

These items might make life more pleasant for public servants, but they can hardly be termed educational necessities, particularly in a time when children in overcrowded classes are going without textbooks and desks.

And, of course, the beepers paid for by District 9 provide yet another example of rampant fiscal abuse, permitted to flourish by a complete lack of supervision by the district or by the Central Board. Thus, the story of District 9's beepers demonstrates all too clearly that the mismanagement that led to the dial-a-porn abuses was not an isolated case.

District 9 Computer Inventory

So, I asked where the equipment was, and the teacher in charge told me it was in the closet. I asked him to open the closet. He told me he couldn't. I asked him why not. He said that the closet had been painted shut. I asked for how long. He said, "Oh, for a couple of years. But, hey, look at it this way. At least, it's safe."

- From a report on an inventory of school equipment

Tipped off that computer equipment was routinely disappearing from the schools and offices of District 9 in the Bronx, the Commission conducted an unannounced inspection of the district office and of 17 of the district's 33 schools, on a single day in September, 1989. The inspection was conducted without notice to prevent people who were keeping school property at their homes from distorting the results by returning it in time for the count. After the physical inspection, the Commission's financial crimes investigators compared its results with the records of the Bureau of Supplies, which list every computer bought and paid for in the last five years.

The first finding was ominous: there was simply no way to tell whether any equipment was missing from the district office, because neither the Bureau of Supplies nor the district office kept track of district office computer equipment. In other words, any number of computers, bought and paid for with public funds, could have disappeared without a trace as far as the Central Board or the District knew.

The Missing Computers

When the records did exist, the results were even more devastating. In fact, the amount of equipment that could

not be found was staggering: 17% of the computers and 26% of the printers purchased for these schools could not be found.

Missing Computer Equipment				
	Bought for the Schools	Found in the Schools	Number Missing	Percent Missing
Computers	472	392	80	17%
Printers	143	106	37	26%
Total	615	498	117	19%

The cost of all this lost equipment is equally stunning.

Value of Missing Computer Equipment			
	Number Missing	Percent Missing	Value Missing
Computers	80	17%	\$78,209
Printers	37	26%	\$16,121
Total	117	19%	\$94,330

And, of course, this figure represents only the losses in half of the schools in the district, so that the total value of the equipment lost in this district alone must be substantially larger.

In one way, at least, the inspection itself had beneficial results. In several instances, the Commission was able to locate computers and printers that school officials had at first believed to be lost. These computers were not in the school for which they had been purchased. However, with the Commission's help, the "missing" equipment was discovered to have been transferred to other district schools.

On the other hand, neither the principals in the schools that were supposed to have the equipment, nor any of the district office administrators, had kept any records of these transfers. Thus, if the computers had disappeared en route no one would have been the wiser.

The Unused Computers

Another finding, almost equally dismaying, was that, in many schools, computers were left sitting in storage, while teachers in other schools were unable to expand successful programs because of a lack of that very equipment. In the district office itself, five computers were found simply gathering dust. In the schools, the situation was even worse:

<u>School</u>	<u>Number and Type</u>	<u>Found</u>
PS 10	5 computers 2 color monitors	In original boxes
PS 53	3 computers	In boxes in storage
PS 55	6 computers 6 printers	In original boxes
PS 73	8 printers 6 monitors	Stored in vault
PS 88	7 computers	Stored in original boxes, five in a damp closet
PS 90	5 computers 8 disk drives 3 keyboards 1 modem	In original boxes
PS 104	31 computer parts	In original boxes in storage
PS 229	10 computers	In original boxes in storage
PS 235	1 computer	Left in closet for two years
IS 148	4 computers 2 printers 1 other monitor	In original boxes

Where Have the Missing Computers Gone?

A shipment of 20 Commodore computers bought for P.S. 28 provides a perfect paradigm of the problem. Fourteen computers arrived on June 18, 1985, and the other six were received on June 12, 1986. The total cost of these computers was \$11,655. Yet, none of those computers was anywhere to be found when the Commission arrived to inspect. Nor were the people in charge of the school able to produce any records to explain where the machines had gone.

At a subsequent private hearing, the principal explained that the computers had been in his school for two years, but had been kept in a storage room virtually the entire time. Even when they were in a classroom, they were not used by the students. In fact, the only time they were used at all was during a single workshop in computer literacy in the spring of 1987.

At some later point in 1987, the director of bilingual programs, Anthony Padilla, suggested moving the computers out of the school to put them to some better use. The principal agreed, since they were serving no purpose sitting in his storage closet. Two people picked up the computers and took them away. The principal claimed he had received receipts from the people who picked them up, but was unable to produce them.

One of the people who picked up the computers told a strikingly different story. He said that he had prepared a handwritten list of the computers he was removing, and asked the principal to sign it. He also said the principal refused. The most the principal could say in response was: "I doubt that I refused to sign it. If he prepared this document, maybe that is why I am thinking that something was prepared. I don't know for sure. I do not remember."

Mr. Padilla, meanwhile, said that he had removed 14 computers from the school and sent half to P.S. 114 and the other half to P.S. 235. The Commission found seven of the computers in P.S. 114. Only six computers from P.S. 28's inventory were found at P.S. 235, however. One of them was stuffed into a closet in the library, where it had been for more than three years.

Mr. Padilla said he gave one of the computers to a teacher at JHS 117 to use in a bilingual program, and the Commission tracked that one down as well.

Mr. Padilla also admitted he had moved the computers to P.S. 166 for a one-day conference on bilingual education Mr. Padilla gave. Afterwards, Mr. Padilla left them in a

storage closet at P.S. 166, and, as far as he knew, they were still there when he left the District in November of 1988.

In fact, however, none of the computers from P.S. 28's inventory was found at P.S. 166. No one there had any idea where they might have gone. As far as the people in the school knew, the computers had been brought in for the one-day conference and taken out immediately afterwards. No one in the district knew where these six computers might be.

