomfortable by the way he was behaving" because he had discovered where their friend group was hanging out and was following them around. The art teacher reported these events to the Broad Run principal, who failed to inform the teacher of the connection to the events at SBHS or that the assailant was a recent transfer.

On September 9, 2021 - just over two weeks into the new school year - the individual grabbed the shoulder of a girl "really hard" and kept tapping her head with a pencil during class. He tried to take the girl's Chromebook and asked her if she had ever posted nudes online. He then asked another boy if his grandmother had posted any nudes online. The superintendent, deputy superintendent, and superintendent's chief of staff all learned of this incident and knew it was the same individual who committed the sexual assault at SBHS.

Despite having a twelve-page disciplinary file, wearing an ankle monitor, being closely monitored by the Broad Run principal, knowledge of this incident by the highest administrators in LCPS, and a suggestion by the court services unit that a more serious punishment be given, the individual received nothing more than a verbal admonishment for these actions.

Less than a month later, on October 6, 2021, the individual snatched an unassuming female out of the hallway, abducted her into an empty classroom, nearly asphyxiated her, and sexually assaulted her. The individual was taken into custody that day, where he has remained ever since.

Given facts learned through this investigation, multiple witnesses testified the October 6, 2021 crimes should have been prevented and expressed disgust, outrage, and sadness that they occurred. We asked the Broad Run principal whether he felt any responsibility for what happened to the girl who was abducted and sexually assaulted on October 6, 2021, but he did not answer after his attorney objected and mentioned the Fifth Amendment.

Summary of Investigative Findings

<u>The May 12 Email</u>

On May 12, 2021 – only day fourteen of in-person school for the year – a teacher's assistant wrote to a fellow teacher and her department chair regarding one of her students in study hall (attachment 1):

> Good afternoon! Even though he started the year very well, and though he gets along with his peers [student] seems to have a problem with listening and keeping his hands to himself. He has come into class more than once with his arm around a girls' neck. I have caught him sitting on other girls' laps several times. There doesn't need to be a global pandemic to say that this is unacceptable! His refusal and disregard to me and my assistant has us at our wits end. I understand the school year is quickly ending, and that students and staff alike are counting down the days but if this kind of reckless behavior persists, I wouldn't want to be held accountable if someone should get hurt.

One of the recipients of the email did not know who the student was and felt it was missent to her. She testified she had "nothing to do with the student" and didn't follow up or discuss it with anybody because she didn't "want to invade the student's privacy."

The other recipient, a department chair, viewed the email blithely. She testified she was "confused" because she wasn't "sure if [the author] meant, like, get sick, like, with COVID get hurt, or if it was something else," and questioned the true motivation of author. She did, however, follow up with the student's case manager, who called the student's mother. None of this is documented in the

student's file, and neither the department chair nor the case manager spoke with the author of the email about her concerns or what prompted her to write the email.

The department chair also mentioned this email to a SBHS assistant principal, who questioned whether the author of the email had followed proper protocol. He testified this was a "classroom management situation" and that "if it continued to happen, you know, we would then escalate that to what would be a discipline referral." The assistant principal, however, also testified there had been "other discipline incidents in the past" involving this student and that he "had seen him in the main office [but t]his was the first that had gotten to my attention." It was just the fourteenth day of in-person instruction.

While not predictive, the May 12, 2021 email was a warning. The student had already caused enough behavioral disruptions to put himself on the assistant principal's radar, but rather than trusting the word of a faculty member and asking her directly about her concern, no party privy to the email treated it with the seriousness it deserved. The situation should have been elevated. It should have been documented. Somebody should have spoken directly with the student. None of that occurred. Sixteen days later the student sexually assaulted a female classmate in the girls' bathroom.

The May 28 SBHS Incident

From 11:46am to 11:59am on May 28, 2021, the assailant was chatting with a female student on Discord, a messaging application, about potentially "call[ing] a pass" to "Have some 'fun'" (attachment 2). The students were using their LCPS-issued Chromebooks to have this conversation and at least one of them was in class. The two individuals had met in the bathroom two weeks before to have consensual sex but had never had sex outside of SBHS.

At 12:00pm the two students met in the handicap stall of a female bathroom in SBHS. The male student became "handsy" and then more aggressive, which caused bruising on her chest. The female laid down on her stomach on the floor, and the male held her arms down as he penetrated her.

While this was occurring, a special education teaching assistant walked into the restroom. This caused the male student to jump up. The female student was in a lot of pain and got up slowly, and when she was in a seated position the male student pushed her shoulders down and grabbed her face.

The special education teaching assistant later said she saw two pairs of feet under the stall, but she did nothing about it. She testified this was not an uncommon occurrence, because "somebody could have their period. They might need a tampon. Or somebody had a boyfriend they had a fight with." The assailant later acknowledged that "they usually don't do anything" regarding two pairs of feet in a stall. After the teaching assistant left, the assailant again forced penetration against the female student, this time orally. At 12:24pm the students left the bathroom.

At 1:28pm the SBHS principal emailed the director of high school education and supervisor of high school education (attachment 3), stating:

> I have a female student who alleges another student attempted to rape her in the bathroom today. We are sending this to law enforcement. The girl is currently with the nurse. We will address this by the numbers. This is the same student who was transferred here from THS for a similar allegation.

It is unclear why the SBHS principal included that last sentence in his email or its relevance to the situation. We have seen no evidence the student was transferred for a similar allegation. The fact the SBHS principal included it at all, however, suggests he was skeptical of the veracity of the allegation from the outset.

Around 2:15pm the father of the victim arrived at SBHS. The school resource officer (SRO) initially denied the father entry into the school because he did not have valid identification. The father called his wife, who was inside the school with their daughter, asking for help to get in. She told the father that what they initially thought was an assault against their daughter was actually a sexual assault. This further infuriated the father, who caused a scene, and the SRO eventually escorted him inside the building. The father was escorted out of the building around 2:30pm.

Hand-written notes indicate that around this time the now-deputy superintendent learned she knew of the allegation the victim was "anally penetrated" and that the assailant was "missing" (attachment 4). An LCSO report notes the assailant "was not able to be located during this time." A teacher who knew the assailant was pulled in to try to locate the assailant via camera footage.

Emails indicate that at this time the SBHS principal was concerned about obtaining a no trespass letter for the father (attachment 5). The assailant was not found until nearly an hour after that email was sent, while leaving the school at dismissal. Given the nature of the allegations, we are dismayed at the lack of concern regarding the assailant being at-large in the school for over three hours and believe the school should have been locked down to find the individual.

The LCPS chief operating officer arrived at SBHS that afternoon and had a discussion with the principal. The chief operating officer testified that "somewhere along the line of that conversation during the day, somebody had informed me that the incident in the restroom did involve a young man that was wearing girls' clothes." At 3:30pm the chief operating officer emailed the superintendent, the now-deputy superintendent, chief of staff, director of communications, and assistant superintendent, (attachment 6) stating:

> The incident at SBHS is related to policy 8040. I will send a Teams appointment from 3:30 to 5 and will log in now and offer an update if you want to log in between now and then

The superintendent, now-deputy superintendent, director of communications, and chief operating officer immediately joined the meeting (attachment 7). The director of student services and SBHS principal soon joined, and the meeting lasted for 30 minutes.

The SBHS principal testified "all of the staff there wanted to meet with me and hear directly from me what had occurred that day." Nobody else we questioned about this meeting, however, could recall the contents of the discussion, which we view as critical to a fuller understanding of why LCPS officials acted in the manner they did in the ensuing months. We believe there was intentional institutional amnesia regarding this meeting.

After the meeting, multiple messages were sent regarding the incidents at SBHS. At 4:10pm the superintendent privately emailed the entire school board (attachment 8), stating:

> The purpose of this email is to provide you with information regarding an incident that occurred at Stone Bridge HS. This afternoon a female student alleged that a male student sexually assaulted her in the restroom. The LCSO is investigating the matter. Secondary to the assault investigation, the female student's parent responded to the school and caused a disruption by using threatening and profane language that was overheard by staff and students. Additional law enforcement units responded to the school to assist with the parent.

Publicly, a different message was sent. At 4:46pm the SBHS principal sent a message (attachment 9) stating:

> Good evening Stone Bridge families this is Stone Bridge Principal Tim Flynn. There was an incident in the main office area today that required the Loudoun County Sheriff's Office to dispatch deputies to Stone Bridge. The incident was confined to the main office and entrance area to the school. There was no threat to the safety of the student body. The incident was witnessed by a small number of students who were meeting with staff adjacent to the main office. Counseling services and the services of our Unified Mental Health Team are available for any student who may need to talk about today's incident. Students might have noticed Sheriff's Office personnel on campus and I wanted to let you know that something out of the ordinary happened at school today. The safety of our students and staff is the top priority of Loudoun County Public Schools.

This statement, drafted by the public information officer and edited and approved by the superintendent (attachment 10), deliberately makes no mention of the sexual assault that took place just hours earlier. Nor does it mention the fact the assailant had gone missing in SBHS for hours after he committed the sexual assault, jeopardizing the safety of all students.

LCPS officials repeatedly cited privacy concerns or jeopardizing the LCSO investigation as the reason why the sexual assault was not mentioned in the email. However, for a school system that repeatedly trumpets the importance of student safety, LCPS dropped the ball in this instance in alerting the community about this incident. There was certainly a way to inform the community about the allegations of sexual assault without sharing information about any of the students, or jeopardizing an ongoing investigation, but LCPS chose not to do so. We feel that since LCPS sent an email about the disruptive parent, they should have also sent an email about the incident involving students, which also required the involvement of the LCSO. However, LCPS made no such statement.

The sexual assault occurred on the Friday before Memorial Day. When school resumed the next Tuesday, LCPS had no formal policy for how to handle this situation, so SBHS came up with a temporary solution allowing the assailant to remain in school but keeping him separated from the victim. The following day, June 2, 2021, the assailant was back in school on his computer deleting conversations – and potentially evidence – from Discord.

The June 22 School Board Meeting

Much has already been written and debated about the June 22, 2021 LCSB meeting. Political parties and candidates across the country have used footage and events from this meeting to promote their partisan purposes, and much of what has been discussed is factually incorrect. We touch on this meeting briefly for two specific purposes.

The father of the SBHS sexual assault victim attended the LCSB meeting. One agenda item that evening was a discussion over policy 8040. The father testified "from what I understand from this policy they're voting on and what just happened to my daughter, hmm, you know, something – you know, I need to go check this out." He testified he "was planning on just being an attendee and observing. Now, when I did go through the little line, somebody handed me a speaker ticket, but I wasn't signed up or anything. I didn't even know what the hell the ticket was for. I had never been to one before." He emphatically stated he had no plans to speak out at the meeting.

He later observed an individual "accost[ing]" and "bullying" his wife. He testified the woman told him, regarding the SBHS sexual assault of his daughter, "No. That's not what happened." A LCSO deputy warned them about civility. The father testified the woman threatened "to ruin [his] business on social media," to which the father responded in colorful terms. A deputy then grabbed the father and, after a scuffle, arrested him. The arrest stemmed from a personal altercation and was not directly related to the LCSB meeting that evening.

The father testified "I resisted for one reason and one reason only: One, I knew that, legally and constitutionally, what they had done was wrong, and I also knew that this was my best way and my best vehicle to bring this to light. Because, for the last month, nothing had been getting done. Everybody else had been offered therapy and counselors, not us. According to Loudoun County, this (the sexual assault of my daughter) didn't happen."

Later that evening, a school board member asked the superintendent "do we have assaults in our bathrooms or in our locker rooms, regularly? I would hope not but I'd like clarification." The superintendent responded, "to my knowledge we don't have any record of assaults occurring in our restrooms." The SBHS principal, who attended the Teams meeting with the superintendent the afternoon the SBHS sexual assault took place, testified the superintendent's statement "is not true." Another witness testified the superintendent's statement was a "bald-faced lie." We agree.

