

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: LACKAWANNA



POLICE CRIMINAL COMPLAINT
COMMONWEALTH OF PENNSYLVANIA
VS.

Magisterial District Number: 45-1-02
MDJ Name: Hon. ALYCE M. FARRELL
Address: 130 N. WASHINGTON AVE.
FIRST FLOOR
SCRANTON, PA 18503
Telephone: 570-963-6898

DEFENDANT: (NAME and ADDRESS):
ALEXIS THERESA KIRIJAN
First Name Middle Name Last Name Gen.
6 CONIFER CIRCLE NE
ATLANTA, GA 30342
404-822-8795

NCIC EXTRADITION CODE TYPE

1-Felony Full 5-Felony Pend. C-Misdemeanor Surrounding States Distance:
 2-Felony Ltd. 6-Felony Pend. Extradition Determ. D-Misdemeanor No Extradition
 3-Felony Surrounding States A-Misdemeanor Full E-Misdemeanor Pending
 4-Felony No Ext. B-Misdemeanor Limited F-Misdemeanor Pending Extradition Determ.

DEFENDANT IDENTIFICATION INFORMATION

Docket Number Date Filed OTN/LiveScan Number Complaint/Incident Number Request Lab Services?
09/28/20 BNG0008-17/PA18-176605 YES NO

GENDER Male Female
DOB 04/06/48 POB N/A Add'l DOB Co-Defendant(s)
AKA First Name: ALEXIS Middle Name: HAZZOURI Last Name: KIRIJAN Gen.

RACE White Asian Black Native American Unknown

ETHNICITY Hispanic Non-Hispanic Unknown

HAIR COLOR GRY (Gray) RED (Red / Auburn) SDY (Sandy) BLU (Blue) PLE (Purple) BRO (Brown)
 BLK (Black) ONG (Orange) WHI (White) XXX (Unk. / Bald) GRN (Green) PNK (Pink)
 BLN (Blonde / Strawberry)

EYE COLOR BLK (Black) BLU (Blue) BRO (Brown) GRN (Green) GRY (Gray)
 HAZ (Hazel) MAR (Maroon) PNK (Pink) MUL (Multicolored) XXX (Unknown)

DNA YES NO DNA Location WEIGHT (lbs.)
125

FBI Number MNU Number Ft. HEIGHT In.
5 5

Defendant Fingerprinted YES NO
Fingerprint Classification:

DEFENDANT VEHICLE INFORMATION

Plate # State Hazmat Registration Sticker (MM/YY) Comm'l Veh. Ind. School Veh. Oth. NCIC Veh. Code Reg. same as Def.
VIN Year Make Model Style Color

Office of the Attorney for the Commonwealth Approved Disapproved because:
(The attorney for the Commonwealth may require that the complaint, arrest warrant affidavit, or both be approved by the attorney for the Commonwealth prior to filing, Pa.R.Crim.P.507.)

SDAG ERIK OLSEN
(Name of Attorney for Commonwealth - Please Print or Type)

Erik Olsen
Signature of Attorney for Commonwealth
SDAG ERIK C. OLSEN
#516 / 00492923/08250
(PSP/MPOETC - Assigned Affiant ID Number & Badge #)

9/28/20
(Date)

WE, SA. ROBERT MCHUGH and TFC. MICHAEL MULVEY
(Name of Affiant - Please Print or Type)

of the Pennsylvania Office of Attorney General and the Pennsylvania State Police
(Identify Department or Agency Represented and Political Subdivision)

PA0222400/ PAPSP1A00
(Police Agency ORI Number)

do hereby state: (check appropriate box)

- 1. WE accuse the above named defendant who lives at the address set forth above
 I accuse the defendant whose name is unknown to me but who is described as
 I accuse the defendant whose name and popular designation or nickname is unknown to me and whom I have therefore designated as John Doe or Jane Doe.

with violating the penal laws of the Commonwealth of Pennsylvania at: 302 SCRANTON SCHOOL DISTRICT
(Subdivision Code) (Place-Political Subdivision)

in LACKAWANNA County 35 on or about AUGUST 2016 TO AUGUST 2019
(County Code) (Offense Date)



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: 09/28/20	OTN/LiveScan Number	Complaint/Incident Number BNG0008-17 / PA18-176605
Defendant Name	First: ALEXIS	Middle: THERESA	Last: KIRIJAN

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically.

(Set forth a *brief* summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated.

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older: 0
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<input checked="" type="checkbox"/> Lead?	1	4304	(a)(1)	of the	Title 18 , PA Crimes Code	5	F1		200/90Z
	Offense #	Section	Subsection		PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
---------------------------------	--------------------	-------------------------------------	--------------------------------------	------------------------------------

Statute Description (include the name of statute or ordinance):
Endangering Welfare of Children

Acts of the accused associated with this Offense:
IN THAT, on or about said date, being a parent, guardian, or other person supervising the welfare of a child under the age of 18 years of age, THE DEFENDANT did knowingly endanger the welfare of children by violating a duty of care, protection or support, namely, by ignoring repeated reports of widespread environmental hazards in the Scranton School District, despite her responsibilities to ensure the health and safety of thousands of students under the age of six (6). TO WIT: The DEFENDANT failed to address the exposure to known levels of lead in water, in violation of Section 4304(a) of the PA Crimes Code.