Somewhere between P.S. 28 and P.S. 166 -- or somewhere afterwards -- these computers simply disappeared.

How Can These Disappearances Happen?

The fate of these six missing computers points to a series of glaring lapses in the Board of Education's system: a control system that is so lax that it is simply an invitation to theft.

The rules require a "comprehensive systems plan" to be filed by each district, which is supposed to be the mechanism for ensuring that computer equipment being ordered is actually needed. However, if a proposed purchase is at variance with the plan, the school can simply amend its original plan. And, of course, the mere fact that equipment is needed cannot -- and does not -- ensure that it will be used when it arrives.

The rules provide that the schools are responsible for maintaining inventory records, but obviously those rules are honored only in the breach.

The rules provide that the District Office should review the inventory records of the schools, but no one at the Central Board checks to see if the district carries out this responsibility.

The rules provide that all the local districts' schools must file an annual "equipment inventory list" with the Office of Community School District Affairs, but only 15% of the schools bothered to comply with the rule last year. Nor is this flouting of the rules surprising: Central simply files the reports it receives and does not even contact the schools that fail to send in a report.

And, while the Board's Auditor General checks a couple of schools in each district every three years or so, that office checks only to see if there are inventory cards. The auditors do not conduct a physical inspection of any kind

to see if the equipment listed on the cards is actually in the school.

In fact, apparently the only time anyone at the Central Board does do a physical inspection comes when inspectors do a random check of ten percent of deliveries to check on the integrity of the vendors. The fact that the system conducts no inspections to check on the integrity of the people within the system who are charged with using and safeguarding the equipment is startling enough. It becomes almost inexplicable in the face of the sworn testimony of the inspectors themselves that their services are completely under-utilized and that they have a great deal of free time on their hands that could be used for this very purpose.

The tragic result: computers are bought and paid for but are never used by or for the children. Some are left to gather dust in closets. Others -- either stolen or strayed -- disappear entirely. And, tens of thousands of dollars -- that should be devoted to our students -- are wasted.

Findings and Recommendations

Findings: Some districts are out of control fiscally.

Some employees have abused the system for private gain.

District business managers have ignored losses in the tens of thousands of dollars as problems too small to warrant their attention.

District superintendents have not taken responsibility for maintaining the fiscal integrity of their districts.

No one has held business managers or district superintendents accountable for the financial mismanagement of their districts.

Recommendations:

◆ Employees who abuse the system for private gain should be disciplined and forced to make restitution of lost public funds.

◆ District business managers and superintendents who do not maintain the fiscal integrity of their districts should be disciplined, and sanctions for gross mismanagement should be termination and liability for lost public funds.

Findings: High-level Central bureaucrats are perfectly well aware of the fiscal mismanagement in the districts.

The Central bureaucracy has seen its mission as reporting on financial problems and finding someone at the district level to blame for them.

Political considerations have, all too often, subverted effective fiscal intervention by the Central staff.

Recommendation:

♦ The Chancellor should insure that his staff does not merely identify fiscal problems, but solves them.

Findings: Principals do not safeguard equipment in their schools.

Business managers and superintendents do not safeguard equipment in their districts.

The Central bureaucracy does not ensure that equipment is properly safeguarded.

Recommendations:

♦ The Chancellor should require surprise inspections to determine the whereabouts and the actual use being made of all types of major equipment, and should publicize the program of surprise inspections and its results prominently.

♦ Principals and district personnel who do not maintain the records they are required to or cannot adequately account for the equipment entrusted to their care should be disciplined.

♦ In cases of gross negligence, principals and district personnel should be held liable for the losses their negligence has caused.

WHAT THE STUDENTS SEE

Aware of widely circulated media reports of gang activity, drug use, and violence inside the schools, the Commission assigned New York City police officers to be "students" in selected high schools in the spring and fall of 1989. The Board of Education cooperated with the project, but only the Commission knew the schools in which undercover officers had been placed.

Several considerations influenced the selection of the high schools chosen for this operation. The Commission wanted to select at least one school in each borough in order to get a city-wide picture. In addition, staff carefully screened potential schools to insure that there were no acquaintances, relatives, or former teachers who could reveal the officers' true identities. Furthermore, the Commission reviewed a list of schools found "unsafe" by the United Federation of Teachers and statistics compiled by the Board of Education's Office of School Safety.

Table of Schools

Evander Childs	Bronx
James Monroe	Bronx
Franklin K. Lane	Brooklyn
Abraham Lincoln	Brooklyn
Sheepshead Bay	Brooklyn
Park West	Manhattan
Julia Richman	Manhattan
Far Rockaway	Queens
Curtis	Staten Island

The Effectiveness of the Security Personnel

Although the operation targeted schools in which incidents of violence and crime were reportedly likely to occur, the officers made an important finding. The school security forces, for the most part, dealt effectively with outbreaks of violence and seemed to be a fairly effective deterrent to other forms of crime as well. Thus, while our students are exposed to drugs and violence outside the schools, the hallways and classrooms themselves are relatively safe.

From what the officers could discover, gang members who preyed on students were generally not students themselves. For instance, on Halloween and just before Thanksgiving, a group of youths, who did not appear to be students and who were reportedly members of the Decepticons gang, were gathered outside Park West High School. One Park West student claimed that she herself was a member of the Decepticons and said she left weapons in her locker for use by other gang members when they entered the school. At Julia Richman, too, a student told the officer that she knew members of the Decepticons, who she said regularly made forays into the school to assault and rob students.

Obviously, the best protection against this kind of invasion is careful security that prevents non-students from entering in the first place. And, at most of the schools, the security forces were conscientious about checking identification before letting anyone into the building. And, at most of the schools the security guards -- and sometimes teacher monitors as well -- patrolled the halls and bathrooms and made sure students who belonged in class went there. They also reacted quickly to quell most disturbances, such as the few fistfights the officers observed.