In the wake of the June 22 board meeting and the publicity surrounding the father's arrest, multiple school board members reached out to the superintendent asking for additional information about the May 28 SBHS assault (attachment 11). On June 27, one board member emailed the superintendent saying "[t]his family lives in my district. At the meeting the father was arrested. . . .Can you update the board on these allegations and the investigation? I understand it would be confidential." The superintendent responded the next day, saying "[t]his matter is under investigation by law enforcement, and I am unable to provide an update."

On June 28 that same board member emailed the superintendent and the entire school board saying "since the family has gone public will there be a statement if someone is arrested for assault?" and attached a social media post by the father of the SBHS victim. That same evening another board member emailed the superintendent and the entire school board twice, once asking "Has there been

any update on this case you can share with the board?" and again "Can you please give us a high [sic] summary of the incident that took place at Stone Bridge High School towards the end of May. I realize LCSO is investigating this case, however please share what you can with the Board, and please keep us updated on the progress of it."

The superintendent responded to these messages the next day, writing "This matter is under investigation by law enforcement, and I am unable to provide an update."

Arrest and LCPS Notification

We heard testimony that the LCSO "did not see fit" to charge or arrest the assailant in the wake of the May 28 sexual assault, but that the calculus changed after the June 22, 2021 school board meeting where the father of the victim was arrested, the sexual assault became highly publicized, and Loudoun County was put into the national spotlight.

Other testimony and documents seem to support this narrative. School officials testified that multiple individuals from the sheriff's office told them the sexual assault was an "iffy case" and a "shaky case." Additionally, after interviewing the victim on May 28 and the assailant on June 1, the LCSO collected very little additional evidence prior to contacting juvenile intake (of the court services unit) on June 29; for example, the certificate of analysis from the lab for the victim's Physical Evidence Recovery Kit (PERK) and the report from the Sexual Assault Nurse Examiner (SANE) did not come back until September.

On June 30, 2021, LCSO provided juvenile intake with its initial report. On July 1 a detention order was authorized against the assailant for two charges, and on July 2 two petitions and a detention order were issued. On July 8 the assailant surrendered himself, was taken into custody, and transferred to the Juvenile Detention Center. For the next 14 days the assailant spent 23 hours per day in lock down. During this time period, his probation officer advised him to "use this time wisely, and think about how things need to change to never come back." The probation officer also noted during this timeframe the assailant "has adjusted a little too easily to this experience and doesn't appear to have any real concerns at the moment."

On July 26, 2021, the assailant was released to the custody of his grandmother, who lived in Pennsylvania, for two weeks while his mother went on a preplanned vacation. The release came pursuant to Va. Code § 16.1-277.1(A), which requires a juvenile defendant who is detained to be tried within 21 days of his detention, and the commonwealth's attorney's office requested a continuance due to evidentiary and discovery issues. As part of the court's release order, the assailant had to wear an electronic monitoring device (ankle bracelet), was not allowed to return to SBHS, and could not use the computer.

On July 6, 2021, the court services unit notified the superintendent's office of the pending charges against the assailant (attachment 12). This was done pursuant to Va. Code § 16.1-260(G), which states "the intake office shall file a report with the division superintendent of the school division in which any student who is the subject of a petition alleging that such student who is a juvenile has committed an act, wherever committed, which would be a crime if committed by an adult."

This notification was the source of a public squabble and subject of a series of letters between LCPS and LCSO in November 2021. LCPS claims LCSO never notified them of the offenses, as is required

under Va. Code § 22.1-279.3:1(C), which states "local law-enforcement authorities shall report . . . on offenses, wherever committed, by students enrolled at the school if the offense would be a felony if committed by an adult."

LCPS and LCSO both knew, within minutes of each other, about the SBHS sexual assault on May 28, 2021, and worked together at SBHS that day to collect student statements and evidence. An *offense* occurs on the day of the incident, and there is no doubt LCPS was notified of the offense on May 28, 2021. A *petition*, however, is a formal charging document of a juvenile. Under Virginia law, the intake office, and not local law enforcement, is required to notify the superintendent of the petition. That was done in this instance.

However, juvenile intake did not call the superintendent's office, email the superintendent's office, or send a copy of the notification through the mail. Instead, the process in place at the time was to send it via inter-office envelope that was picked up at the courthouse. Further, the envelope was addressed to "David Spage," who is an LCPS employee but has not worked in the superintendent's office since 2014. As a result, it is unclear what happened to the envelope once it was picked up at the courthouse, and there was no effort from juvenile intake to confirm receipt of the notification.

Due to privacy concerns, the inter-office envelope method of notification from the court services unit to the superintendent's office had been the procedure for many years. During calendar year 2021, there were 39 school notifications sent, but it is unknown how many of those the superintendent's office ever saw. On December 7, 2021 the head of the court services unit met with the superintendent and his chief of staff to discuss this procedure and clear up the notification process.

The Transfer

The process of transferring the student from SBHS to BRHS in summer 2021 encapsulates the lack of communication between entities and the general lack of curiosity by certain individuals that ultimately allowed the October 6 sexual assault to occur.

In the ensuing weeks after the assailant was released from custody, the court services unit learned information from the assailant's family that caused them to "keep a tight eye on this kid." The assailant's grandmother, with whom he had spent two weeks after being released from custody, called the probation officer just to "make sure [he knew] how bad things were." She also called the assailant a "sociopath" and said he "does not care about consequences."

The mother of the assailant pleaded with the probation officer that she had been begging for help from the schools for years, only to have them:

> . . . enable [his] manipulative capabilities by siding with him and trying to be the fair and neutral party, often discounting my approach and recommendations with respect to his reasoning and actions. Only after his actions escalated to concerning levels did they choose to listen and incorporate my input. Most recently, [the SBHS principal] and I had a conversation in his office after the May incident. After noting that I had tried all year to discuss my concerns and recommend approaches with multiple faculty and staff did he say, "Now we are listening." I strongly encourage us to not wait until another escalation in events

before buckling down or else he will be another statistic in the adult circuit instead of exploring the greater potential he holds.

In late July or early August 2021 the principal of SBHS called the principal of BRHS to alert him of an involuntary student transfer. The SBHS principal mentioned the student was facing a sexual assault charge and had a court order that did not allow him to return to SBHS, but the BRHS principal did not ask further questions about the nature of the charge or the incident that led to it.

An involuntary transfer of a high school student requires a formal letter from the director of school administration. Even though the BRHS principal acknowledged it was unusual for a court to order a student not to return to a certain school, rather than follow up after the phone call with the SBHS principal the BRHS principal decided to wait to hear directly from the director.

The LCPS 2021-2022 school year began on August 26, 2021, yet it was not until that day did the superintendent's office learn the assailant was prohibited from returning to SBHS. The court services unit tried to alert LCPS of the court order that the student could not return to SBHS. On August 24 the probation officer reached out to an assistant principal at SBHS alerting him the student could not return and made himself available to discuss a plan to ensure the individual could be an active student within LCPS. By the following day he had not heard back, which concerned the probation officer since LCPS would need to be "clued into several aspects of his court order" – which included the electronic monitoring and the student's prohibition to use a computer or access the internet.

After talking with the assailant's mother, the director of school adminsitration talked with the probation officer and, on August 26, finally received a copy of the court order. This formally spurred the transfer process, with the director providing a letter officially placing the student at BRHS. The director of school administration spoke with the BRHS principal and told him the student was being transferred and had some accompanying legal charges. It is unclear on what date the student started at BRHS but it was sometime during the week of August 30.

After receiving the formal transfer letter, the BRHS principal had multiple conversations with the probation officer – who was on heightened alert – about the incoming student and the logistics surrounding his transfer. The BRHS principal was aware the student was wearing an ankle monitor and was the only student at BRHS doing so. The BRHS principal knew the student was charged with sexual assault and sodomy, which he knew were felonies, but did not look at the incoming student's lengthy disciplinary file.

The BRHS principal also set up a meeting with the incoming student, his mother, and an assistant principal. The BRHS principal said, "there were going to be check-ins" with the student, and that there would be "some heightened, you know, just sort of helping you with the transition, plus also monitoring." The assistant principal told us the principal never told him the student was wearing an ankle monitor or had the pending sexual assault charges. The principal did, however, share that information with the SRO.

Despite the court requirement that the assailant not return to SBHS, the commonwealth's attorney's office did not reach out to LCPS about this requirement to ensure it had been followed. In addition, the commonwealth's attorney's office was unaware of the transfer until after the October 6 sexual assault at BRHS. An individual from the office testified "[t]o be perfectly frank, when I was

agreeing to release him and putting in a condition that he was not to return to Stone Bridge, it was my belief that the school would take some action because that just seems logical. He's on the radar, right?"

The September 9 Incident

It is our considered judgment that the October 6, 2021 sexual assault at BRHS never should have occurred. Had any one of a number of individuals across a variety of entities spoken up or realized a serious problem was brewing regarding earlier incidents at BRHS then the sexual assault most likely would not have occurred. But nobody did.

Shortly after the school year began, the transfer student quickly began causing issues at BRHS. He enrolled in a graphic design class but, due to a court order, was unable to use a computer. His art teacher quickly recognized the untenable nature of the situation and the problems it created in the classroom, so she talked to the principal about it. The principal told her he was awaiting approval from a judge to be able to use a computer at school but didn't share anything more. The art teacher didn't inquire further, noting she "trust[ed] that my administration is doing his job."

Soon after, the art teacher again spoke with the BRHS principal about the transfer student. Two female students had approached her telling her the transfer student had made them uncomfortable by the way he was behaving; he had discovered where their friend group was hanging out and was following them places, appearing everywhere they were. The two female students asked to be moved away from him in class. The art teacher decided to create a new seating arrangement complying with this request so it would not draw attention to the situation.

The art teacher subsequently told the BRHS principal about this entire situation "in case anything else had kind of occurred in other classes or anything that I wasn't aware of." The BRHS principal simply approved of her plan and said that he was going to "check in" with the transfer student.

On September 9, 2021, during English class, the transfer student made some inappropriate sexual comments to a female student. He grabbed the student's shoulder "really hard," attempted to take her Chromebook, and repeatedly tapped her on the head with a pencil. He also asked if she had ever posted nude photos online and asked another boy in the class if his grandmother's nudes were posted online.

The assistant principal reported this incident to the superintendent's chief of staff, the Title IX coordinator at the time, for a possible Title IX violation for sexual harassment. The chief of staff determined the offense did not meet the threshold for a Title IX violation and that the school would investigate and adjudicate under the code of conduct. The chief of staff learned this was the same student who had committed the sexual assault at SBHS. The chief of staff then spoke with the superintendent about this issue, and while they both expressed concern, there is no evidence of any discernable action.

The director of school administration was "alarmed" at learning of this incident and had a conversation about it with the deputy superintendent, who said "obviously, [it] was very upsetting." She later called it "very disturbing." She testified she certainly would have alerted the chief of staff and superintendent about it. Evidence indicates both the superintendent and the chief of staff learned of this incident from multiple people. The director of school administration and deputy superintendent also did nothing about this situation despite their concern.

Discipline for this incident therefore fell to the BRHS principal. He spoke about this incident with the probation officer, who was concerned about "ongoing bizarre behaviors" by the student and shared his concerns with the BRHS principal about how the student "would think this behavior is alright, [e]specially with his current court and school situation." The BRHS principal did not review the student's disciplinary file – which he called "significant" after reviewing it months later – and testified there were "slight discrepancies" in the student statements. He felt a verbal reprimand and a phone conference with the student's mother was sufficient. The only additional discipline was for the student to write on a piece of paper that he would not commit such conduct again (attachment 13).

The probation officer texted the commonwealth's attorney's office about this incident, and even though the deputy commonwealth's attorney testified he does not recall learning of the incident, other testimony indicates he had a conversation with the probation officer about it at the time.