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older: 0
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<input type="checkbox"/> Lead?	2	4304	(a)(1)	of the	Title 18 , PA Crimes Code	10	F2		200/90Z
	Offense #	Section	Subsection		PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
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Statute Description (include the name of statute or ordinance):
Endangering Welfare of Children

Acts of the accused associated with this Offense:
IN THAT, on or about said date, being a parent, guardian, or other person supervising the welfare of a child under the age of 18 years of age, THE DEFENDANT did knowingly endanger the welfare of children by violating a duty of care, protection or support, namely, by ignoring repeated reports of widespread environmental hazards in the Scranton School District, despite her responsibilities to ensure the health and safety of thousands of students. TO WIT: The DEFENDANT failed to address the exposure to known levels of lead in water, in violation of Section 4304(a) of the PA Crimes Code.



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Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older: 0
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<input type="checkbox"/> Lead?	3	4304	(a)(1)	of the	Title 18 , PA Crimes Code	9	F1		200/90Z
	Offense #	Section	Subsection		PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
---------------------------------	--------------------	-------------------------------------	--------------------------------------	------------------------------------

Statute Description (include the name of statute or ordinance):

Endangering Welfare of Children

Acts of the accused associated with this Offense:

IN THAT, on or about said date, being a parent, guardian, or other person supervising the welfare of children under the age of 18 years of age, THE DEFENDANT did knowingly endanger the welfare of children by violating a duty of care, protection or support, namely, by failing to act over the course of three (3) years to address and/or remediate known toxic asbestos in Scranton School District buildings, despite her responsibilities to ensure the health and safety of students under the age of six (6), in violation of Section 4304(a) of the PA Crimes Code. TO WIT: The DEFENDANT failed to act over the course of three (3) years to address and/or remediate known toxic asbestos in Scranton School District buildings, despite her responsibilities to ensure the health and safety of students under the age of six (6).

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older: 0
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<input type="checkbox"/> Lead?	4	4304	(a)(1)	of the	Title 18 , PA Crimes Code	14	F2		200/90Z
	Offense #	Section	Subsection		PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
---------------------------------	--------------------	-------------------------------------	--------------------------------------	------------------------------------

Statute Description (include the name of statute or ordinance):

Endangering Welfare of Children

Acts of the accused associated with this Offense:

IN THAT, on or about said date, being a parent, guardian, or other person supervising the welfare of children under the age of 18 years of age, THE DEFENDANT did knowingly endanger the welfare of said child by violating a duty of care, protection or support, namely, by failing to act over the course of three (3) years to address and/or remediate known toxic asbestos in Scranton School District buildings, despite her responsibilities to ensure the health and safety of thousands of students, in violation of Section 4304(a) of the PA Crimes Code. TO WIT: The DEFENDANT failed to act over the course of three (3) years to address and/or remediate known toxic asbestos in Scranton School District buildings, despite her responsibilities to ensure the health and safety of students.



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Defendant Name	First: ALEXIS	Middle: THERESA	Last: KIRIJAN

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Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older: 0
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<input type="checkbox"/> Lead?	5	2705		of the	Title 18 , PA Crimes Code	14	M2		04E/90Z
	Offense #	Section	Subsection		PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
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Statute Description (include the name of statute or ordinance):

Recklessly Endangering Another Person

Acts of the accused associated with this Offense:

IN THAT, on or about said date, THE DEFENDANT did recklessly engage in conduct which placed or may have placed thousands of Scranton School District students, employees, staff and members of the public visiting buildings within the District in danger of death or serious bodily injury, that is to say THE DEFENDANT did fail to act over the course of three (3) years to address and/or remediate known toxic asbestos in Scranton School District buildings, despite her responsibilities to ensure the health and safety of thousands of students, employees, staff and visitors, in violation of Section 2705 of the PA Crimes Code. TO WIT: The DEFENDANT failed to act over the course of three (3) years to address and/or remediate known toxic asbestos in Scranton School District buildings, despite her responsibilities to ensure the health and safety of students, employees, staff and visitors.

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older: 0
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<input type="checkbox"/> Lead?	6	2705		of the	Title 18 , PA Crimes Code	10	M2		04E/90Z
	Offense #	Section	Subsection		PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
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Statute Description (include the name of statute or ordinance):

Recklessly Endangering Another Person

Acts of the accused associated with this Offense:

IN THAT, on or about said date, THE DEFENDANT did recklessly engage in conduct which placed or may have placed thousands of Scranton School District students, employees, staff and members of the public visiting buildings within the District in danger of death or serious bodily injury, that is to say THE DEFENDANT did ignore repeated reports of widespread environmental hazards in the Scranton School District, despite her responsibilities to ensure the health and safety of thousands of students, employees, staff and visitors. TO WIT: The DEFENDANT failed to address the exposure to known levels of lead in water, in violation of Section 2705 of the PA Crimes Code



POLICE CRIMINAL COMPLAINT

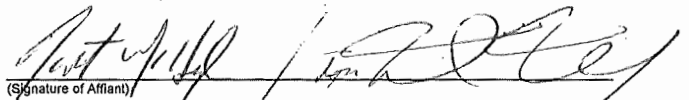
Docket Number:	Date Filed: 09/28/20	OTN/LiveScan Number	Complaint/Incident Number BNG0008-17 / PA18-176605
Defendant Name	First: ALEXIS	Middle: THERESA	Last: KIRIJAN

- We ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made.
- We verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S.§4904) relating to unsworn falsification to authorities.
- This complaint consists of the preceding page(s) numbered 1 through 4
- We certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

The acts committed by the accused, as listed and hereafter, were against the peace and dignity of the Commonwealth of Pennsylvania and were contrary to the Act(s) of the Assembly, or in violation of the statutes cited.