At a few schools, however, the security was not careful enough. Security at Park West High School in Manhattan was inadequate. There were guards at the front, but the back doors were not guarded, so students routinely let themselves in and out of the school during the day. At Far Rockaway High School in Queens, the guards at the front door let students leave the school without any questioning. And, while the guards did monitor student attendance through the use of a computerized ID card system, they also let students roam the hallways without challenge.

At Manhattan's Julia Richman High School, identification was checked at the door and students did not roam the halls. On the other hand, they may have been absent from the halls only because they were simply allowed to leave the building at will. Similarly, some students stayed in the lunchroom for three or four periods in a row, without questioning from the guards or monitors. At Sheepshead Bay High School in Brooklyn it was also relatively easy for students to cut classes and spend time outside the school.

Furthermore, even the finest efforts by the security personnel are not enough. At Curtis High School on Staten Island, for instance, the security guards themselves did a good job. On the other hand, in one gym class, the teacher undid all these efforts, by failing to supervise the students. Some students used this freedom to play pick-up games of

basketball or baseball. Others congregated in the bathroom or the stairwells and smoked or drank beer.

The officers were surprised to find that there was virtually no drug activity inside the schools themselves. One day, at Julia Richman, a student was smoking marijuana in the schoolyard, and this same student also had vials of crack on several occasions. However, even this student did not sell drugs to anyone at school. There was no evidence of drug activity inside Evander Childs either, although, once one student told the officer that another student was selling crack in a stairwell near the library. Some students also bragged about selling drugs in their neighborhoods.

Unlike the other schools, Far Rockaway did have a problem with drugs. Drugs were a constant topic of student conversation and drug dealers were held in high esteem by students. One student decided the officer was a drug dealer, and wanted to make a deal to buy drugs for re-sale. Another student gave the officer a bag that contained a crack vial. And, on one occasion, a group of students, apparently involved in drug activity, were distributing money, and possibly drugs, in the school stairwell. However, with this one exception, the students apparently did not actually sell drugs inside the school.*

A problem with weapons in the schools seemed to go hand in hand with this problem with drugs. One student at Far Rockaway, for instance, carried a BB gun in school. And, in several of the schools, students seemed to feel it necessary to be armed. At Curtis, although things were relatively tranquil and the guards reacted quickly when fistfights broke out, at least one student was carrying a concealed knife.

At Abraham Lincoln High School in Brooklyn, a student offered to sell the officer a gun, but hedged, and ultimately begged off when the officer attempted to buy. The officer rejected another student's invitation to go "wilding" on the subways.

At Park West High School, the guards did not use metal detectors, a lapse that almost had tragic consequences.

* The worst drug problem the officers observed involved a teacher rather than a student. At one point, a gym teacher at Sheepshead Bay High School was sleeping on a mat when he should have been teaching a class. The authorities at the school learned about the teacher's conduct and referred him to the Central Board's Medical Division. The teacher was later arrested after he was observed purchasing crack in front of a known drug location. A grand jury declined to indict him.

What began as a fistfight in a corridor quickly escalated into a near-riot. One of the students drew a gun and fired a shot. Another student, who was being pummelled on the floor by a mob of students, suddenly began wildly swinging a six inch knife. Fortunately, no one was shot, but at least one student was injured by the knife.

Even on this occasion, the security forces reacted quickly. A uniformed police officer assigned to the school was the first to arrive, but, within minutes, a group of school security guards and other police officers followed and put an end to the disturbance. The next day, however, many students were carrying weapons, including a hammer, a large kitchen knife, and mace.

There was also one serious incident at James Monroe. The officer was in his Indoor Gardening class and the teacher was holding a midterm exam review session. The officer had placed his books and his newspaper in the empty seat in front of him. A student who arrived late took the newspaper, sat down, and began to read the newspaper. The officer asked the student to put the newspaper back "when you're ready." The student sarcastically replied: "excuse me?" When the officer repeated his request, the student said, "if you want it, you will have to ask nicely."

When the officer uttered a mild protest, the student leaped up, took a six inch knife from his pants pocket, and began menacing the officer with it. The officer wrapped his jacket around his arms for protection, and all the other students began backing away. At that point, the teacher, whose back had been turned, noticed the commotion, turned and saw the knife, and ran to the door to yell for security. The knife-wielder passed the weapon to a friend, and, by the time the guards arrived, the knife had disappeared entirely.

Other General Observations about the Schools

Most of the officers were assigned to at least one class in which the students were so unruly that the class was completely out of control. Another common problem was that students failed to appear for class at all. At Curtis, for instance, in two classes, students routinely cut class, so that on, any given day, almost half of each class was missing. Attendance at Marketing and English classes at Far Rockaway was equally poor.

At Sheepshead Bay and Franklin K. Lane, the officers each had one class in which the teacher allowed students to spend the period reading the newspaper. At James Monroe, the gym teacher sat at his desk while students read newspapers or

talked. The students were supposed to run laps around the outdoor track once a week, but the teacher told them just to walk around the track, in case anyone happened to come in. In fact, some students escaped through a hole in the fence and spent the entire period at a local candy store.

In gym class at Far Rockaway High School, too, the boys were left to their own devices, which usually meant playing basketball and handball, or simply sitting up in the bleachers talking. In gym class at Lincoln, students lifted weights without any instruction from the teacher, who generally sat and watched the class and occasionally told a student he was misusing equipment. Most of the students did not bother to lift weights, but "hung out" instead.

Cheating was also fairly common. At Franklin K. Lane, the teacher left the room during the final exam for twenty minutes or so and most students took the opportunity to cheat. At Park West High School, when the music teacher gave an open-book final exam, everyone openly cheated.

Abraham Lincoln's Spanish class suffered from two problems. First, two or three students constantly disrupted the class, even going so far as to throw chalk at the teacher. Finally, the teacher left, two months into the semester. After several weeks of ever-changing substitutes, who did not teach Spanish, a new Spanish teacher finally arrived, but he began by teaching the letters of the alphabet.