The BRHS SRO learned of this incident the following week when the assistant principal told him about it. In addition, the LCSO detective investigating the SBHS sexual assault, who learned about this September 9 incident from the student's probation officer, called to inform the SRO of the sexual harassment. The SRO wrote up a formal report and submitted it through the normal process.

The most senior individuals in LCPS knew about this incident and knew it was the same person who had committed the May 28, 2021 sexual assault. Multiple people in the LCSO were aware of this incident around the time it occurred and knew it was the same person who had committed the May 28, 2021 sexual assault. The deputy commonwealth's attorney prosecuting the May 28, 2021 case knew of the incident, and the probation officer, who had been communicating with the student and his family nearly daily for over a month, knew of the incident.

Not a single person with knowledge of the student's history or of this current action stepped in to do anything. Instead, discipline was left to the BRHS principal, who did nothing more than issue him a verbal reprimand.

<u>The October 6 BRHS Incident</u>

On October 5, 2021, the assailant sent a cryptic message to a female BRHS student on her school computer. The cryptic message was not seen until two days later. Shortly after the cryptic message was sent, the assailant followed the female student and her friend in the hallway. The girls began running down the hallway away from the assailant and into a female restroom to get away from him. The assailant sat outside the restroom waiting for them. The girls eventually exited the restroom and ran in the other direction from where the assailant was sitting.

The following day, after math class, the assailant asked the female student to walk him to his next class, which she did. Along the way, he stopped outside a different classroom and peered in to find it unoccupied. Video shows the assailant waited for a group of other students to walk by, then put his arm around the female student's neck, abducted her into the classroom, and closed the door. Once inside the classroom, the assailant put a choke hold on the female student to the point where she could not breathe, and then sexually assaulted her.

Upon leaving the classroom, the female student went to the restroom where she met a friend and told her what had happened. The girls left the restroom and saw the BRHS principal in a nearly empty hallway where he was working from a mobile standing desk. Instead of telling him what had just

happened, they adjusted their masks above their noses and kept walking. They subsequently went to the main office where they reported the incident to the BRHS SRO.

Later that day juvenile intake issued a detention order and two petitions for abduction and sexual battery. It is unclear why the more serious charge of abduction with the intent to defile was not considered. The assailant was taken into custody that afternoon, where he has remained ever since.

The victim had spent her freshman year of high school remotely, so the 2021-2022 school year was her first real experience with high school. Just more than a month into school, as the victim's father testified, a sexual assault upended her life and the lives of her family, had a financial impact, and created untold stress for "an event that will affect her mental well-being and stay with her for a lifetime."

Though the BRHS principal testified he "care[s] very much" about the victim, he also acknowledged that he has never spoken to her about the incident, and the father testified he "would have expected probably more interaction" from the principal. Later, in a call with the director of school administration, the BRHS principal said simply "this placement didn't work, obviously yeah, so . . ."

The Fallout

On October 7, 2021, the director of safety and security at LCPS emailed the chief of staff at 9:28am saying "per our convo, [a student] was arrested yesterday at Broad Run HS and charged with abduction and sexual assault. Student allegedly forced a female student into a room and assaulted her." The chief of staff forwarded this email to the superintendent at 10:00am (attachment 14) saying "Title IX out of Broad Run . . . I'll brief you later." At 10:35am the chief of staff sent an email to the entire school board (attachment 15), copying the superintendent, deputy superintendent, and director of communications, writing:

> Good morning Board Members,
>
> Please draw your attention to the email below . . . I have been advised the LCSO may be planning a press release today regarding this incident. We will keep you informed as additional information becomes available.

The director of communications responded to that email later that afternoon with a statement from the LCSO and a statement from the BRHS principal. Nothing in any of the emails indicate the assailant was the same individual who committed the SBHS sexual assaults on May 28, 2021.

On October 8, 2021, Luke Rosiak from the *Daily Wire* emailed the public information officer for LCPS about the October 7 LCSO statement. Rosiak wrote:

> I am prepared to report that this student is the same student who was criminally charged after a similar alleged assault in a girls bathroom at Stone Ridge [sic] HS on March 28.
>
> Why was the student still permitted to be in LCPS, and why was he moved from Stone Bridge to Broad Run? Has Stone Bridge ever reported the May alleged sexual assault in any statistics or made anyone aware of it? In a school-wide email sent by [the SBHS principal] that day (May 28), he appears to instead present the alleged victim's father as a threat, while concealing the underlying incident...

> While I understand and respect the need for privacy around certain details, there are major public safety and policy issues raised by this, and significant public interest. If you contend that any of the facts as laid out are erroneous, I will need you to provide me supporting evidence as soon as possible today.

The public information officer forwarded the email to the director of communications, director of high school education, chief of schools, and deputy superintendent. The director of communications responded to the public information officer (attachment 16) saying "FYI, I have worked w [division counsel] and will handle. No further action. Enjoy your day." She followed up minutes later to the group email stating "Team, TAKE NO ACTION. I have got this. Thanks." We do not have any evidence that she, or any other LCPS employee, informed anybody on the school board of the impending article.

Three days later, on October 11, 2021, the *Daily Wire* published an article stating that the SBHS assailant and BRHS assailant was the same individual.

Each school board member we asked stated they first learned about this connection from press reports, and not from any LCPS employee. Their reactions, irrespective of political ideology, were universally negative. School board members were "angry," "blindsided," expressed "disgust" at the situation, and said "it's horrific, absolutely." One member asked "why are we left out" and "why were we not made aware as soon as the second one happened?" One board member emailed the superintendent saying "we urgently need some background here. Please give us a high level summary via email."

On October 12, the school board held a closed session where the superintendent and division counsel provided an update on the situation. Following the closed session was a heated period of public comment, with much anger and ire directed at the board with many calls for resignations. While we understand the public's confusion, frustration, and anger at that time, we have seen no evidence the school board, as a body or by any of its individual members, knew anything about any of these events outside of the May 28, 2021 email the superintendent sent about the SBHS sexual assault.

The following day, October 13, LCPS put out a public statement trying to tamp down public anger. That statement defended LCPS' actions and said "LCPS is prohibited from disciplining any student without following the Title IX grievance process . . . LCPS has complied and continues to comply with its obligations under Title IX." Nowhere did the statement express any grief or remorse towards the victims of either of the sexual assaults.

On October 15 the superintendent held a press conference outside the school administration building. He read a prepared statement and did not take any questions. The statement, written with input from Donovan Group (attachment 17), a "school district communication, marketing, and public relations firm," contained numerous, critical inaccuracies:

- The superintendent stated "throughout these events, the Loudoun County Public Schools has complied with our obligations under Title IX." Multiple witnesses with Title IX expertise testified this was not true.

- The superintendent also stated a "lack of oversight that existed prior to my tenure also contributed to errors in our state reporting regarding disciplinary incidents in the school." Multiple witnesses testified the error in reporting – where LCPS did not include the May 28, 2021 SBHS sexual assault in its discipline, crime, and violence report to the Virginia Department of Education (VDOE), a fact they just learned on October 14 via email from a VDOE employee – occurred under this superintendent's tenure, and not a prior tenure.

- The superintendent also stated "Board Member Barts asked a question about discipline incidents in bathrooms that I wrongly interpreted as incidents involving transgender and gender fluid students. I did this because I was viewing the question in light of the general questions and debate the Board was participating in around Policy 8040." As we write earlier in this report, the superintendent knew mere hours after the May 28, 2021 sexual assault took place that it related to policy 8040, yet never relayed that fact to the school board, in public or in private.

On October 21, LCPS released another statement regarding the May 28, 2021 email from the superintendent to the school board. This was the first time the public learned the school board or the superintendent had any awareness of any of the events as they were occurring. This statement was released to provide "good context" because the May 28, 2021 email was being released not voluntarily by LCPS but pursuant to the Virginia Freedom of Information Act (attachment 18).

In late October 2021 the school board agreed to commission an investigation into the events surrounding the SBHS and BRHS sexual assaults. This was not publicly announced, however, until over a week later, on November 5. In a statement, the superintendent said LCPS has hired a law firm "to conduct an independent review of these incidents. Please know that this independent review is only one step in moving forward to help heal our school community. We will keep you up-to-date about the steps we take and the progress we make."

Although the statement did not state the independent review would be released publicly, many witnesses, including several board members and senior LCPS administrators, testified they assumed the report would be made public, albeit with necessary redactions to protect privacy interests. One school board member acknowledged "as a parent I would have wanted to read the report." Many board members were surprised to learn the report was subject to the attorney-client privilege. Based on the testimony presented to us, we believe the school board members were unaware this report would not be made public at the time they agreed to conduct the outside investigation.

Several board members testified they were given only half an hour to read the independent review and ask questions about it. Despite having asked for the review in the first place, they were handed out numbered copies of it and required to return it upon leaving the room. On January 14, 2022, LCSB issued a public statement stating the report would not be released, listing the attorney-client privilege as the third, and least-important, reason for keeping it private. The statement also noted several changes and updates to LCPS policies and procedures.

We are concerned at the lack of interest by senior LCPS officials regarding the contents of the report. Several changes were apparently implemented due to the independent review, yet no senior LCPS official when testifying questioned why any of these changes were taking place or whether they were even necessary. Few, if any, senior LCPS officials had any interest in what the independent review concluded. Notably the deputy superintendent, who oversees student discipline and student instruction, testified she had no interest in reading it. We attribute this lack of curiosity and attachment to staying in their silos to a culture of fear permeating LCPS – a culture where anybody speaking up or daring to step out of place faces some type of reprimand. We believe this culture of fear is inhibiting LCPS from becoming an even better school system than it is today.

Title IX

Title IX is a complicated federal law that few people, if any, fully understand. We believe LCPS was severely delinquent with its Title IX responsibilities in 2021 and, due to Title IX's complexity and the

public's lack of familiarity with its nuances, has used Title IX as a shield to fend off criticism for its lack of action regarding the SBHS sexual assault.

In several public statements since the October 6, 2021 BRHS sexual assault, especially in the immediate aftermath, LCPS, LCSB, and representatives of those entities have been steadfast in stating LCPS complied with its obligations under Title IX. Even a cursory review of documents and testimony, however, reveals those statements are far from the truth. Behind the scenes, the LCPS Title IX procedures were essentially non-existent, the staff was inexperienced, senior officials squabbled, and the superintendent was aware of all of it. One witness summed it up best, testifying "we did not have a process in place."

After the May 28, 2021 SBHS sexual assault, LCPS made little effort to begin a Title IX investigation for months. In fact, the Title IX investigation did not begin until October 19, 2021 – an indefensible delay of nearly five months. LCPS officials claimed this was because they were not permitted to begin their investigation until law enforcement had concluded theirs. However, no LCPS witness who testified was able to identify a single law, statute, policy, or agreement that prohibited LCPS from conducting a Title IX investigation until law enforcement had finished their investigation.

The LCPS Title IX coordinator in 2021 served concurrently as the chief of staff, and he reported directly to the superintendent, who was the previous Title IX coordinator. The chief of staff repeatedly testified he needed the charges from law enforcement to move forward with a Title IX investigation, because until he had that information it was just an "allegation of an attempted sexual assault," which was not enough for him to begin an investigation.

The director of school administration disagreed with this assessment and had conversations with the chief of staff about it in July and August 2021. The director, even though his office was not supposed to be doing Title IX, also created a Google document of possible Title IX violations reported from schools because he was "worried at the time that we were not reporting some things that could become Title IX."

In a series of emails in August 2021 (attachment 19) the director repeatedly told the chief of staff LCPS needed to begin an investigation into the SBHS sexual assault. Not making any progress with the chief of staff regarding the SBHS sexual assault, the director of school administration took his frustration straight to the superintendent. Shortly before the 2021-2022 school year began the director spoke with the superintendent about the situation. The director testified the superintendent "alpha dogged [him] down. Meaning, the big dog spoke, so you back down a little bit. You understand what they're doing."