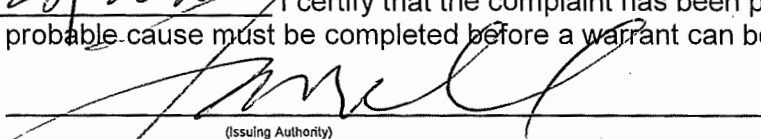
(Before a warrant of arrest can be issued, an affidavit of probable cause must be completed, sworn to before the issuing authority, and attached.)

SEPTEMBER 28, 2020
(Date)


(Signature of Affiant)

AND NOW, on this date, 9/28/2020 I certify that the complaint has been properly completed and verified. An affidavit of probable cause must be completed before a warrant can be issued.

(Magisterial District Court Number)


(Issuing Authority)

SEAL



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: 09/28/20	OTN/LiveScan Number:	Complaint/Incident Number BNG0008-17 / PA18-176605
Defendant Name:	First: ALEXIS	Middle: THERESA	Last: KIRIJAN

AFFIDAVIT of PROBABLE CAUSE

Your AFFIANTS, Special Agent Robert MCHUGH, Office of Attorney General (hereafter OAG) and Trooper First Class Michael MULVEY of the Pennsylvania State Police (hereafter PSP) being duly sworn, depose and say:

Your AFFIANTS have been involved in an investigation into offenses in violation of the criminal laws of the Commonwealth. The OAG and PSP investigation has utilized the Statewide Investigating Grand Jury and as a result, the Forty-Fourth Statewide Investigating Grand Jury issued Presentment No. 18 on September 18, 2020. This Presentment was accepted by order of the Honorable Lillian H. Ransom, Supervising Judge. The Presentment, attached to this Affidavit and incorporated herein by reference, recommends charges be filed by the Attorney General or his designee against the DEFENDANT as follows:

- Charge 1 – Endangering the Welfare of Children; 4304 (a)(1) / 18 Pa. C.S.A.
- Charge 2 – Recklessly Endangering Another Person; 2705 / 18 Pa. C.S.A.

Your AFFIANTS have reviewed the Presentment and find that the factual findings described therein correspond to the OAG and PSP investigative findings. Your AFFIANTS have reviewed the sworn testimony given by witnesses before the Grand Jury and find that it is consistent with the information contained within the Presentment. Your AFFIANTS have reviewed the evidence presented to the Grand Jury and find that it comports with the result of the OAG and PSP investigative efforts and findings as to the allegations contained in this complaint.

We, SA. Robert MCHUGH and TFC. Michael MULVEY, BEING DULY SWORN ACCORDING TO THE LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

I CERTIFY THAT THIS FILING COMPLIES WITH THE PROVISIONS OF THE CASE RECORDS PUBLIC ACCESS POLICY OF THE UNIFIED JUDICIAL SYSTEM OF PENNSYLVANIA THAT REQUIRE FILING CONFIDENTIAL INFORMATION AND DOCUMENTS DIFFERENTLY THAN NON-CONFIDENTIAL INFORMATION AND DOCUMENTS.

[Signature]
(Signature of Affiant)

Sworn to me and subscribed before me this 28th day of Sept 2020

[Signature] Date _____, Magisterial District Judge

My commission expires first Monday of January,



INTRODUCTION

We, the members of the Forty-Fourth Statewide Investigating Grand Jury, having received evidence pertaining to violations of the Pennsylvania Crimes Code occurring in Lackawanna County, Pennsylvania pursuant to Notice of Submission of Investigation No. 22, do hereby make the following findings of fact and recommendation of charges:

OVERVIEW

The Grand Jury conducted an investigation into repeated failures to address immediate health threats from lead and asbestos to the students and employees of the Scranton School District. We conclude that these failures were so blatant that they constitute crimes, and we recommend charges of reckless endangerment and endangering welfare of children. The subjects of the investigation were former Scranton School District ("SSD") Superintendent Alexis Hazzouri Kirijan ("Kirijan"), former SSD Director of Operations Jeff Brazil ("Brazil") and current SSD Maintenance Supervisor, Joseph Slack ("Slack").

These administrators were repeatedly advised by experts of dangerous levels of lead in drinking water in at least ten different schools throughout the district, including classroom sinks and public water fountains. Despite repeated reports over a period of years, the administrators not only failed to fix the problem; they misinformed the public. Superintendent Kirijan and Brazil first held a press conference falsely declaring that the problem had been completely solved. Then they failed to advise teachers, students, parents, or school board members when continued testing demonstrated that, in reality, dozens of contaminated sources were still being used. Kirijan and Brazil took the same approach when advised of dozens of areas of dangerous asbestos exposure affecting at least twelve schools in the district; they failed to act, and instead hid the problem from those in danger.