This experience was not the only one in which the officers found that it was relatively easy to earn credits without learning anything. At Sheepshead Bay High School, the officer did general office work in the program office in return for one course credit. Students in Horticulture class at Lincoln occasionally tended the school grounds instead of attending the class, and spent two entire school days cleaning up a city park.

The officer's independent study program at Lincoln also turned out to be a failure. The officer was supposed to meet regularly with members of the Social Studies Department, to work on an independent project. Instead, no one met with the officer until three months into the semester, when it was too late to complete any meaningful project.

At Park West, the Spanish teacher spent three entire periods showing the feature film "Batman," which, of course, is in English. During the third day of viewing, the principal happened in and stopped the show. Apparently, "Batman" was a scheduled part of this teacher's lesson plan in all five of her Spanish classes: the next day a student from another of

the teacher's classes complained because she had promised to show "Batman" to his class, but had reneged.*

Conclusion

What the students see inside their schools is a reflection of what they see in the society at large. Because of the school's security measures, there is relatively little gang activity or drug crime going on inside the schools themselves. Violence does occasionally flare, and, as the shooting at Monroe High School demonstrates, it can sometimes be extremely serious. In general, however, the school authorities take the necessary, precautionary measures to deter disturbances and they respond quickly and efficiently when trouble arises.

When the Commission began its undercover presence in the schools, the Commission suspected that conditions were much worse than they turned out to be. Many of the most serious problems involve crime confronting students on their way to school, not inside it, or crimes committed by non-students who manage to get inside. Careful security can go a long way to minimizing these problems, as experience in some of these high schools demonstrated.

Perhaps in large measure because of their fears about the dangers that confront them in the outside world, far too many students are carrying weapons inside the schools. Efforts to detect weapons inside the school should be given top priority, as should efforts to extend the zone of safety, so that students can feel that it is possible to get to school safely and unarmed.

When La Guardia became Mayor, for instance, he made a habit of making unannounced personal inspections to determine what was really going on in his City offices, and he made those inspections, as far as he was able, not as Mayor, but by posing as an unassuming and anonymous member of the public. The City benefitted enormously when its civil servants learned that one of the people standing, waiting, apparently meekly, for services might, in fact, be an observer with the will and the authority to act on what he saw.

The Commission believes that the school system would also benefit enormously from the knowledge that those in authority might see, without distortion, what the students

* The principal placed a letter in the teacher's file and forbade her from reserving the school's video equipment without his express written consent.

see. The people inside the schools should know that an appropriate authority will, from time to time, have an unannounced presence in the schools. As they did in La Guardia's day, these inspections will often be a source of important information, and the knowledge that these inspections do occur will serve as a immediate deterrent to crime and impropriety of all kinds.

Findings and Recommendations

Finding: While some schools are secure, others are not.

Recommendation:

♦ All school security forces must keep non-students outside, guard or lock all entrances, and patrol their lunchrooms.

Finding: Some teachers have failed to provide adequate supervision of students during class periods.

Recommendation:

♦ Principals must ensure that teachers are providing adequate supervision during classes.

Finding: Unannounced observation provided an unparalleled and accurate picture of crime in the schools, flaws in security, and failures in instruction as well.

Recommendation:

♦ Investigative agencies, security monitors, and educational monitors should place unannounced observers placed in schools as students from time to time, when it is needed to get the truest picture possible of what is going on inside.

DISCIPLINE

We had an interesting case involving a paraprofessional who went up the career ladder and became a teacher, and then she was fingerprinted again ... this is five years after she had been serving as a paraprofessional, we found out she had murdered her husband and pled guilty to manslaughter fourth and been given a five year suspended sentence ... first of all, the husband didn't die right away, he lingered for a day and a half, and he really needed killing because he used to beat her up and beat up the kids ... So, now she came to our hearing ... She had never murdered anybody before, and since, and probably wouldn't, and she was, you know, a young person. I recommended that she be allowed to be a teacher.

• James T. Stein, Director
Office of Appeals and Review

The city school system employs about a thousand principals. In the ten years between 1979 and 1989, only five tenured principals were brought up on disciplinary charges. James T. Stein, the long-time director of the Board of Education's Office of Appeals and Review, who plays an integral role in the disciplinary process, labels this result "ludicrous."

In the 1988/89 school year, only 12 teachers of the approximately 65,000 teachers were fired as a result of the system's disciplinary process. That is .018 percent. While the Commission recognizes that the vast majority of teachers are competent, honest, dedicated professionals, does anyone really believe that only 12 out of 65,000 were bad apples?

Each year, teachers are evaluated as either "satisfactory" or "unsatisfactory." In 1988, 99.7 percent of the system's teachers were rated "satisfactory." Commenting that "there is no way that 99.7 percent of the faculty, or the staff of the public school system is satisfactory," Stein testified, somewhat enigmatically:

Now, there's a Japanese golf club manufacturer that has 99.7 employees satisfactory, nowhere else in the world, and they have only twelve employees, one of whom is schizophrenic.

As Stein's murder case and these statistics suggest, precious few individuals are meaningfully disciplined,

virtually no matter the transgression. And, as Stein recognized, precious few individuals receive meaningful evaluations, that might lay the groundwork for discipline, because "for some reason or other, the supervisors aren't supervising."

The central board personnel responsible for the disciplinary system cannot explain why the system is set up the way it is. Moreover, the disciplinary process -- like so much else in the Board of Education -- appears designed to avoid accountability.

The people responsible for the disciplinary system offer an endless litany of lame excuses for its dismal track record. For example, they blame the Board's contracts with its employees for the lack of effective discipline. Stein told the Commission that one obstacle to meaningful evaluation was that the contract prevents a teacher rated unsatisfactory from being transferred for three years.* As a result of this contractual provision, Stein explained, supervisors are loathe to rate a teacher "unsatisfactory," and, instead, rate poor performers "satisfactory," but try to fob them off elsewhere. Stein explained:

So, if the system is playing the old maid game, you know, I'll call up a colleague and tell them I've got a great one for them, and maybe the fool will take them, then you can't do it for three years, that card is out of play, because you've rated them unsatisfactory.