On September 17, 2021, the director of school administration testified he emailed the superintendent, chief of staff, deputy superintendent, and chief of schools, about the situation. He testified the email laid out his extensive training, experts he had met with, and the fact the SBHS assault should have "immediately" and "automatically" triggered an investigation. It is unknown how the superintendent or these officials responded – LCPS refused to provide us this email – but it was not until a month later, and after the BRHS sexual assault, that a Title IX investigation into the SBHS sexual assault was opened. The individual who ultimately conducted that investigation testified it was the first Title IX investigation she had ever done.

The chief of staff testified he could not begin a Title IX investigation until he learned the official charges from law enforcement, and that until that point it was just a school-related discipline matter. This contrasts sharply with LCPS' public statements stating that LCPS is "prohibited" from disciplining students until the Title IX grievance process was followed. Either way, no school discipline took place following the SBHS assault, thus allowing the student to transfer to BRHS after his confinement over the summer. Multiple witnesses testified the chief of staff was fired due to his lack of action regarding Title IX during this period.

It is important to point out the lack of cooperation between LCPS and LCSO was an underlying issue throughout summer 2021. This unquestionably contributed to LCPS' delinquency in opening the Title IX investigation into the SBHS sexual assault. Though the charging of the SBHS assailant in early July should have been enough for the chief of staff, under his interpretation, to launch a Title IX investigation, LCSO refused to provide the actual charges to LCPS. Juvenile intake, though, had already informed LCPS of the charges through the procedure they had in place, described above, so LCPS should have known what the charges were. LCPS, however, never received this notification due to the outdated notification process they had with juvenile intake.

On August 3, 2021 the director of school administration sent an email to the LCSO and other LCPS officials stating:

> Can you get together to establish procedures for alleged Sexual Assaults that occur under a school's jurisdiction? We have learned that we have extensive Title IX Federal Regulations that are required in cases involving student or staff when it comes to reports of sexual harassment or sexual assault. Federal Regulations require to start our Title IX process immediately. Can we get together to establish steps so we are in compliance with Federal Law while law enforcement engages in their investigation?

Meetings followed on August 17 and September 29, and though the two parties cooperated regarding the October 6 BRHS sexual assault, LCSO still refused to provide information to LCPS regarding the May 28 SBHS sexual assault. On October 14, amid national scrutiny on LCPS, the chief of staff provided the superintendent an update on these discussions (attachment 20).

Several witnesses testified the sheriff and superintendent are not on speaking terms and tension exists between the leadership of LCPS and LCSO. The citizens of Loudoun County deserve better than two high-profile individuals publicly squabbling and refusing to put aside any petty differences. Ultimately, the sheriff and superintendent need to put aside any disagreements they may have and recognize the important relationship between their offices. The safety of the students and the community require it.

Lack of Cooperation by LCPS

The special grand jury highlights the lack of cooperation from LCPS and the majority of LCSB members throughout the investigation. We expected these public servants to provide clarity, transparency, and a willingness to report truthfully to their constituents. Instead, we were met with obfuscation, deflection, and obvious legal strategies designed to frustrate the special grand jury's work.

On April 7, 2022, the first act of the special grand jury was to authorize subpoenas for the superintendent and chairman of the school board. Though LCPS declared in an April 13 statement its "inten[t] to cooperate with the lawful requests of the special grand jury," we experienced a much different posture behind closed doors.

From the outset the LCSB put up roadblocks to obstruct our investigation. On April 14, the chairman and the superintendent – both represented by the same attorney – submitted a motion to quash the subpoenas claiming, among other reasons, they were invalid on their face and the Office of the Attorney General was exceeding its authority. The court rejected both arguments.

Six days later, on April 20, an elementary school principal – represented by the same attorney – filed a motion to quash a testimonial subpoena using the same arguments. The court again rejected these arguments.

On April 22, the same attorney filed another motion to quash testimonial subpoenas on behalf of three teachers at SBHS using, again, the same arguments. The court again rejected these arguments.

In this instance, however, one of the teachers was explicitly not represented by the attorney, even though he claimed to the court in a filing that he did represent her and was advocating on her behalf. The teacher said she felt pressured by the attorney into representing her, that the attorney told her not to provide the special grand jury with anything, and that the attorney tried to "shut [her] up" because "this won't look well for the schools."

She also said she had received an email from her principal – the first one she had ever received from him – asking her to call the division counsel for LCPS, whom she characterized as "alarmed" and "distraught."

On May 20, LCSB filed a complaint in civil court seeking an injunction against the special grand jury. The complaint recycled most of the same arguments previously rejected by the court, but due to the sealed nature of the rulings, the public was unaware these arguments had already been rejected. Similar to the motions to quash, the court denied the motion for injunctive relief.

In June, the special grand jury issued subpoenas to two school board members to testify. True to form, LCSB's counsel filed a motion to quash the subpoenas. On the date of their testimony, the two school board members did not show up. The court gave them two hours to arrive at the courthouse otherwise the court would issue a capias warrant for their arrest. The board members subsequently arrived at the courthouse in a timely manner. One of the board members testified "it was based on my counsel's advice not to show up. Otherwise, I would have been here."

Throughout the investigation, we felt LCSB's counsel was obstructionist during witness testimony. Va. Code § 19.2-209 allows for the presence of a counsel for special grand jury witnesses and states that "[s]uch counsel shall have the right to consult with and advise the witness during his examination, but shall not have the right to conduct an examination of the witness." LCSB's counsel consistently and repeatedly interrupted answers of his own witnesses when he felt certain information was about to be revealed. LCSB's counsel consistently and repeatedly objected to questions that would elicit information about a meeting or conversation that occurred when LCSB division counsel was present – regardless of whether that meeting or conversation had anything to do with soliciting legal advice, or if division counsel was even a party to the meeting or conversation. Division counsel's mere

silent presence in a crowded room was enough for LCSB's lawyer to claim the attorney-client privilege and instruct the witnesses not to answer the question. As the investigation continued, LCSB's counsel objected to certain questions even though he had allowed previous witnesses to answered the exact same question. LCSB's counsel also inappropriately used hand signals and other methods to communicate with witnesses while they were testifying.

We believe LCPS division counsel was trying to control the flow of information to the special grand jury by using his position as division counsel to exert control and influence over all LCPS and LCSB individuals subpoenaed to testify. We also received testimony from one school board member that division counsel "blew a gasket" when the school board member informed him that he did not need a lawyer, let alone a lawyer of division counsel's choosing.

We received the May 28, 2021, email from the LCPS chief operating officer regarding policy 8040 and the SBHS incident in early September, even though it should have been produced months earlier in response to the April 7 subpoena to the superintendent. Instead, this email was produced pursuant to a document subpoena to a different LCPS administrator, who had their own lawyer, and not the preferred lawyer of LCPS division counsel.

Division counsel soon learned that we had this email. Multiple school board members testified that division counsel had alerted them to this specific email once they realized we had received it. The school board members also testified that division counsel had not previously shared with them other documents produced to the special grand jury; in other words, this was a unique case. Several school board members then testified to the exact same story: the chief operating officer said the incident at SBHS had to do with policy 8040 because the father of the victim who showed up at the school that day was shouting about policy 8040.

There is absolutely no evidence the father said anything about policy 8040 that day, or that he even knew what policy 8040 was on that day. No school board member could provide any evidence that what they claimed happened had in fact happened – even though they all parroted the same story. Interestingly, multiple school board members also corrected special counsel to the special grand jury when asked about the individual wearing a skirt in the female bathroom that day; these board members were quick to claim he was instead wearing a kilt.

We strongly believe these stories coming from the board members is an effort by division counsel to get everybody on the same page to thwart, discredit, and push back against this investigation and this report, and to promote their own narrative. Of course, their narrative is completely undermined and contradicted by the sworn testimony of the chief operating officer, cited above, who wrote the email regarding SBHS and policy 8040. Since the chief operating officer appeared with his own lawyer, neither LCPS division counsel nor LCSB's lawyer was privy to his testimony.

Unlike federal law, no Virginia statute explicitly addresses witness tampering, and the Virginia obstruction of justice statute does not cover this fact pattern. For those reasons, we were unable to consider an indictment against the LCPS division counsel.

Recommendations

We are including the following recommendations resulting from our investigation; they are in no particular order.

Recommendation 1

To increase transparency and foster better communication, LCPS should include as much information as reasonably possible when informing parents, staff, students, and the community about significant incidents occurring on school property, on a school bus, or at a school-sponsored event.

Rationale and Discussion:

It was apparent to us that LCPS deliberately omitted any information about the May 28, 2021 sexual assault at SBHS in the principal's email sent out that day. That information could have been included without disclosing any information about individuals involved. Instead, critical information was purposefully omitted. That May 28 email is emblematic of a consistent lack of transparency on the part of LCPS.

Recommendation 2

LCPS should take steps to re-examine its transfer process. A formalized protocol needs to be established requiring more vigorous cooperation and communication between, not only the two principals involved, but also, LCPS administration, assistant principals, faculty, SROs, and when relevant, the commonwealth's attorney's office, juvenile court authorities, and the LCSO.

Rationale and Discussion:

As our investigation revealed, the SBHS assailant's transfer to BRHS occurred in a last-minute, haphazard manner. As late as August 25, 2021, the eve of the new school year, and much to the consternation of the court services unit, LCPS administrators had not resolved the transfer issue. This led the student's probation officer to inform the student's mother "If we hear nothing, I am afraid [your student] has no plan for tomorrow and he will need to remain home." Once the transfer to BRHS was completed, however, critical information about the transfer student's circumstances was withheld from the assistant principal and necessary faculty. Throughout our investigation it was evident that a misguided and way-too-expansive definition of student confidentiality hampered the communication, cooperation, and coordination necessary to provide a safe and secure environment for students, faculty, and staff.

Recommendation 3

The LCPS director of safety and security needs to be more involved in situations that threaten the safety and security of students, faculty, and staff.

Rationale and Discussion:

According to the LCPS website, the stated mission of the safety and security division is "to provide a safe and secure educational environment for all students, staff, and external stakeholders. This is accomplished through the execution of a comprehensive and integrated security plan that constantly evolves to address the ever changing threat landscape." Yet on the afternoon of May 28, 2021, the director of safety and security was mainly concerned with the fact that a disruptive parent was in the front office of SBHS – not that a student had been sexually assaulted or that the assailant was at-large in the school. His testimony further revealed that he never even asked what caused the parent's disruptive behavior, nor did he make any inquiries about the sexual assault victim or the alleged

perpetrator. The director of safety and security also was never informed about, and played no role in, the transfer of the SBHS assailant to BRHS, notwithstanding the fact that the student was awaiting trial on two counts of forcible sodomy, was ordered to wear an ankle monitor, had been assigned a pre-trial release officer and had a twelve-page disciplinary file.

Recommendation 4

LCSB should tighten policies regarding the types of apps available to students to download on their school-issued devices and should review how Gaggle alerts administrators and law enforcement about possible threats to students, faculty, and staff.

Rationale and Discussion:

LCPS provides Chromebooks to each high school student. These are used in class for educational purposes. Students also use these LCPS-issued Chromebooks for elicit purposes – that is how the two students met in the SBHS bathroom on May 28, 2021. LCPS uses Gaggle, a "proactive digital safety tool for K-12 school districts," to monitor student conversation for student safety, threats, and suicide. Students have downloaded communication apps on their Chromebooks, however, to evade monitoring and frequently use inappropriate language to communicate during class and while at school (attachment 21). LCPS needs to impose stricter policies and prohibitions for student downloads and student communication on their Chromebooks for non-educational-related purposes, and ensure any inappropriate content is immediately reported to school authorities.

Recommendation 5

The elected members of the LCSB should limit the degree to which legitimate matters and information of public concern are shielded from the public under the cloak of the attorney-client privilege.