There is no "safe" level of lead in drinking water; even low levels can lower IQs and affect intellectual development in children, and can cause congenital impairment during pregnancy. Similarly, airborne exposure to asbestos particles can cause life-threatening, untreatable cancers when inhaled. Kirijan and Brazil were advised by outside evaluators of the need for immediate remedial action starting in 2016, and continuing through 2019. They were also on notice of applicable state and federal regulations requiring such action. But little was done.

Only after Supt. Kirijan finally resigned were the problems addressed. When the new administration was advised of the situation, the dangerous water sources were immediately disconnected, and asbestos-affected school district buildings had to be closed until remediation could be undertaken.

THE SCRANTON SCHOOL DISTRICT

The SSD is comprised of eleven elementary schools, three intermediate schools and two high schools, encompassing students attending pre-kindergarten through twelfth grade. The following tables illustrate the student enrollment and staffing levels for each of the schools within the SSD from October 2016 to October 2019. These records were provided to the Grand Jury by the current administration of the SSD.

Student Enrollment	Grades	10/1/16	10/1/17	10/1/18	10/1/19
Scranton High	9 through 12	1,804	1,759	1,770	1,731
West High	9 through 12	940	917	877	1,005
Northeast Intermediate	6 through 8	773	796	864	835
South Intermediate	6 through 8	572	562	613	622
West Intermediate	6 through 8	707	729	768	802
Sumner Elem.	PreK through 5	334	307	315	299
Willard Elem.	PreK through 5	547	533	513	497
Tripp Elem.	PreK through 5	815	779	778	760
Whittier Elem.	PreK through 5	692	681	672	684
McNichols Plaza Elem.	PreK through 5	467	502	456	403
Kennedy Elem.	PreK through 5	436	418	407	437
Armstrong Elem.	PreK through 5	638	613	608	609
Bancroft Elem.	PreK through 5	229	260	244	253
Adams Elem.	PreK through 5	289	311	349	346
Prescott Elem.	PreK through 5	347	339	333	331
Morris Elem.	PreK through 5	315	304	314	322
TOTAL		9,905	9,810	9,881	9,936

Building Staff	2016	2017	2018	2019
Scranton High	193	184	178	162
West High	126	115	123	133
Northeast Intermediate	97	91	84	86
South Intermediate	78	85	70	68
West Intermediate	93	91	83	84
Sumner Elem.	36	36	29	30
Willard Elem.	55	54	54	52
Tripp Elem.	86	94	86	90
Whittier Elem.	69	69	83	75
McNichols Plaza Elem.	53	51	51	53
Kennedy Elem.	48	45	49	46
Armstrong Elem.	60	54	57	60
Bancroft Elem.	43	41	40	39
Adams Elem.	48	41	39	38
Prescott Elem.	41	38	36	36
Morris Elem.	35	38	36	40
Total	1161	1127	1098	1092

The ages of the students attending the SSD during the October 2016 to October 2019 time period ranged from three years old for Pre-Kindergarten to 18 years old for twelfth grade.

According to information received from the SSD, in the 2015-2016 school year, there were 1,474

SSD students under the age of six; in the 2016-2017 school year, there were 1,414 SSD students under the age of six; in the 2017-2018 school year, there were 1,481 SSD students under the age of six; in the 2018-2019 school year, there were 1,402 SSD students under the age of six; and in the 2019-2020 school year, there were 1,334 SSD students under the age of six.

JOB RESPONSIBILITIES

The Grand Jury was provided with the job descriptions and job responsibilities for former Superintendent Kirijan, former Director of Operations Brazil, and Maintenance Supervisor Slack, as reflected in their employment contracts with the SSD.

As Superintendent of Schools reporting to the Board of Directors, Kirijan's primary purpose was "to lead and manage the district's internal and external systems to improve student performance." Her essential job functions included, among others, school operations and safety, school district compliance oversight, and school district state reporting. Kirijan was employed with the SSD from July 1, 2015 to August 15, 2019, when she resigned.

As the Chief Operations Officer, reporting directly to the Superintendent of Schools, Brazil's primary job responsibility was to provide "safe, healthy, and efficient facilities that ensure quality educational and workplace environments." His essential job functions included daily shared control, oversight and management of district operations programs, compliance, supervision of facilities, buildings and maintenance, and supervision of district safety and security. Brazil was employed by the SSD from January 3, 2012 through March 29, 2019.

As Maintenance Supervisor, reporting directly to Chief Operations Officer Brazil, Slack's primary function was to "maintain systems and equipment by completing preventive maintenance schedules, restoring, rebuilding, or replacing faulty or inoperative components and parts, supervising staff." His duties and responsibilities at the SSD included inspecting facilities to

determine problems and necessary maintenance, inspecting and maintaining building systems, ensuring adherence to quality standards and health and safety regulations, and maintaining a safe and healthy work environment following standards and procedures in compliance with legal codes and regulations. Slack has been employed by the SSD since October 27, 1986.

LEAD EXPOSURE

In December, 2019, during the course of the investigation, it was brought to PSP Trooper Michael Mulvey's ("Trooper Mulvey") attention that the SSD may have failed to take numerous drinking fountains out of service after learning that they contained dangerously high levels of lead. Trooper Mulvey and Special Agent Robert McHugh of the Office of Attorney General ("Agent McHugh") immediately began investigating these allegations.