The theory that the contract is to blame for the principals' penchant for false evaluations perfectly illustrates the fuzzy thinking underlying the Board's disciplinary process. The contract may prevent the transfer of some incompetents. But, why should the consequence of incompetence be a transfer? The consequence of incompetence should be remedial intervention by the supervisor, and, if that fails, termination.

* This complaint is somewhat misleading. The three-year bar applies only to a special voluntary transfer plan, in which a senior and satisfactory teacher can apply for a particularly desirable transfer. Nothing in the contract prevents a supervisor from arranging an administrative transfer of a teacher who has received an unsatisfactory rating. An administrative transfer can be accomplished, in spite of the rating, so long as the principal at the "receiving" school agrees.

Others in the system suggested that part of the problem is statutory. For example, Stein, Inspector General Michael Sofarelli, and Lawrence E. Becker, Counsel to the Chancellor and head of the Office of Legal Services which handles disciplinary proceedings, all suggested that the six month statute of limitations that applies to misconduct by pedagogues in elementary, intermediate, and junior high schools should be changed. They noted that period for the high school division is three years long, and suggested that the shorter period is a barrier to effective discipline in the local community school districts.

However, the statute actually provides that charges must be brought within "six months after the occurrence or the discovery thereof, or the date when discovery should have occurred upon the exercise of due diligence, of the alleged incompetency or misconduct." It also provides a blanket exception to the time bar, whenever "the charge is of misconduct constituting a crime when committed." Education Law section 2590-j(7)(c).

Accordingly, since most forms of serious misconduct will also constitute crimes, they will not be affected by the six month limit. And, nothing in the statute prevents the Board from introducing evidence about more remote misconduct in order to prove its charges. And, no one provided any statistics or even concrete examples in which this rule had barred effective discipline.

Of course, as with any legal and contractual system, there are anomalies. Several of these potential procedural problems were highlighted last year when the Municipal Affairs Committee of the Association of the Bar of the City of New York issued a thorough report on disciplining principals. However, while they have an impact, these procedural pitfalls are not the cause of the system's failures.

Changing the statute of limitations, or tinkering with other procedural features, will not solve the underlying problem, for as is so often the case in the public school system, the crux of the problem is attitude. Discipline is not imposed because the people in charge of the Board have not set clear standards for discipline, and because the people in charge of discipline lack the will to impose it.

For example, each year, the Central Board personnel in charge of discipline are consulted by supervisors who wish to bring charges against pedagogues. In school year 1988-1989, there were only 148 conferences about possible charges; and only 99 of those conferences led to disciplinary actions. And, in school year 1989-1990, as of early February, 1990, there had been 70 conferences, but only 45 had resulted in the

filing of charges. In other words, one-third of the time, the decision is that no charges should be even filed.

Furthermore, in a classic example of this mind-set, Stein testified that, in his view, in many cases, "it is cheaper for us to buy them out," than to attempt to impose discipline. In other words, in his view, the price of misconduct is not punishment, but reward: a buy-out.

That attitude has the expected results. For instance, only 20 disciplinary cases against pedagogues were resolved in the 1988-1989 school year, and of those cases, all but 8 were resolved by "settlement." Similarly, in school year 1989-1990, as of early February, 1990, there were 22 cases resolved, and at least 16 of those cases were "settled."

The disinclination to bring cases is not the only result of the system's ambivalent attitude toward discipline. There are substantive areas of critical importance with which the system cannot come to grips. In his discussion of how to deal with the "recreational" cocaine user, for instance, Lawrence Becker, the lawyer in charge of discipline, typified the system's paralysis:

A Well, if you're not arrested then you will have the situation -- I suppose we'll get to the point where Sofarelli will say we have done a report and this person is a drug user on Saturday night, but there is no problem with his behavior in school. That is a tough case.

It is not just limited to drugs, by the way. Expand it to all off duty conduct. I, on Saturday nights, might like to go to 42nd Street and browse around, and I am spotted by the president of the PA who is driving to the theater. Well, that is off duty conduct. Can that be chargeable, I suppose? Is that what we want to do? I am not so sure.

Q [Browsing on 42d Street] is not a crime. That is where I am drawing the line ... I am just suggesting that the legislature has drawn the distinction for us, haven't they?

A I understand. I am just saying that this is a tough question. It is another issue that will have to be debated.

A teacher is supposed to be a role model. What parents would want their child's role model to be a cocaine user? The Commission suspects the overwhelming majority of parents would not find this a "tough" question at all, or even a "question" that needs to be "debated." Nor does the criminal law distinguish between "recreational" drug crimes and "non-recreational" drug crimes.

Yet, so long as those in charge of bringing disciplinary charges are "not so sure" that drug crimes are "chargeable," the system is not going to bring effective sanctions against cocaine users.

Another flaw in the disciplinary system is that it is structured to shield those involved from being held accountable for their decisions to bring charges, and, more importantly, from their decisions not to bring charges. In this sense, the "technical assistance conference" is the paradigm of what is wrong with the system's disciplinary process.

By law, the Chancellor and the community superintendents are empowered to initiate charges of misconduct or incompetence against a teacher or supervisor. By practice, no charges are filed, however, until after there is a "technical assistance conference."

These conferences are attended by a representative of the Office of Legal Services and by a representative of the Office of Appeals and Review, usually James Stein himself. If the Inspector General initiated the request for discipline, a representative of his office attends. The conference is also attended by a representative of the community school district or the central board subdivision for whom the employee works.

No one seemed to have any idea why these conferences were held, or why all of these people attended them. Asked if the technical assistance conference was a creature of legislation, of contract, or of chancellor's regulation, Stein explained, "it's an evolution ... Historically, there has always been a TAC."