Rationale and Discussion:

Every LCSB member, except one, was accompanied by the same attorney provided to them by LCSB – the same attorney that also represented the LCSB as an entity. At the direction of that attorney, they were instructed not to answer many questions due to the attorney-client privilege. We appreciate and understand the necessity of the privilege to keep confidential certain communications between client and attorney. However, unlike corporate executives of a company, school board members act on behalf of the public they are elected to serve. School board members seem to labor under the belief that every discussion that takes place in the presence of division counsel, whether or not division counsel is even involved in the discussion, is subject to the attorney-client privilege, whether or not the communication is seeking legal advice or not, and whether or not circumstances of the discussion should even appropriately be considered confidential. The attorney-client privilege should be invoked when required to protect legitimate issues of confidentiality that impact the operations of LCPS and the LCSB. It should not be used as a shield that impedes transparency, accountability, and openness, especially when it comes to the operations of a public body.

Recommendation 6

Communication, cooperation, and coordination across agencies must be improved when addressing issues of criminal conduct by students, faculty, and staff.

Rationale and Discussion:

In our examination of the circumstances that led to the two sexual assaults by the same student at two different Loudoun County high schools, we were struck by the lack of communication among LCPS, LCSO, the court services unit and the commonwealth's attorney's office. In compliance with state law and LCSB policy 8290 (threat assessment for the protection of schools), a July 2021 memorandum of understanding (MOU) between LCSB and LSCO sets out the procedures for establishing a threat assessment team for each school. According to LCSB's own policy, the purpose of such a team is "for the assessment of and intervention with individuals whose behavior may pose a threat to the safety of school staff or students." Despite the existence of the MOU no threat assessment of the student was ever contemplated, let alone undertaken, by either SBHS or BRHS. Additionally, there appears to be little appetite among these entities for sharing critical information when a student, faculty or staff member is accused of a crime. All too often it appears an overly broad definition of confidentiality trumps the sharing of important information necessary to protect the safety and security of the school community.

Recommendation 7

Strengthen avenues of support and advocacy for faculty and staff confronted with challenging scenarios that could pose a danger and/or impede learning.

Rationale and Discussion:

The May 12, 2021, email from a teaching assistant to her supervisor concerning the conduct of a student in her home room should have been taken more seriously by school authorities. Despite her evident concern about the student's behavior, no one in a position of authority ever spoke to the teaching assistant nor discussed with her the circumstances that caused her to write the email. Similarly, the concerns of two Rosa Lee Carter Elementary School special education teachers were met with suggestions to use a piece of cardboard or wear an apron to prevent a student from repeatedly grabbing their groin area.

Recommendation 8

The superintendent's recommendation for the non-renewal of a teacher's contract should be the subject of a separate agenda item and not placed on the LCSB consent agenda.

Rationale and Discussion:

The LCSB routinely approves items on the consent agenda, including the non-renewal of a teacher's contract. According to testimony of one of its members, "[i]t's fair to say we would usually rubber stamp a consent agenda because it's not considered controversial." The decision to terminate someone's employment is a consequential matter. The superintendent's decision to do so should be more closely scrutinized by LCSB.

Conclusion

Although LCPS has taken positive steps forward resulting from the sexual assaults last year, such as increasing resources for Title IX compliance and updating policy 8220 (student disciplinary consequences), throughout this investigation we have learned LCPS as an organization tends to avoid managing difficult situations by not addressing them fully. Whether intended or not, this practice conveys to the public a sense of apathy. This has not served them or our community well, and the culture needs to change. Stronger leadership would address problems head-on instead of letting them snowball. As nine members of this community, we are certain the public would reward such leadership.

The above report is the final report of the special grand jury and reflects true and accurate testimony and evidence.

Kenneth P. Atkinson
Foreperson

02 Dec 2022
Date

Attachment 1

Timothy Flynn

From: [redacted]
Sent: Friday, May 28, 2021 2:29 PM
To: Heidi Hayes; Calvin Adams; Timothy Flynn
Subject: Fw: [redacted]

Regarding today's incident.

[redacted]

From: [redacted]
Sent: Wednesday, May 12, 2021 2:54 PM
To: [redacted]@lcps.org>; [redacted]@lcps.org>
Subject: [redacted]

Good afternoon!

Even though he started the year very well, and though he gets along with his peers [redacted] seems to have a problem with listening and keeping his hands to himself. He has come into class more than once with his arm around a girls' neck. I have caught him sitting on other girls' laps several times. There doesn't need to be a global pandemic to say that this is unacceptable! His refusal and disregard to me and my assistant has us at our wits end. I understand that the school year is quickly ending, and that students and staff alike are counting down the days but if this kind of reckless behavior persists, I wouldn't want to be held accountable if someone should get hurt.

Thanks in advance.

[redacted]

Attachment 2

Bro I'm so bored

[redacted] Today at 11:45 AM

We could call a pass and-

Have some "fun"

[redacted] Today at 11:47 AM

Maybe

[redacted] Today at 11:48 AM

Maybe

[redacted] Today at 11:48 AM

Where doe

[redacted] Today at 11:49 AM

Hmmm

[redacted] Okay

[redacted] [redacted] Today at 11:54 AM

Here I'll meet u but I'm not promises anything

Wait for me

[redacted] [redacted] Today at 11:55 AM

I'll wait for you to get there first

[redacted] [redacted] Today at 11:55 AM

Can I get there from the science stairs?

[redacted] [redacted] Today at 11:55 AM

Yes

You can

[redacted] [redacted] Today at 11:56 AM

The bathroom next to L515?

Or other ones

[redacted] [redacted] Today at 11:56 AM

Maybe?

[redacted] [redacted] Today at 11:56 AM

Here come down

[redacted]

Yes

You can

[redacted] Today at [redacted] AM

The bathroom next to L515?

Or other ones

[redacted] Today at [redacted] AM

Maybe?

[redacted] Today at [redacted] AM

Here come down

[redacted] Today at [redacted] AM

kk

Be there in a bit

Which bathroom though?

[redacted] Today at [redacted] AM

So go down the science stairs

And I'm in the one right next

I have until like 12:15

[redacted]

Attachment 3

From: Nereida Gonzalez-Sales
To: Timothy Flynn; Kirk Dolson
Subject: RE: Student Allegation: Current Event
Date: Friday, May 28, 2021 1:39:01 PM

Tim,
Thank you for the information.
Neri

Nereida Gonzalez-Sales, M.S., C.A.S.
Director of High School Education
Loudoun County Public Schools
21000 Education Court
Ashburn, Virginia 20148
571-252-1160

From: Timothy Flynn <Timothy.Flynn@lcps.org>
Sent: Friday, May 28, 2021 1:28 PM
To: Nereida Gonzalez-Sales <Nereida.Gonzalez-Sales@lcps.org>; Kirk Dolson <Kirk.Dolson@lcps.org>
Subject: Student Allegation: Current Event

Neri and Kirk,

I have a female student who alleges another student attempted to rape her in the bathroom today. We are sending this to law enforcement. The girl is currently with the nurse. We will address this by the numbers.

This is the same student who was transferred here from THS for a similar allegation.

Thank you,
tim

Timothy J. Flynn, Principal
Stone Bridge High School
43100 Hay Road
Ashburn, VA 20147

571-252-2200

Attachment 4

5/28/21

Stone Bridge H.S.

- Female alleging anally penetrated her + oral sex
- Police handling
- Father of girl took situation to new level
- Father in main office acting inappropriately
- Officer called back in.
- Staff + Students were scared
- By 3:30 dad needs to be gone.
  - No trespass letter
- girl arranged to have sex in bathroom
- Police handling it
- Boy took off – mom has been informed he's missing

ELLIS-SDT0303

Attachment 5

To: Nereida Gonzalez-Sales; Douglas Fulton; Kirk Dolson
Cc: John Clark
Subject: Todays Incident Update
Date: Friday, May 28, 2021 3:09:22 PM

All,

While the Officer was investigating the alleged sexual assault, the Father showed up and created a second incident. He is out of the building now but this was quite a show that scared and intimidated students and staff. I believe we are going to need to do a no trespass letter for the father. He probably should have been arrested. We did avoid that.

We had to call for additional Police.

Thank you,
tim

Timothy J. Flynn, Principal
Stone Bridge High School
43100 Hay Road
Ashburn, VA 20147

571-252-2200

Attachment 6

From: Kevin Lewis
To: Asia Jones; Ashley Ellis; Joan Sahlgren; Mark Smith; Scott Ziegler
Date: Friday, May 28, 2021 3:30:38 PM

The incident at SBHS is related to policy 8040. I will send a Teams appointment from 3:30 to 5 and will log in now and offer an update if you want to log in between now and then

Attachment 7

From: Kevin Lewis
To: John Lody; Timothy Flynn; Clark Bowers; Kevin Lewis; Ashley Ellis; Scott Ziegler; Joan Sahlgren
Subject: Meeting (ScheduledMeeting)/Thread Id: 19:meeting_NGFmYjJhYTYtMDRlMy00MjBmLTk3M2QtNDQ3ODU1ODAyZWMw@thread.v2/Communication Id: 3ba0cb91-54dd-47c5-b15a-a11a2983f995/John Lody,Timothy Flynn,Clark Bowers,Kevin Lewis,Ashley Ellis,Scott Ziegler,Joan Sahlgren
Date: Saturday, May 29, 2021 12:09:04 AM

Start Time (UTC): 5/28/2021 7:31:18 PM
End Time (UTC): 5/28/2021 8:01:00 PM
Duration: 00:29:41.6449103

[5/28/2021 7:33:53 PM (UTC)] John.Lody@lcps.org joined.
[5/28/2021 7:33:53 PM (UTC)] John.Lody@lcps.org left.
[5/28/2021 7:40:08 PM (UTC)] Timothy.Flynn@lcps.org joined.
[5/28/2021 7:56:02 PM (UTC)] Timothy.Flynn@lcps.org left.
[5/28/2021 7:33:55 PM (UTC)] Clark.Bowers@lcps.org joined.
[5/28/2021 7:56:50 PM (UTC)] Clark.Bowers@lcps.org left.
[5/28/2021 7:31:27 PM (UTC)] Kevin.Lewis@lcps.org joined.
[5/28/2021 7:57:06 PM (UTC)] Kevin.Lewis@lcps.org left.
[5/28/2021 7:31:28 PM (UTC)] Ashley.Ellis@lcps.org joined.
[5/28/2021 8:00:58 PM (UTC)] Ashley.Ellis@lcps.org left.
[5/28/2021 7:31:18 PM (UTC)] Scott.Ziegler@lcps.org joined.
[5/28/2021 8:01:00 PM (UTC)] Scott.Ziegler@lcps.org left.
[5/28/2021 7:32:16 PM (UTC)] Joan.Sahlgren@lcps.org joined.
[5/28/2021 7:56:23 PM (UTC)] Joan.Sahlgren@lcps.org left.

Attachment 8

From: Scott Ziegler
To: School Board Confidential
Cc: Ashley Ellis; Timothy Flynn; Kevin Lewis; Joan Sahlgren
Subject: CONFIDENTIAL School Incident
Date: Friday, May 28, 2021 4:10:03 PM

Good Afternoon, Board Members,

The purpose of this email is to provide you with information regarding an incident that occurred at Stone Bridge HS. This afternoon a female student alleged that a male student sexually assaulted her in the restroom. The LCSO is investigating the matter. Secondary to the assault investigation, the female student's parent responded to the school and caused a disruption by using threatening and profane language that was overheard by staff and students. Additional law enforcement units responded to the school to assist with the parent.

The school's counseling team is providing services for students who witnessed the parent's behavior. The alleged victim is being tended to by LCSO.

As LCSO is investigating both incidents, further updates may not be available.