On January 6, 2020, Trooper Mulvey and Agent McHugh contacted the current administration of the SSD, specifically Superintendent Missy Rose McTiernan ("McTiernan") and Director of Operations Paul Dougherty ("Dougherty"). McTiernan and Dougherty informed investigators that neither they, nor anyone else to their knowledge currently in the SSD, were ever made aware of high levels of lead in drinking water, but that they would take immediate steps to investigate. Investigators began receiving lead testing reports from Dougherty and McTiernan on January 9, 2020. Those reports confirmed that numerous drinking fountains and sinks had been tested in 2016, and again in 2018 and were found to contain dangerously high amounts of lead. While the 2018 results had been transmitted to the prior SSD administration in January of 2019 (*i.e.*, Kirijan's administration), water facilities were not disconnected and no warning signs were placed on them. By January 10, 2020, in contrast, the current administration of the SSD had shut down all water facilities that had tested for high amounts of lead years earlier. Investigators then

began to determine the facts leading up to the prior administration's failure to protect the safety of the students, faculty, staff and visitors of the SSD.

The Grand Jury's evidence consisted of many forms, including testimony from investigators, current SSD personnel, and experts in the sampling and testing of drinking water, and numerous documents recovered from the SSD and other locations.

Initial Lead Testing in 2016

On March 29, 2016, a member of the local media sent an e-mail to Justin McGregor, then Community Relations Director for the SSD, Kirijan, then Superintendent of the SSD, and a former board member of the SSD, inquiring as to what, if any, lead testing the SSD had done to date in order to protect the students from exposure to high lead levels in water. Emails reflect that, on the following day (March 30, 2016), McGregor responded to the media inquiry that Kirijan handled all press contacts and responses. McGregor further responded that Brazil was the appropriate person to address the media inquiry and he would forward the email chain to both Kirijan and Brazil. E-mail records confirmed that McGregor forwarded the e-mail chain to both Kirijan and Brazil.

In response to the March 2016 press inquiry, and with input from at least one member of the SSD School Board, the SSD entered into a contract with Guzek Associates, Inc. to have all the drinking water outlets in the SSD tested for levels of lead. The President of Guzek Associates testified before the Grand Jury that he entered into this contract with the SSD through Chief Operations Officer Brazil, who had personally contacted him. At the time this action was taken, school districts in the Commonwealth of Pennsylvania were not legally obligated to conduct such testing; thus, the SSD voluntarily initiated this testing. Testing done by Guzek Associates in the spring of 2016 revealed that over one third of the water sources tested contained the presence of

lead. At least 22 water sources (fountains and/or sinks) either met or tested above the United States Environmental Protection Agency's "action trigger level" – 15 parts per billion – thereby necessitating remediation.¹ The testing also confirmed that the water entering the school district buildings provided by the Scranton Water Department contained no discernible levels of lead – meaning that the lead must have been in the buildings' pipes.

Investigators obtained internal SSD records reflecting that after receiving these 2016 test results, the SSD claimed to have taken 19 of the 22 water sources out of operation. With regard to the other 3 water sources, investigators discovered from internal SSD records that the District declined to disconnect two water fountains at Whittier Elementary, claiming that the building used bottled water and therefore no action was necessary. Additionally, even though it was recommended that a kitchen sink at Willard Elementary be disconnected due to high lead concentration, internal reports reflected that the SSD claimed that no action was needed on that sink.

As discussed below, investigators subsequently discovered that 10 of the water sources that Guzek recommended the SSD deactivate in 2016 were still operational in 2018. In addition to the 3 facilities mentioned above that the SSD's own records reflect were not deactivated despite Guzek's directive to disconnect them, Guzek's 2018 lead testing revealed that 7 water sources recommended for deactivation were still operational. All 7 tested positive for the presence of lead.

¹ The Grand Jury was provided with the following information by the EPA regarding standards for safe drinking water. "EPA established the Lead and Copper Rule (LCR) in 1991 to protect public health and reduce exposure to lead in drinking water. The Lead and Copper Rule established a Maximum Contaminant Level Goal (MCLG) of zero for lead. The MCLG is zero because there is no level of exposure to lead that is without risk. The Safe Drinking Water Act requires that EPA establish a treatment technique for contaminants like lead and copper that prevents known or anticipated health effects to the extent feasible. The lead action level is a measure of the effectiveness of the corrosion control treatment in water systems. The action level is not a standard for establishing a safe level of lead in a home. To check if corrosion control is working, EPA requires water systems to test for lead at the tap in certain homes, including those with lead service lines. Systems compare sample results from homes to EPA's action level of 0.015 mg/L (15 ppb)."

As testing showed, however, these “trigger” level sites were only a small portion of over 100 water sources throughout the district with unsafe levels of lead – because there is no safe level of lead. The Grand Jury learned that lead is a naturally occurring heavy metal that is toxic when ingested or absorbed into the body. Through the testing reports of Guzek Associates, the Grand Jury was informed that numerous studies have demonstrated that exposure to lead is a significant health concern, especially for young children whose bodies tend to absorb more lead than the average adult. According to the EPA, even low levels of lead in the blood of children can result in: behavior and learning problems; lower IQ and hyperactivity; slowed growth; hearing problems; and/or anemia. In rare cases, ingestion of lead can cause seizures, coma and even death. Studies have further shown that there is no safe blood lead level in children and, if too much lead is ingested from drinking water, the result can be serious health problems, including brain damage, kidney damage and interference with the production of red blood cells that carry oxygen to parts of the body. Early intervention is crucial, because the effects of lead are cumulative: the longer the child is exposed, the more serious the danger. In addition, adults with kidney problems and high blood pressure can be affected by levels of lead to a greater extent than more healthy adults. Studies have also shown that lead exposure during pregnancy can result in the unborn child receiving this lead through its mother’s bones, which, in turn, can impact brain development of the fetus.