Furthermore, although Becker acknowledged that, as the Chancellor's representative, he technically had the final responsibility for the decisions made at the TAC, all the participants conveyed the sense that decisions were reached collegially, or on a consensus basis, a built-in weakness.

Q It seems to me that these conferences, while they are not designed in the sense that somebody sat down and designed them for this purpose, the way they have

evolved, they are a perfect set up for a lack of accountability because of the reason you alluded to when you first set forth a weakness, namely, there are often differences of opinion.

And it seems to me that it would be much more efficient if the model were something akin to the model of a prosecutor's complaint room, where, for example, the Community Superintendent of a district, let's say District 33, came in with a complaint against a pedagogue, presented that complaint to one of Becker's troops and then Becker's troops decided whether or not to prosecute the complaint; if they needed the personnel file, they got it, if they needed someone to explain something from the beginning, that could be explained, but as far as I can tell, there is absolutely no reason for this extra person other than it evolved that way.

A I am loathe to disagree with you. I think from my personal -- my personal opinion is that that is not a bad model. I personally believe that regardless of the outcome of the TAC, the final decision of whether my office is going to present charges against an individual, either before the Superintendent or before the Chancellor, is mine.

However, Becker himself acknowledged the weakness in the system as:

One, it may result in conflicts among people within the conference. There may be a difference of opinion between the individuals as to whether charges should be warranted, in which case you may not proceed while people are debating the issue.

Of course, debate is a positive force. Lack of accountability, on the other hand, is not. And, the Commission was struck by how consistently each of the participants in the TAC process implied that the others were to blame for the cases that never got brought. A conference/consensus procedure like this, which allows each decision-maker to evade responsibility for the decision, is not effective.

The Commission was also bemused by the amount of time spent on these conferences. For instance, with the exception of Stein himself, who initially led the Commission to believe that he played the central decision-making role at these conferences, people had difficulty explaining why Stein was present at all at conferences involving tenured employees.

Becker put forward the suggestion that Stein might be present to explain the employee's personnel files to the other participants. But, Becker readily agreed that the other participants should, after the first few conferences, be able to read and understand the files on their own.

Q I would like, if you feel it appropriate, for you to defend his presence to me -- I am not saying you are responsible for defending him, but I would like to know why this person is at these conferences, the ones where you have the responsibility of bringing the charges.

Someone else has brought the charges to your attention, what conceivable rationale is there for having him there?

A The only one I can give you is that he brings additional information based on his knowledge of the process or history of a particular person.

Let's expand on it and forget Mr. Stein for a moment. If you think about it the only useful role for Personnel at all at a conference like this is to be able to give my office and the other people a complete personnel history of someone --

Q Which presumably you are getting from written records?

A Yes.

Q Which presumably your office could get too?

A We can have them delivered. Sometimes it's useful to have someone from Personnel there to interpret written records. I am not an expert in interpreting Board of Education personnel records.

Q But presumably if your office was doing this for a while you and your colleagues could gain this expertise and you wouldn't need this extra wheel?

A That's correct. With respect to Human Resources, it is important to have a complete personnel history on someone to help in determining whether to ahead with the disciplinary process.

Q I am focusing both on the particular individual, but beyond that, on the concept. If it wasn't Mr. Stein it would be someone else.

A I understand. It is important to get personnel history, and whether that requires an additional person, as you point out, in the beginning it probably does, but after a while it probably becomes superfluous.

Asked about the purpose of the technical assistance conference, and Stein's attendance at it, Thomas P. Ryan, who is in charge of the Division of Human Resources and Stein's boss, agreed that training Becker and Sofarelli to read personnel files -- so Stein would not have to attend -- was "an interesting proposal that I hadn't thought of." He also readily agreed that, "if it's [the technical assistance conference] an impediment and unnecessary, I don't see any reason for keeping it."

The impression the Commission received from a number of sources was that the participants' posture at the conferences was relatively predictable. The Office of Legal Services -- all too often -- took the position that the office could not sustain the charges. Stein -- all too often -- took the position that pressing the matter would be too costly, so it made more sense to persuade the malefactor to retire or go on medical leave. Or, both representatives might suggest that a case might have been brought, but only if the supervisor had done a better job "documenting" the misconduct or gathering the evidence.

Needless to say, faced with "experts" who take these positions, supervisors -- all too often -- come to the conclusion that discipline in this case, or any case, is simply not worth the trouble.

One indicator of how deeply people care about a problem is how hard people work on it. The Office of Legal

Services, as of February 6, 1990, had a staff of twenty-three lawyers and twenty support personnel.* Six of the twenty attorneys are assigned to unit that handles disciplinary matters.**

The unit drafted "approximately fifty to sixty" sets of charges during the 1988-1989 school year. During that period, the unit's legal staff fluctuated between four and six lawyers. Thus, on average each lawyer in the unit drafted roughly twelve sets of charges for the entire year.

Becker explained that charges of incompetence and of insubordination sometimes involve somewhat complicated drafting problems, but conceded the other categories -- more than 80 percent of the cases -- require fairly routine complaints. Drafting complaints does not appear to be a particularly arduous task. Similarly, each attorney appears to have an average caseload of fewer than 30 cases, almost half of which are settled even before the start of a hearing.

Conclusion

As the Commission demonstrated in its first report, Investigating the Investigators, school employees have little reason to believe they will be caught if they violate the rules. And, unfortunately, transgressors can also all too often rest assured that they will not be punished even if they are caught.

Tinkering with rules and regulations that govern discipline may accomplish something, but until there is a change in attitude the disciplinary system will not ever really work.

So long as principals and supervisors prefer to pass their problems on to their colleagues, and are allowed to do so, the evaluation process will continue to be a farce.

So long as the people responsible for bringing disciplinary charges are more concerned with bringing only "winning" cases, the number of successful disciplinary cases will continue to be disgracefully small.

* As of that date, the office had two vacancies on the legal staff and two on the support staff.

** Several of these lawyers have backgrounds in criminal law. Two are former assistant district attorneys; two are former members of the Legal Aid Society; and one formerly was with the Judge Advocate General's Office.