Scott A. Ziegler, Ed.D.
Interim Superintendent of Schools
Loudoun County Public Schools
21000 Education Court
Ashburn, VA 20148
Scott.Ziegler@lcps.org

Attachment 9

[redacted]

---------- Forwarded message ---------
From: **Timothy Flynn** <Timothy.Flynn@lcps.org>
Date: Fri, May 28, 2021 at 4:46 PM
Subject: Incident at Stone Bride Today
To: Stone Bridge High School Recipients <recipients@loudoun.parentlink.net>

Good evening Stone Bridge families this is Stone Bridge Principal Tim Flynn. There was an incident in the main office area today that required the Loudoun County Sheriff's Office to dispatch deputies to Stone Bridge. The incident was confined to the main office and the entrance area to the school. There was no threat to the safety of the student body. The incident was witnessed by a small number of students who were meeting with staff adjacent to the main office. Counseling services and the services of our Unified Mental Health Team are available for any student who may need to talk about today's incident.

Students might have noticed Sheriff's Office personnel on campus and I wanted to let you know that something out of the ordinary happened at school today.

The safety of our students and staff is the top priority of Loudoun County Public Schools. If you have any concerns, you may contact me at Timothy.Flynn@lcps.org.

You are receiving this email because of your relationship with Stone Bridge High School. If you wish to stop receiving email updates sent through the Blackboard service please unsubscribe
Stone Bridge High School 43100 Hay Road, Ashburn, VA 20147 571-252-2200

Attachment 10

From: Scott Ziegler
To: Joan Sahlgren; Ashley Ellis; Nereida Gonzalez-Sales; Wayde Byard
Date: Friday, May 28, 2021 4:26:28 PM

Do we need to add something like - the incident was overheard by a small number of students who were meeting with staff in offices adjecent to the main office. Counseling services are available for any student who may be upset by what they heard today.

From: Scott Ziegler
To: Joan Sahlgren; Ashley Ellis; Nereida Gonzalez-Sales; Wayde Byard
Date: Friday, May 28, 2021 4:34:40 PM

Looks good. Everyone have a great weekend.

From: Nereida Gonzalez-Sales
To: Timothy Flynn; Wayde Byard
Cc: Joan Sahlgren
Subject: RE: Message for Today
Date: Friday, May 28, 2021 4:49:10 PM

Tim,
Thank you for your leadership today.

Sincerely,
Neri

Nereida Gonzalez-Sales, M.S., C.A.S.
Director of High School Education
Loudoun County Public Schools
21000 Education Court
Ashburn, Virginia 20148
571-252-1160

From: Timothy Flynn <Timothy.Flynn@lcps.org>
Sent: Friday, May 28, 2021 4:48 PM
To: Wayde Byard <Wayde.Byard@lcps.org>
Cc: Nereida Gonzalez-Sales <Nereida.Gonzalez-Sales@lcps.org>; Joan Sahlgren <Joan.Sahlgren@lcps.org>
Subject: RE: Message for Today

All,

The message by both phone and email has been sent to the community.

Thank you,
tim

From: Wayde Byard <Wayde.Byard@lcps.org>
Sent: Friday, May 28, 2021 4:36 PM
To: Timothy Flynn <Timothy.Flynn@lcps.org>
Cc: Nereida Gonzalez-Sales <Nereida.Gonzalez-Sales@lcps.org>; Joan Sahlgren <Joan.Sahlgren@lcps.org>
Subject: Message for Today

Subject Line: Incident at Stone Bridge Today

Body Text: This is Stone Bridge Principal Tim Flynn. There was an incident in the main office area today that required the Loudoun County Sheriff's Office to dispatch deputies to Stone Bridge. The

incident was confined to the main office and the entrance area to the school. There was no threat to the safety of the student body. The incident was witnessed by a small number of students who were meeting with staff adjacent to the main office. Counseling services and the services of our Unified Mental Health Team are available for any student who may need to talk about today's incident.

Students might have noticed Sheriff's Office personnel on campus and I wanted to let you know that something out of the ordinary happened at school today.

The safety of our students and staff is the top priority of Loudoun County Public Schools. If you have any concerns, you may contact me at Timothy.Flynn@lcps.org.

Wayde B. Byard
Public Information Officer
Loudoun County Public Schools
21000 Education Court
Ashburn, VA 20148
571-252-1040
Wayde.Byard@lcps.org

Attachment 11

From: Scott Ziegler
To: Beth Barts
Cc: Brenda Sheridan
Subject: RE: ?
Date: Monday, June 28, 2021 6:04:52 PM

Good afternoon,

This matter is under investigation by law enforcement, and I am unable to provide an update.

Scott Ziegler

From: Beth Barts <Beth.Barts@lcps.org>
Sent: Sunday, June 27, 2021 11:51 AM
To: Scott Ziegler <Scott.Ziegler@lcps.org>
Cc: Brenda Sheridan <Brenda.Sheridan@lcps.org>
Subject: ?

Good morning,

This family lives in my district. At the meeting the father was arrested. Per news articles "Scott Smith of Leesburg". Their daughter uses special permission to attend Stone Bridge instead of Tuscarora.

Can you update the board on these allegations and the investigation? I understand it would be confidential.

Thank you.

Beth

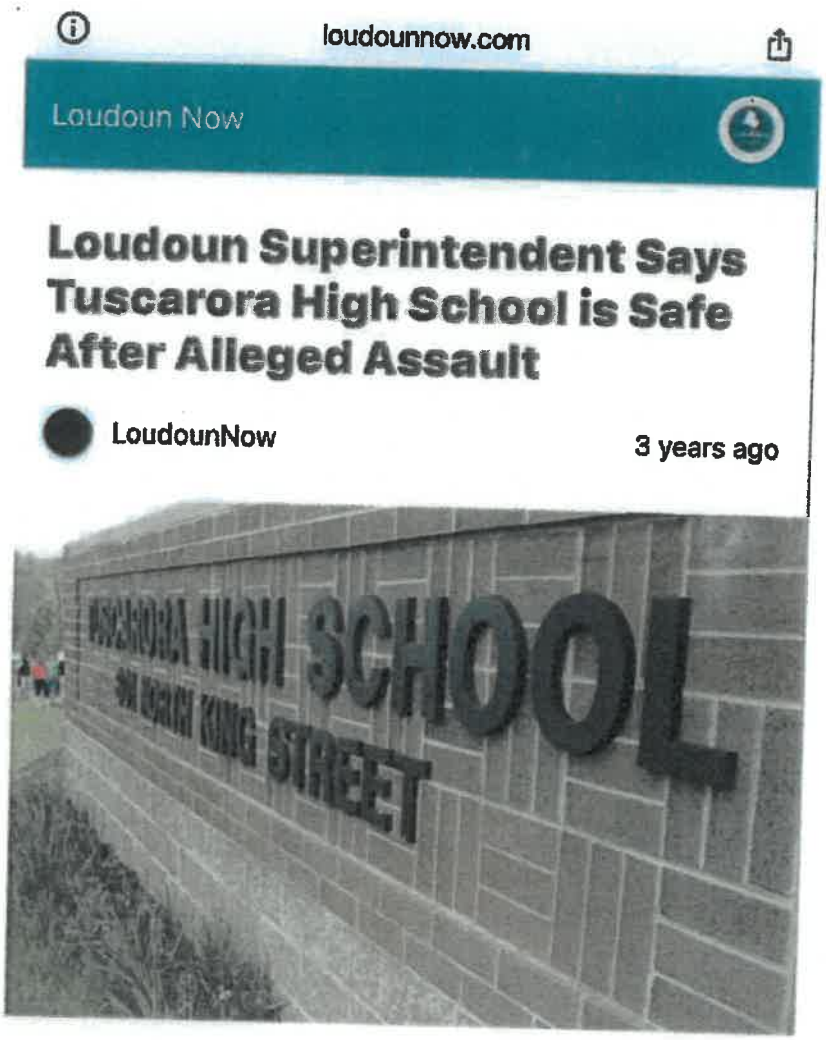
From: Beth Barts
To: Scott Ziegler
Cc: School Board Confidential; Ashley Ellis; Timothy Flynn; Kevin Lewis; Jean Robinson
Subject: Re: CONFIDENTIAL School Incident
Date: Monday, June 28, 2021 6:29:33 PM

Scott,

Since the family has gone public will there be a statement if someone is arrested for assault? They live in my district (town of Leesburg but use special permission) and rumors are flying since the dad was allegedly arrested at the meeting last Tuesday.

With the Tuscarora Locker room assault a statement was issued. I know you were not here at the time but it was a huge issue. Not saying we need to do that here but wanted you to understand the background.

Thank you for keeping us informed. This is obviously upsetting for all involved.



Plumb Crazy, Inc.
3d ·

Thank you Loudoun County Sherriff's Office, Police, First Responders and especially Loudoun Abused Women's Shelter for your professionalism and kindness during this traumatic nightmare that our family, specifically our daughter has been enduring since our daughter was sexually assaulted in her High School Bathroom by another student. We can't comment further due to an ongoing active investigation. Please respect our families privacy as we continue to heal as a family and continue to advocate for our daughters rights.

22 2 Shares

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Sent from my iPhone

On Jun 28, 2021, at 6:12 PM, Harris Mahedavi <Harris.Mahedavi@lcps.org> wrote:

Dr. Ziegler,

Has there been any update on this case that you can share with the board?

Thanks
Harris

From: Scott Ziegler <Scott.Ziegler@lcps.org>
Sent: Friday, May 28, 2021 4:10 PM
To: School Board Confidential <SchoolBoardConfidential@lcps.org>
Cc: Ashley Ellis <Ashley.Ellis@lcps.org>; Timothy Flynn <Timothy.Flynn@lcps.org>; Kevin Lewis <Kevin.Lewis@lcps.org>; Joan Sahlgren <Joan.Sahlgren@lcps.org>
Subject: CONFIDENTIAL School Incident

Good Afternoon, Board Members,

The purpose of this email is to provide you with information regarding an incident that occurred at Stone Bridge HS. This afternoon a female student alleged that a male student sexually assaulted her in the restroom. The LCSO is investigating the matter. Secondary to the assault investigation, the female student's parent responded to the school and caused a disruption by using threatening and profane language that was overheard by staff and students. Additional law enforcement units responded to the school to assist with the parent.

The school's counseling team is providing services for students who witnessed the parent's behavior. The alleged victim is being tended to by LCSO.

As LCSO is investigating both incidents, further updates may not be available.

Scott A. Ziegler, Ed.D.
Interim Superintendent of Schools
Loudoun County Public Schools
21000 Education Court
Ashburn, VA 20148
Scott.Ziegler@lcps.org

From: Scott Ziegler
To: Harris Mahedavi; School Board Confidential
Cc: Ashley Ellis; Timothy Flynn; Kevin Lewis; Joan Sahlgren
Subject: RE: CONFIDENTIAL School Incident
Date: Tuesday, June 29, 2021 12:56:24 PM

Good afternoon,

This matter is under investigation by law enforcement, and I am unable to provide an update.

Scott Ziegler

From: Harris Mahedavi <Harris.Mahedavi@lcps.org>
Sent: Monday, June 28, 2021 6:13 PM
To: Scott Ziegler <Scott.Ziegler@lcps.org>; School Board Confidential <SchoolBoardConfidential@lcps.org>
Cc: Ashley Ellis <Ashley.Ellis@lcps.org>; Timothy Flynn <Timothy.Flynn@lcps.org>; Kevin Lewis <Kevin.Lewis@lcps.org>; Joan Sahlgren <Joan.Sahlgren@lcps.org>
Subject: RE: CONFIDENTIAL School Incident

Dr. Ziegler,

Has there been any update on this case that you can share with the board?