On June 8, 2016, after receiving the results of the 2016 Guzek Associates lead testing report, then Superintendent Kirijan and then Director of Operations Brazil hosted a press conference to announce – inaccurately – that they had effectively addressed any and all lead concerns throughout the SSD. That press conference was reported in various media outlets throughout the region.

Public School Code Lead Amendments

This Grand Jury learned that in June 2018, the Pennsylvania Public School Code of 1949 was amended by Act 39 of 2018. The amendments require school districts throughout the Commonwealth of Pennsylvania to either test all of their drinking water facilities for lead or, in the alternative, have public meetings at least once a year to address why they chose not to test for lead. The 2018 amendments further provide that, if a school district tested for lead levels in its drinking water and found that the lead levels exceeded the EPA's current action level of 15 parts per billion (15 ppb), the school district must immediately implement a plan to ensure that no child or adult will continue to be exposed to lead contaminated drinking water, and must provide an alternative source of drinking water.

Specifically, Act 39 of the Public School Code provides in pertinent part:

Beginning in the 2018-2019 school year, and every school year thereafter, school facilities where children attend school may be tested for lead levels in the drinking water and any school facility whose testing shows lead levels in excess of the maximum contaminant level goal or milligrams per liter as set by the United States Environmental Protection Agency's National Primary Drinking Water Regulations (NPDWR) shall immediately implement a plan to ensure no child or adult is exposed to lead contamination drinking water and that alternative sources of drinking water are made available.

See Public School Code of 1949 Act of Jun. 22, 2018, P.L. 241, No. 39.

As shown above, Pennsylvania's Public School Code's 2018 Amendments reference the EPA's National Primary Drinking Water Regulations (NPDWR) for the standard by which Commonwealth school districts must comply for drinking water. It is in those regulations where the EPA indicates that **.015mg/L** is the highest level of lead that is allowed in drinking water. Those regulations, however, state that the level of lead at which there is "no known or expected risk to health" is zero. In other words, according to the EPA, no lead in drinking water is the only acceptable amount of lead.

The amendments also mandate that any school or district with findings of high lead levels report those elevated lead levels to the Pennsylvania Department of Education for posting on the Department's website.

The SSD provided investigators with an e-mail, dated August 2, 2018, in which a member of the Pennsylvania State Senate informed Kirijan of the 2018 amendments to Act 39 of the Public School Code. In that correspondence, the Senator attached the amendments and informed Kirijan that they required "testing for the presence of lead in school drinking water." The Senator further highlighted the relevant portions of Act 39 and offered to answer any questions that Kirijan had concerning the amendments. The e-mail records revealed that Kirijan received the Senator's e-mail at 9:07 a.m. on August 2, 2018, and then forwarded it and the attached amendments to Brazil at 1:38 p.m. that same day.

Investigators discovered additional correspondence to Kirijan two months later, in which she was further informed about the 2018 amendments. By e-mail dated November 16, 2018, the Senator's Executive Assistant informed Kirijan that the Senator wanted to advise her that "the lead testing requirements for the Department of Education [had] been posted." The Executive Assistant also directed Kirijan to familiarize herself with the new law, and provided an e-mail link to the Department of Education's website concerning compliance with the new law. Kirijan received that e-mail at approximately 4:46 p.m. on November 16, 2018, and forwarded it to Brazil on November 18, 2018, at approximately 8:34 a.m.

Brazil then entered into another lead testing contract with Guzek Associates, Inc. for another complete round of lead testing in the SSD in December of 2018.

December 2018 Lead Testing

In December of 2018, Guzek Associates performed testing for the presence of lead in all fountains and sinks that provided water for drinking and/or food preparation for SSD students, staff and faculty throughout the SSD. These water sources were located in hallways, classrooms and cafeterias throughout the SSD. Of the 303 water sources tested, Guzek Associates informed the SSD that nearly half of them contained measurable amounts of lead.

More specifically, the test results revealed that at least 28 water sources throughout the SSD tested above both the EPA's remediation trigger level and the action level established by the Pennsylvania Department of Environmental Protection. Investigators learned from multiple interviews that each of the 28 fountains/sinks were regularly used by students and staff to consume water. The testing also confirmed that the water entering the school district buildings provided by the Scranton Water Department contained no discernible levels of lead, indicating that the lead was being introduced into the water after entering the SSD's system.

The Grand Jury's review of e-mails, regular mail and testimony demonstrated that, commencing in January of 2019, Guzek Associates sent the December 2018 test results via e-mail and regular mail to Brazil who, in turn, forwarded them to Kirijan and Slack.

Beginning on January 3, 2019, Brazil began receiving results of the Guzek Associates lead testing throughout the SSD. Specifically, Brazil received one e-mail from Guzek Associates on January 3, 2019, one e-mail from Guzek Associates on January 15, 2019, and two e-mails from Guzek Associates on January 23, 2019. In those multiple e-mails, the outside expert identified multiple sink and fountain areas in various SSD schools that "exceeded the EPA Remediation Trigger Level," and recommended "shutting these areas off" immediately.