And, so long as the people in charge of discipline can continue to find excuses even for drug addicts and murderers that permit them to continue in the classroom, the disciplinary system will not provide any reasonable deterrent to wrongdoing.

Findings and Recommendations

Findings: The Central Board has not articulated clear substantive policies about critical disciplinary issues.

This failure has left the staff at sea about what it should consider misconduct and what punishments it should seek.

Recommendation:

♦ The Central Board should adopt policies, standards, and priorities to govern the discretion of the lawyers handling disciplinary cases when making charging decisions and settlement decisions.

Findings: No one is accountable for decisions about whether disciplinary charges should be brought.

All too often the "consensus" reached is that no charges should be filed.

All too often the participants blame each other for the failures of the disciplinary system.

No one can justify the "technical assistance conference" system or its results.

Recommendation:

♦ The Chancellor should abolish the "technical assistance conference" system, and institute a system for filing disciplinary charges, which forces the supervisor, the investigator, and the disciplinary lawyer each to make a clear decision, for which each can be held accountable.

Finding: No one has ever held the decisions of those in charge of discipline up to scrutiny.

Recommendation:

◆ The Chancellor should require his staff to compile an annual report detailing:

- disciplinary charges declined;
- disciplinary charges filed;
- settlements entered before a hearing;
- settlements entered during a hearing;
- settlements after hearing but pending determination;
- decisions after hearings;
- penalties imposed in all cases; and
- appeals taken and decisions.

The report should also specify the nature of the charges, the reasons for the decisions made by the Chancellor's staff, and the length of time taken to reach disposition.

Finding: Evaluations of principals and teachers are useless, because they are often misleading.

Recommendation:

◆ The Central Board and the Chancellor should require principals, supervisors, and superintendents to make specific and accurate evaluations, and should hold them accountable for the accuracy of the evaluations they submit.

CONCLUSION

We got a dirty district here ... We're all dirty ... We've all sold out a certain extent ...

- Salvatore Stazzone, Member
Community School Board 27

... we're a nation of fucks and gangsters because, that's what we glorify in Americana ... everybody cheats ... Not some people, 95% of the people. Some cheat a little, some cheat a lot. You work in an office, you take home office supplies. People work at a construction site, they take home, uh, two by fours. Unfortunately, we've become a nation of petty crooks ... a nation of thieves, morally and everything, and we're debased ...

- James C. Sullivan, Treasurer
Community School Board 27

During the last sixteen months, several Commission investigations uncovered gripping evidence of corruption and impropriety. Hours of recorded conversations proved beyond any doubt that one community school board was a corrupt patronage mill where jobs were dished out based on race, religion and ethnicity, not qualifications. As one board member put it, "Unqualified? Qualified? Bullshit."

In addition, evidence adduced at more than a hundred private hearings, nine days of public hearings, and thousand of pages of sworn testimony demonstrated that:

- the Board of Education ignored its legal mandate to prevent the corrupt few from stealing community school board elections from the parents;
- the Board of Examiners failed dismally to fulfill its responsibility to insure that child molesters and other miscreants are not set loose in our classrooms;
- the Inspector General's Office did a woefully inadequate job of unearthing corruption;
- some community school districts were completely out of control fiscally;

- the Board of Education's disciplinary system was a disaster.

During these investigations, the Commission has had enormous assistance and cooperation from many of the wonderful and dedicated pedagogues and professionals in the system. Without their invaluable assistance, we could not have fulfilled our mandate. And, some of whom came forward to help us, did so at great risk to themselves and their careers.

But, in some ways, this was no more than the Commission had anticipated. After all, the Commission was not investigating organized criminals with a code of silence or the pre-Knapp police department with its blue wall of silence. The Commission assumed that teachers and other education professionals -- who cared about the system and their charges, who were supposed to be role models for children, and many of whom were tenured -- would fulfil their legal and moral obligation to come forward and cooperate.

In fact, what was surprising was not that some came forward, but how many did not.

Chairman Gill twice sent every city and school employee a letter asking them to report any wrongdoing in the school system, and promising confidentiality. The letter gave the Commission's hotline number, its post-office box, and its address. The Commission sent letters to minority, community, and advocacy groups, explaining the Commission's mission and soliciting assistance. The Commission placed advertisements in newspapers, public service spots on the radio, and posters in the subways.

The Commission did receive more than a thousand complaints. However, scores of these complaints could best be described as simple backbiting from people who wanted to air general grievances about work conditions or colleagues, rather than reveal evidence of serious impropriety. And, although the Commission took steps to assure potential complainants of confidentiality, a great many of the complaints received were anonymous, making effective investigation much more difficult.

Thus, while the Commission received hundreds of complaints about time abuse, untoward sexual relationships among employees, unfair hiring and promotion practices, and the like, there were very few complaints providing hard evidence of graft, theft, or narcotics use, and fewer still in a form that allowed for effective follow-up.

The results of the Commission's other efforts to seek assistance from "insiders" were also disappointing. In April, 1989, the Commission sent a survey out to local school

boards, superintendents and deputy superintendents, principals, and all teachers at seven representative schools, along with a letter assuring confidentiality.

The lack of response was telling. For instance, six of the superintendents filled the survey out only after being advised that they could either complete the surveys or answer the same questions under oath in a private hearing.

The board members were equally uncooperative. At the Commission's invitation, Philip Kaplan, past president of the New York City Community School Board Association, and Dennis Coleman, current president of the association, testified at a public hearing on June 23rd. Kaplan's prepared remarks implied that the Commission was not interested in the views' of board members.

The Commission pointed out that the survey had sought information from community school board members about many of the very problems mentioned by Coleman and Kaplan in their remarks. The Commission also noted that neither Kaplan nor Coleman had bothered to return completed surveys.

Coleman excused himself and his fellow board members, by suggesting that they had not completed their surveys, because of the pressures of the campaign for the May 2nd school board elections. "If you were to send it out now, I would pledge to call upon our school board association and its members to respond immediately to your survey, now that the school board election is over."