Thanks
Harris

From: Scott Ziegler <Scott.Ziegler@lcps.org>
Sent: Friday, May 28, 2021 4:10 PM
To: School Board Confidential <SchoolBoardConfidential@lcps.org>
Cc: Ashley Ellis <Ashley.Ellis@lcps.org>; Timothy Flynn <Timothy.Flynn@lcps.org>; Kevin Lewis <Kevin.Lewis@lcps.org>; Joan Sahlgren <Joan.Sahlgren@lcps.org>
Subject: CONFIDENTIAL School Incident

Good Afternoon, Board Members,

The purpose of this email is to provide you with information regarding an incident that occurred at Stone Bridge HS. This afternoon a female student alleged that a male student sexually assaulted her in the restroom. The LCSO is investigating the matter. Secondary to the assault investigation, the female student's parent responded to the school and caused a disruption by using threatening and profane language that was overheard by staff and students. Additional law enforcement units responded to the school to assist with the parent.

The school's counseling team is providing services for students who witnessed the parent's behavior. The alleged victim is being tended to by LCSO.

As LCSO is investigating both incidents, further updates may not be available.

Scott A. Ziegler, Ed.D.
Interim Superintendent of Schools
Loudoun County Public Schools
21000 Education Court
Ashburn, VA 20148
Scott.Ziegler@lcps.org

To: Scott Ziegler
Cc: Mark Smith; School Board Confidential
Subject: May Stone Bridge Incident
Date: Monday, June 28, 2021 6:08:35 PM

Hi Scott,

Can you please give us a high summary of the incident that took place at Stone Bridge High School towards the end of May. I realize LCSO is investigating this case, however please share what you can with the Board, and please keep us updated on the progress of it.

Thanks
Harris

Attachment 12

07/06/2021
CONFIDENTIAL

PETITION FILED

RE: [redacted]
DOB: [redacted]
[redacted]
INTAKE OFFICER: Teresa C. Kelley FIPS: 107

ICN: 3778480

CHARGES	STATUTE	PETITION
(SEXUAL ASSAULT - SODOMY, FORCIBLE) BY FORCE,THREAT, MENTAL INCAP/ HELPLESS OF VICTIM AGE 13+	18.2-67.1(A,2)	07/02/2021
(SEXUAL ASSAULT - SODOMY, FORCIBLE) BY FORCE,THREAT, MENTAL INCAP/ HELPLESS OF VICTIM AGE 13+	18.2-67.1(A,2)	07/02/2021

In accordance with Section 16.1-260 of the Code of Virginia as amended, this is to notify you that this agency has filed the petition listed which involves a juvenile who is or should be enrolled in your school.

Attachment 13

[redacted]

- Will not touch others

- Will not ask for photos, to include intimate or provocative

I will not touch others.

I will not ask for photos, to include intimate or provocative

Attachment 14

From: Mark Smith
To: Scott Ziegler
Subject: Fwd: Broad Run Student
Date: Thursday, October 7, 2021 10:00:37 AM

Title IX out of Broad Run. I just met with Rae and Justin Martin. I'll brief you later.

Mark J. Smith, Ed.D. | Chief of Staff
Loudoun County Public Schools
21000 Education Court
Ashburn, VA 20148
Mark.Smith@lcps.org

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From: John Clark <John.Clark@lcps.org>
Sent: Thursday, October 7, 2021 9:28:16 AM
To: Mark Smith <Mark.Smith@lcps.org>
Subject: Broad Run Student

Mark,

As per our convo, [redacted] was arrested yesterday at Broad Run HS and charged with abduction and sexual assault. Student allegedly forced a female student into a room and assaulted her.

JC

John Clark | Director of Safety & Security
Loudoun County Public Schools

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Attachment 15

From: Mark Smith
To: School Board Confidential
Cc: Scott Ziegler; Ashley Ellis; John Schlorm
Subject: Fwd: Broad Run Student
Date: Thursday, October 7, 2021 10:34:57 AM

Good morning Board Members,

Please draw your attention to the email below from John Clark, Director of Safety and Security. I have been advised that LCSO may be planning a press release today regarding this incident. We will keep you informed as additional information becomes available.

Mark J. Smith, Ed.D. | Chief of Staff
Loudoun County Public Schools
21000 Education Court
Ashburn, VA 20148
Mark.Smith@lcps.org

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From: John Clark <John.Clark@lcps.org>
Sent: Thursday, October 7, 2021 9:28 AM
To: Mark Smith
Subject: Broad Run Student

Mark,

As per our convo, [redacted] was arrested yesterday at Broad Run HS and charged with abduction and sexual assault. Student allegedly forced a female student into a room and assaulted her.

JC

John Clark | Director of Safety & Security
Loudoun County Public Schools

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Attachment 16

From: Joan Sahlgren
To: Wayde Byard
Subject: RE: [EXTERNAL] Broad Run sexual assault - Daily Wire media Q on deadline
Date: Friday, October 8, 2021 9:28:02 AM

FYI, I have worked w Bob and will handle. No further action. Enjoy your day.

Joan Sahlgren, MBA | Director of Communications & Community Engagement
Direct 571-252-6547 | Joan.Sahlgren@lcps.org

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From: Wayde Byard <Wayde.Byard@lcps.org>
Sent: Friday, October 8, 2021 9:05 AM
To: Joan Sahlgren <Joan.Sahlgren@lcps.org>
Subject: RE: [EXTERNAL] Broad Run sexual assault - Daily Wire media Q on deadline

Any information related to student information is confidential under sate and federal laws regarding student records. In addition, this student is the subject of an ongoing law-enforcement investigation. Loudoun County Public Schools does not comment on active law-enforcement investigations and cooperates fully with law-enforcement investigations.

: Joan Sahlgren <Joan.Sahlgren@lcps.org>
Sent: Friday, October 8, 2021 8:59 AM
To: Wayde Byard <Wayde.Byard@lcps.org>
Subject: RE: [EXTERNAL] Broad Run sexual assault - Daily Wire media Q on deadline

Any sentence or two occur to you? I am getting ready to talk to Bob F.

Joan Sahlgren, MBA | Director of Communications & Community Engagement
Direct 571-252-6547 | Joan.Sahlgren@lcps.org

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From: Wayde Byard <Wayde.Byard@lcps.org>

Sent: Friday, October 8, 2021 8:53 AM
To: Joan Sahlgren <Joan.Sahlgren@lcps.org>; Nereida Gonzalez-Sales <Nereida.Gonzalez-Sales@lcps.org>; Rae Mitchell <Rae.Mitchell@lcps.org>; Ashley Ellis <Ashley.Ellis@lcps.org>
Subject: FW: [EXTERNAL] Broad Run sexual assault - Daily Wire media Q on deadline

All,
I believe this should receive immediate attention.

Wayde B. Byard
Public Information Officer
Loudoun County Public Schools
21000 Education Court
Ashburn, VA 20148
571-252-1040
Wayde.Byard@lcps.org

From: Luke Rosiak <lrosiak@dailywire.com>
Sent: Friday, October 8, 2021 7:00 AM
To: Wayde Byard <Wayde.Byard@lcps.org>
Subject: [EXTERNAL] Broad Run sexual assault - Daily Wire media Q on deadline

Wayde,

On Tuesday, the Sheriff's Office reported that "A teenager from Ashburn has been charged with sexual battery and abduction of a fellow student at Broad Run High School. The investigation determined on the afternoon of October 6, the 15-year-old suspect forced the victim into an empty classroom where he held her against her will and inappropriately touched her."

I am prepared to report that this student is the same student who was criminally charged after a similar alleged assault in a girls bathroom at Stone Ridge HS on March 28.

Why was the student still permitted to be in LCPS, and why was he moved from Stone Bridge to Broad Run?

Has Stone Bridge ever reported the May alleged sexual assault in any statistics or made anyone aware of it? In a school-wide email sent by principal Timothy Flynn that day (May 28), he appears to instead present the alleged victim's father as a threat, while concealing the underlying incident. The email says "The incident was confined to the main office and the entrance area to the school. There was no threat to the safety of the student body."

While I understand and respect the need for privacy around certain details, there are major public safety and policy issues raised by this, and significant public interest. If you contend that any of the facts as laid out here are erroneous, I will need you to provide me supporting evidence as soon as possible today.

Thank you,
Luke Rosiak
301-642-9637

From: Joan Sahlgren
To: Wayde Byard; Nereida Gonzalez-Sales; Rae Mitchell; Ashley Ellis
Subject: RE: [EXTERNAL] Broad Run sexual assault - Daily Wire media Q on deadline
Date: Friday, October 8, 2021 9:39:29 AM

Team, TAKE NO ACTION.
I have got this.
Thanks, Joan

Joan Sahlgren, MBA | Director of Communications & Community Engagement
Direct 571-252-6547 | Joan.Sahlgren@lcps.org

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From: Wayde Byard <Wayde.Byard@lcps.org>
Sent: Friday, October 8, 2021 8:53 AM
To: Joan Sahlgren <Joan.Sahlgren@lcps.org>; Nereida Gonzalez-Sales <Nereida.Gonzalez-Sales@lcps.org>; Rae Mitchell <Rae.Mitchell@lcps.org>; Ashley Ellis <Ashley.Ellis@lcps.org>
Subject: FW: [EXTERNAL] Broad Run sexual assault - Daily Wire media Q on deadline

All,
I believe this should receive immediate attention.

Wayde B. Byard
Public Information Officer
Loudoun County Public Schools
21000 Education Court
Ashburn, VA 20148
571-252-1040
Wayde.Byard@lcps.org

From: Luke Rosiak <lrosiak@dailywire.com>
Sent: Friday, October 8, 2021 7:00 AM
To: Wayde Byard <Wayde.Byard@lcps.org>
Subject: [EXTERNAL] Broad Run sexual assault - Daily Wire media Q on deadline

Wayde,

On Tuesday, the Sheriff's Office reported that "A teenager from Ashburn has been charged with sexual battery and abduction of a fellow student at Broad Run High School. The

investigation determined on the afternoon of October 6, the 15-year-old suspect forced the victim into an empty classroom where he held her against her will and inappropriately touched her."

I am prepared to report that this student is the same student who was criminally charged after a similar alleged assault in a girls bathroom at Stone Ridge HS on March 28.

Why was the student still permitted to be in LCPS, and why was he moved from Stone Bridge to Broad Run?

Has Stone Bridge ever reported the May alleged sexual assault in any statistics or made anyone aware of it? In a school-wide email sent by principal Timothy Flynn that day (May 28), he appears to instead present the alleged victim's father as a threat, while concealing the underlying incident. The email says "The incident was confined to the main office and the entrance area to the school. There was no threat to the safety of the student body."

While I understand and respect the need for privacy around certain details, there are major public safety and policy issues raised by this, and significant public interest. If you contend that any of the facts as laid out here are erroneous, I will need you to provide me supporting evidence as soon as possible today.

Thank you,
Luke Rosiak
301-642-9637

Attachment 17

From: Scott Ziegler
To: Lori.Mueller@donovan-group.com
Cc: Joan Sahlgren; Wayde Byard
Subject: Thank you
Date: Friday, October 15, 2021 1:33:00 PM

Lori – Thank you for the assist this morning; your firm's input was greatly appreciated. Please weigh in if you have any additional advice as we go through the next couple of news cycles. I anticipate the scorched early approach to continue through November with spikes around the 10/26 at our next Board Meeting.

To additional issues, we had a board member resign a few minutes ago, effective 11/2.

Scott A. Ziegler, Ed.D.
Superintendent of Schools
Loudoun County Public Schools
21000 Education Court
Ashburn, VA 20148
Scott.Ziegler@lcps.org

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Attachment 18

From: Joan Sahlgren
To: Ashley Ellis; Kevin Lewis; Timothy Flynn
Cc: Wayde Byard
Subject: CONFIDENTIAL - Advance Notice
Date: Thursday, October 21, 2021 4:41:27 PM
Attachments: Brief on Email.pdf
Importance: High

Ashely, Kevin, Tim,

This attached statement will be sent shortly to a handful of members of the media. The email is being released through a VFOIA and we believe the statement adds good context.
I wanted you to have a "heads up" since you are copied on the email in the image.

No action is needed on your part. Please keep this confidential until released later today.