The Grand Jury was also presented with evidence revealing that, through numerous e-mails in February 2019, Guzek Associates provided Brazil with additional water testing results and reports for schools/facilities in the SSD. In those e-mails, the consultant identified additional areas in the SSD exceeding “the EPA Remediation Trigger Level” and the “PADEP’s Lead Action Level,” and recommended that those areas be disconnected immediately. Moreover, by e-mail dated February 20, 2019, Guzek Associates furnished Brazil with a copy of the EPA’s 73-page manual entitled: “*3 T’s for Reducing Lead in Drinking Water in Schools and Child Care Facilities. A Training, Testing, and Taking Action Approach.*” Finally, on March 4, 2019, Guzek Associates provided Brazil with its 10-page “final list” of test results for all of the water sources in the SSD schools, reiterating those areas containing dangerous levels of lead.

The chart below identifies those sinks and drinking fountains within the SSD that Guzek Associates tested in 2018 and which, in January and February of 2019, they advised Brazil to shut off immediately because of high lead content nearing or exceeding the EPA action level of .015 mg/L. In particular, the five facilities emphasized in bold in the chart are the water sources that the SSD had been told to disconnect in 2016 and which their internal records indicated had been disconnected (but were not).

School	Identified Facility	Lead Amount
Armstrong	Health Room Sink	0.036 mg/L
Armstrong	Room 124, Sink	0.041 mg/L
Armstrong	Room 127, Sink	1.09 mg/L
Bancroft	Room 101 - Sink	0.509 mg/L (2016 Recommended Disconnect)
Bancroft	2nd Floor Health Room sink Center Open Area (Black Ceiling), Sink	0.0345 mg/L (2016 Recommended Disconnect)
McNichols	Miss Molly's Class Room, Sink (Right)	0.021 mg/L (2016 Recommended Disconnect)
McNichols	Gym, Boy's Restroom, Water Fountain	0.065 mg/L (2016 Recommended Disconnect)
McNichols	Health room sink	0.025 mg/L
Nativity	Health room sink	0.0176 mg/L
North Intermediate	1st Floor, Home Economics - Sink #1	0.0182 mg/L
North Intermediate	1st Floor, Home Economics - Sink #4	0.0159 mg/L
North Intermediate	1st Floor, Home Economics - Sink #5	0.0271 mg/L
North Intermediate	1st Floor, Room 121 Sink	0.0176 mg/L
Prescott	2nd Floor, Teachers Lounge Sink	0.0359 mg/L
Prescott	2nd Floor, Room 205 Water Fountain	3.57 mg/L (2016 Recommended Disconnect)
Prescott	2nd Floor, Room 205 Sink	0.0144 mg/L
Prescott	1st Floor, Room 104 Water Fountain	0.0346 mg/L
Prescott	1st Floor, Room 101 Water Fountain	0.0397 mg/L
Prescott	Basement, Health Room Sink	0.0622 mg/L
Scranton High School	1st Floor, Training Room Sink	0.0156 mg/L
Scranton High School	2nd Floor, Kitchen Main Cooking Area, Left Kettle	0.0147 mg/L
West High	Kitchen Ecolab wash sink	0.02379 mg/L
West Intermediate	Auditorium Hall Water Fountain	0.02844 mg/L
West Intermediate	Band Room sink	0.09389 mg/L
West Intermediate	Medical Office Exam Room Sink	0.04751 mg/L
West Intermediate	Main Office Sink	0.66244 mg/L
Whittier	1st Floor Kitchen sink (next to slicer)	.353 mg/L
Whittier	1st Floor Kitchen sink (2 bay sink left side)	0.0261 mg/L

As noted above, seven of the ten water sources (sinks/fountains) identified by Guzek Associates, Inc. during the 2016 testing -- that the SSD never deactivated despite being directed to do so -- were retested by Guzek in 2018 after Guzek technicians discovered that they were still operational. All seven were found to contain lead. Five of those seven water sources tested above both the EPA's remediation trigger level and the action level established by the Pennsylvania Department of Environmental Protection (PADEP) and are contained and emphasized in the chart above.² Most of the 28 sources listed above were at least two times higher than the .015 mg/L immediate action level; some were 50 or 100 times higher. And these 28 were just the worst of the worst; over half of the sources tested showed contamination with lead, for which there is no safe limit.

The Grand Jury reviewed evidence showing that Brazil forwarded the January 2019 e-mails containing the Guzek Associates lead test results to Kirijan. In response to receiving Brazil's January 3, 2019 e-mail, Kirijan, by e-mail dated January 5, 2019, inquired about whether all of the schools had been tested. By e-mail that same day, Brazil responded that all of the schools had been tested but not all results were back yet. By e-mail later that same day, Kirijan advised Brazil that she would report "all to the Board" at the meeting later that month (although, as detailed below, she failed to do so).

Additionally, on January 15, 2019, Brazil forwarded to Kirijan the e-mail and test results he received from Guzek Associates earlier that day, identifying five additional school sinks and fountains at three additional SSD schools that exceeded the EPA's Remediation Trigger Level. In

² Two of the seven water sources tested lower when retested in 2018.