On June 29, 1989, Chairman Gill sent new copies of the survey to each member of community school boards, again enlisting their help and pointing out Coleman's offer to encourage his fellow board members to cooperate.

Despite these efforts, the Commission received only 48 surveys from the current community school board members, for a dismal 17 percent compliance. Coleman and Kaplan never sent their surveys in.

When the surveys that were returned revealed that 41 percent of the respondents believed that hiring decisions were tainted by politics, nepotism, and cronyism, the Commission concluded that it should investigate these perceptions in a more formal way. Consequently, in August, 1989, the Commission sent a questionnaire to all members of the Central Board of Education and all community school board members. This questionnaire asked, among other things, for the names of all persons whom they recommended for school employment.

Again, the response was sadly instructive. Most board members failed to respond at all. Entire boards failed to respond. Community School Board 29 in Queens, for example, wrote to say that they thought the questionnaire was "quite unnecessary" and had voted unanimously not to complete it.*

In the meantime, Central Board President Robert F. Wagner, Jr. and Central Board member Edward Sadowsky informed the Commission that the Central Board had never intended for the Commission to investigate the Central Board itself, so the Central Board members did not think it appropriate for them to complete the questionnaire. After some discussion, Wagner and Sadowsky did say they and the other Central Board members would welcome meeting in person with the staff to answer the inquiries posed in the questionnaire and provide their insights about problems confronting the system, an offer the Commission gratefully accepted.

What is at the heart of this reluctance to take action against corruption? Part of the problem stems from the long-standing and justified fear of retribution. Whistle-blower protection should be strengthened and its existence should be publicized. And, at the same time, the system's watchdog must be dramatically improved to overcome the lapses of confidentiality that have fed these fears in the past.

Over and over again, too, we have confronted a stunning sense of hopelessness. With very few notable exceptions, central bureaucrats, teachers, local board members, district superintendents, and principals have in one way or another suggested that little or nothing will be done to improve the system.

The excuses were many and varied. The system is too big. The system is too bureaucratized. We need more decentralization. We need less decentralization. The unions have too much power. The unions have too little power. Time and time again, people asked our staff, "why are you wasting your time?" These people told us, "Commissions come and Commissions go, Chancellors come and Chancellors go, Mayors come and Mayors go. But the New York City Board of Education goes on forever." These people told us over and over again, "nothing can be done."

* In any event, the Commission did not have the time or resources to devote to calling in hundreds of board members and forcing them to cooperate. Experience with the superintendents had made it plain that enforcing cooperation from unwilling respondents yielded answers of a sort, but little or no useful information.

Of course, this hopelessness, this sense of despair is a self-fulfilling prophecy. And, how demoralizing it must be for those who care -- and there are so many in the system who do care.

Yet, even the best, the most caring, seem to have developed a bunker mentality. First, efforts at reform are viewed as pointless, and, then, they are viewed simply as attacks to be fended off. Again and again, we have met a reflex response: that this is a system under siege whose members have rounded the wagons to hide and wait it out.

This bunker mentality and the sense of hopelessness, create, foster, and feed a real crisis of courage. The conversations we recorded in District 27 demonstrate beyond any reasonable doubt that all kinds of personnel decisions made there -- including who became a principal -- were influenced by completely improper considerations. This was no great secret to the people in District 27. Yet no one but Colman Genn came forward.

Teachers and would-be principals are compelled to attend dinners or campaign fundraisers or to give money or time simply so that their real educational merits will not get overlooked. But, how many of them come forward, except perhaps anonymously?

A high school teacher is arrested for criminal possession of drugs. The teacher's personnel records make it crystal clear that the teacher has had serious problems for a long time, for years. Yet, the system's only response has been to shunt him from place to place to make sure -- not that the problem will be solved -- but simply that it will go away.

We do spot audits in schools and cannot find the equipment that should be there to help the children learn. Somewhere along the way the equipment has disappeared. Yet no one has reported, or even questioned any of these losses, or asked why the children are being forced to go without.

Unless and until the people in the system break out of their shell of despair, and find the courage to act, those who believe we are all "gangsters" and "crooks" will continue to steal -- in large amounts and small -- from the system and the children it serves.

One major reason so many people have given in to despair is that, far too often, nothing was ever done, even about the most egregious improprieties. Of course, part of the problem was the ineffectiveness of those charged with investigating allegations of impropriety, a problem detailed in the Commission's report on the Inspector General.

The problem goes even deeper, however, for throughout our investigations, we found that the corruption and wrongdoing we exposed came as no surprise to those in authority, but that no steps had ever been taken to punish past wrongs or prevent future ones.

In fact, the public school system has been crippled by a monumental lack of accountability. Although the Board constantly mouthed rhetoric about responsibility, its actions were, perhaps, reflected best in a candid exchange between the Commission's Chief Counsel and Lawrence E. Becker, Counsel to the Chancellor and the lawyer in charge of the Board's disciplinary process. After Becker had conceded a Board error, the Commission's Counsel asked who was responsible for the error:

Q Who, at the Board of Education, if anyone, is responsible for that failure ... Is it you, is it the Chancellor, is it Ms. DeMartini; is it everyone, nobody?

A I'm not going to assign blame to any particular individual.

* * *

Q ... [H]ow do we go about finding who is responsible?

A Why would you want to do that?

The failure to accept responsibility is, perhaps, not all that surprising. The failure of the Board's highest officials to see the point of determining responsibility so that accountability can be imposed is astonishing.

The results, though, were apparent everywhere. Districts were out of control fiscally because no one ever called the errant boards, superintendents, and business managers to account.

The Inspector General's office did not perform adequately, in part because for years no one ever held the Inspector General to account.

The disciplinary system did not discipline, because those charged with operating it did not see the point of holding anyone responsible, and because they themselves have never been held to account.

Until there is accountability, nothing will improve.