All best,
Joan

Joan Sahlgren, MBA | Director of Communications & Community Engagement
Loudoun County Public Schools | 21000 Education Court, Ashburn, VA 20148
Office 571-252-1040 | Direct 571-252-6547 | Joan.Sahlgren@lcps.org

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Attachment 19

From: Douglas Fulton
To: Mark Smith
Subject: RE: Missed Call
Date: Wednesday, August 25, 2021 10:03:00 AM

Can we touch base by phone

Douglas Fulton, Ed.D
Director of School Administration
Loudoun County Public Schools
571-252-1570

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From: Mark Smith <Mark.Smith@lcps.org>
Sent: Wednesday, August 25, 2021 9:59 AM
To: Douglas Fulton <Douglas.Fulton@lcps.org>
Subject: RE: Missed Call

Doug,

Sexual assault allegations are no different from any allegation of sex based harassment which would require a trained coordinator to review.

Please let me know how we are going to proceed with the Stone Bridge issue.

Mark

Mark J. Smith, Ed.D. | Chief of Staff
Loudoun County Public Schools

From: Douglas Fulton <Douglas.Fulton@lcps.org>
Sent: Tuesday, August 24, 2021 2:10 PM
To: Mark Smith <Mark.Smith@lcps.org>
Subject: RE: Missed Call

Thanks Mark,
In working with LE, we can follow behind their investigation and not wait the several weeks to several months as is now occurring. I believe we are responsible for responding quickly. The current handling of alleged sexual assaults have put principals and students in complicated situations while

LE is investigating. I still believe that a reported sexual assault does need an immediate review by a coordinator – (not one at the school level).
Doug

Douglas Fulton, Ed.D
Director of School Administration
Loudoun County Public Schools
571-252-1570
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From: Mark Smith <Mark.Smith@lcps.org>
Sent: Tuesday, August 24, 2021 1:48 PM
To: Douglas Fulton <Douglas.Fulton@lcps.org>
Subject: RE: Missed Call

Hey Doug,

I think the procedures that we are putting into place will help with these concerns. Some of this is out of our control. The Title IX review will only be as good as the information at hand. We may not be able to fully conduct this review until LE has done their thing. Supportive measures can mitigate and we can remove for an imminent threat. I think we can put some processes in place and we'll need to help principals manage the best we can.

I need your thoughts on addressing the issue at hand. Thanks!

Mark

Mark J. Smith, Ed.D. | Chief of Staff
Loudoun County Public Schools

From: Douglas Fulton <Douglas.Fulton@lcps.org>
Sent: Tuesday, August 24, 2021 12:54 PM
To: Mark Smith <Mark.Smith@lcps.org>
Subject: RE: Missed Call

Mark,
Thanks for getting back to me.
At some point could I share what principals are dealing with an alleged sexual assaults in their

buildings or at school events. There is frustration from school administration is the lack of clear protocols and the challenges of dealing with law enforcement.
In this particular case, the event occurred 3 months prior and yet the school has not been able to communicate with the student or assign a consequence. This issue, as in many cases, was first reported to school staff. And while we did have summer, it is not usual for LE investigations to take several months to complete assault allegations.

The other piece I received from our ATIXA training and reaffirmed yesterday in communication with ATIXA, is once we are aware of a sexual assault, we should start a Title IX review. I think this is important for use to clarify the student v. student alleged assaults.

I want to make sure we are doing the right thing to protect students and abide by federal regulations.
Douglas Fulton, Ed.D
Director of School Administration
Loudoun County Public Schools
571-252-1570
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From: Mark Smith <Mark.Smith@lcps.org>
Sent: Tuesday, August 24, 2021 10:50 AM
To: Douglas Fulton <Douglas.Fulton@lcps.org>
Cc: Alix Smith <Alix.Smith@lcps.org>
Subject: Re: Missed Call

Doug,

I hear your concerns. At this point, what we have is a student allegation of an attempted sexual assault. Starting an investigation at this point would mean that I, as the Title IX Coordinator, would sign a formal complaint regarding prohibited behavior under Title IX. Given the information at hand, I do not believe it appropriate to sign a formal compliant without further review. Based on what I shared yesterday about engaging with LE, we would be on standby for information from LE and would not start of Title IX review without collaborating with them.

I am happy to connect with the complainant (or complainant's parent) to offer an supportive measures and share the Title IX process. I am also happy to connect with LE to see what information they are able to share. If we have more details from the respondent (charges pending, circumstances) that would be helpful. They may not be forthcoming given the pending litigation. This

information may be enough for a review and determination of how Title IX might apply.

Please let me know your thoughts. Perhaps you, Alix and I could hop on a call later to discuss in more detail.

Mark

Mark J. Smith, Ed.D. | Chief of Staff
Loudoun County Public Schools
21000 Education Court
Ashburn, VA 20148
Mark.Smith@lcps.org

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From: Douglas Fulton <Douglas.Fulton@lcps.org>
Sent: Monday, August 23, 2021 6:07:06 PM
To: Mark Smith <Mark.Smith@lcps.org>
Cc: Alix Smith <Alix.Smith@lcps.org>
Subject: Re: Missed Call

Get Outlook for iOS

From: Douglas Fulton <Douglas.Fulton@lcps.org>
Sent: Monday, August 23, 2021 6:05 PM
To: Mark Smith
Cc: Alix Smith
Subject: Re: Missed Call

Mark
I think we have to investigate. Alleged is Sexual Assault does come under Title IX
Sexual assault was committed at Stonebrodge during school day.
Her son would be the respondent.
Girls parent met with Stonebrodge staff. I don't believe father was given option to file a Title IX complaint.

Sent from my IPhone

On Aug 23, 2021, at 5:17 PM, Mark Smith <Mark.Smith@lcps.org> wrote:

Hey Doug,

Do we have any other information from the mother? We still will need to evaluate the allegations to gather more information. I am still operating from an allegation of an attempted sexual assault which is not under Title IX. We are not in a position to investigate under Title IX without more information. How can I help with gathering more info?

Mark

Mark

Mark J. Smith, Ed.D. | Chief of Staff
Loudoun County Public Schools
21000 Education Court
Ashburn, VA 20148
Mark.Smith@lcps.org

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From: Douglas Fulton <Douglas.Fulton@lcps.org>
Sent: Monday, August 23, 2021 5:06 PM
To: Mark Smith; Alix Smith
Subject: FW: Missed Call

Mark and Alix,
The mom has shared that her son was charged.
Have we started a Title IX investigation? The incident occurred last May.
Mom is certain judge told her son that he cannot go back to Stonebridge.
However, neither I or Mr. Flynn has received any documentation.
Doug

From: Nancy Foote <Nancy.Foote@lcps.org>

Sent: Monday, August 23, 2021 3:13 PM
To: Douglas Fulton <Douglas.Fulton@lcps.org>
Cc: Linaloe Vazquez <Linaloe.Vazquez@lcps.org>
Subject: Missed Call

[redacted] - mother to [redacted]

Calling regarding the incident at Stone Bridge. She spoke to you within the last couple of weeks. Mr. Flynn referred her to you.

She is looking for your insight and hopes that you have had the opportunity to speak with Mr. Flynn regarding the involuntary placement.

Regards,
Nancy

Nancy Foote | **Office of Middle School Education**

LOUDOUN COUNTY PUBLIC SCHOOLS

21000 Education Court

Ashburn, VA 20148

(571) 252-1090

<image002.png>

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From: Mark Smith
To: Douglas Fulton
Cc: Alix Smith
Subject: Re: Missed Call
Date: Monday, August 23, 2021 7:36:14 PM

Doug,

Not trying to be difficult. The original email stated, **"I have a female student who alleges another student attempted to rape her in the bathroom today."**

The allegation is not of a sexual assault but of an **attempted** sexual assault. ATIXA defined sexual assault for us as "Any sexual act directed against another person, without the consent of the Complainant including instances where the Complainant is incapable of giving consent." My review based on the information we have is this does not rise to the level of Title IX. An allegation of rape yes, an allegation of attempted rape? Maybe.

Mark J. Smith, Ed.D. | Chief of Staff
Loudoun County Public Schools
21000 Education Court
Ashburn, VA 20148
Mark.Smith@lcps.org

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Get Outlook for iOS

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Cc: Alix Smith
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Sexual assault was committed at Stonebrodge during school day.
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Mark

Mark

Mark J. Smith, Ed.D. | Chief of Staff
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Ashburn, VA 20148
Mark.Smith@lcps.org

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Mom is certain judge told her son that he cannot go back to Stonebridge.
However, neither I or Mr. Flynn has received any documentation.
Doug

From: Nancy Foote <Nancy.Foote@lcps.org>
Sent: Monday, August 23, 2021 3:13 PM
To: Douglas Fulton <Douglas.Fulton@lcps.org>
Cc: Linaloe Vazquez <Linaloe.Vazquez@lcps.org>
Subject: Missed Call

[redacted] - mother to [redacted]

Calling regarding the incident at Stone Bridge. She spoke to you within the last couple of weeks. Mr. Flynn referred her to you.

She is looking for your insight and hopes that you have had the opportunity to speak with Mr. Flynn regarding the involuntary placement.

Regards,
Nancy

Nancy Foote | **Office of Middle School Education**

LOUDOUN COUNTY PUBLIC SCHOOLS

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<image002.png>
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Attachment 20

From: Mark Smith
To: Scott Ziegler
Subject: Collaboration with LCSO
Date: Thursday, October 14, 2021 1:59:04 PM

Hey Scott,

I wanted to update you on our efforts to increase collaboration with the Loudoun County Sheriff's Office.

On August 17, 2021, our team met with LCSO and LPD staff to discuss our obligations for investigations that intersect with law enforcement and specifically discuss the school division's obligations under Title IX. On September 29, 2021, Col. Bobby Miller, Lt. Josh Brumbaugh, and Sgt. Wayne Promisel joined us to further discuss our Title IX collaboration. Sgt. Promisel provided a proposal for our collaborative efforts with a goal of conducting a joint investigation. When there are allegations that may rise to the threshold of Title IX, LCPS investigators will participate with Law Enforcement detectives in the interview process and will have access to real-time information to support our independent investigation. This process is current in use for the Broad Run investigation and is proceeding very well.

We have a "meet and greet" with our teams tentatively scheduled for November 3 at 2pm. If you have any questions, please let me know.

Mark

Mark J. Smith, Ed.D. | Chief of Staff
Loudoun County Public Schools
21000 Education Court
Ashburn, VA 20148
Mark.Smith@lcps.org

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Attachment 21

But one three people is not in the mix of either

[redacted]

Okay.

Who here would you let fuck you until your mind breaks

and who here would you fuck until their minds break?

[redacted]

I was told by [redacted] that her mind was pretty shaken by FIVE MINUTES
SO
AN HOUR WOULD BREAK HER MIND

[redacted]

I honestly want to go an hour with [redacted] and see how bad I messed her up-

and then do the same to you and see how y'all compare

13 May 2021

compar

13 May 2021

[redacted] 13 May 2021 9:30 am

Hey

[redacted] 13 May 2021 9:30 am

Hewwo!

WHATCHA NEED?

[redacted] 13 May 2021 9:31 am

Bored

[redacted] 13 May 2021 9:32 am

Are you as bored as a board or as hard as a board-

Just sayin'

[redacted] 13 May 2021 9:34 am

First one

[redacted] 13 May 2021 9:34 am

Mkay

[redacted] 13 May 2021 9:40 am

Bitch, call a pass mid-class and I will fuck y

[redacted]

[redacted] Mkay

[redacted]

Bitch, call a pass mid-class and I will fuck you

[redacted]

[redacted]

What what class are you in

[redacted]

Gourmet foods

AND I FINISHED COOKING

Call a pass bitch

I will fuck you

[redacted]

I think you forgot the or

[redacted]

You want to be fucked then?

[redacted]

Bo

No