The three water sources identified in the 2016 testing that were not retested by Guzek in 2018 were those in which internal SSD records reflected that no further action was necessary. Investigation revealed that they were never disconnected by the SSD.

response to that e-mail, Kirijan, that same day, asked whether the entire district had been tested and whether the forwarded test results represented the “entire list” of district areas exceeding the EPA Remediation Trigger Level.

The Grand Jury was also presented with evidence revealing that Brazil forwarded all of these e-mails containing the Guzek Associates lead test results to Slack, the Maintenance Supervisor for the SSD. Brazil forwarded the January 3, 2019 e-mail from Guzek Associates to Slack on January 4, 2019, at approximately 5:35 p.m. Brazil forwarded the January 15, 2019 e-mail from Guzek Associates to Slack on January 15, 2019, at approximately 10:24 a.m. (11 minutes after receiving it). In the January 15, 2019 e-mail, Brazil stated: “Joe, place these off limits immediately. Jeff.” Records show that Brazil forwarded the January 23, 2019 e-mail from Guzek Associates (identifying twelve additional water sources at three additional schools to be shut off immediately) to Slack that same day at approximately 4:00 p.m. (approximately 4 minutes after having received it). At approximately 6:19 p.m. that same day, Slack responded to Brazil by stating, “I will make sure they are all shut off in the morning.” But Slack’s e-mail was a false promise. Evidence presented to the Grand Jury revealed that, although his essential responsibilities as Maintenance Supervisor included ensuring strict adherence to health and safety regulations, and despite the assurance in the e-mail, Slack never took any action to disconnect any of the fountains or sinks identified at that time as contaminated by lead.

The Grand Jury further learned that, despite being advised in January 2019 of the hazardous lead test results and despite her primary responsibility of ensuring the safety of school operations in the SSD, Kirijan – like Brazil and Slack – took no action to remove, disconnect or remediate those lead-contaminated water sources, or to satisfy herself that the work had been done.

The Grand Jury also learned that, despite his purportedly concerned e-mails to Slack in January 2019, Brazil took no action to remove, disconnect or remediate those lead contaminated water sources, or to ascertain whether the work had been done.

But the administrators not only failed to ensure that any of these contaminated sources were actually disconnected; they also failed to warn any child, student, faculty member, staff member, parent or visitor about those high lead test results. Even if the sinks and fountains had finally been disconnected, numerous children and staff members had already been ingesting the contaminated water, with cumulative dangerous effect, but were never told. It was not until Trooper Mulvey and Agent McHugh brought the test results to the attention of the new administration (specifically, McTiernan and Dougherty) that those water sources were immediately disconnected and the problem was disclosed.

Until then, only Kirijan, Brazil and Slack could have advised anyone about the situation, because, as SSD e-mails and interviews of SSD personnel demonstrated, no one other than Kirijan, Brazil and Slack had ever been made aware of the dangerously high lead results.

The Grand Jury heard testimony that investigators recovered from Kirijan's file cabinet a folder containing a list of topics that Kirijan considered presenting to the SSD School Board Executive Committee on January 26, 2019. One of the topics was the 2018 Guzek Associates lead test results. Included with that list of topics was a folder containing 13 separate copies of the 2018 test results. This number of copies correlated to the number of board members, board secretary and solicitor attending the upcoming meeting. Kirijan, however, in the end chose not to disclose the information pertaining to the 2018 test results to any of the board members. Investigators interviewed every board member from the relevant 2019 time period and each indicated that they were never told of any lead concerns in the SSD during 2019.

In addition, investigators interviewed every principal at every affected school throughout the SSD. Every principal indicated that they were never informed that there were any lead problems in the building. They each stated that at no point during 2019 were any fountains or sinks turned off in their buildings. Nor were any warning signs posted indicating that a fountain or sink had a high lead reading and should not be used.

Investigators also spoke to every employee associated with the 28 water facilities (such as a sink in a room where they were assigned) from the 2018 testing. With the exception of one sink in a classroom in Bancroft Elementary, each of those individuals indicated that their facility had been operational during the entire affected time period.

Moreover, the Grand Jury heard testimony from an individual who would have been asked to disconnect fountains and sinks throughout the district. That witness testified that he/she never turned off any fountain or sink in 2019, and no one in the SSD ever directed him/her to do so.

Investigators also spoke with the individual employed by the SSD who would have been tasked with printing warning signs to place on or near any affected water facility. That individual informed investigators that he/she never made any warning signs in 2019, and no one ever asked him/her to do so.

Brazil retired from the SSD on March 29, 2019. Kirijan resigned from the SSD on August 15, 2019. The Grand Jury learned that, before leaving the SSD, Kirijan and Brazil never made anyone (other than Slack) aware of the high lead findings from Guzek's 2018 lead testing. Neither took any steps to protect the children and staff utilizing those water facilities from the dangerous exposure to lead. Neither Kirijan nor Brazil even relayed the lead problems to their successors upon their departure from the SSD, thereby continuing the hazardous lead exposure for nearly a

year, until January 2020. Slack, who remains employed at the SSD, never disclosed the dangerous lead exposure to anyone.

This Grand Jury also learned that neither Kirijan -- whose essential job functions as SSD Superintendent included "school district state required reporting" -- nor anyone else from the SSD, forwarded the high lead test results to the Pennsylvania Department of Education, as required by the 2018 amendments.

ASBESTOS EXPOSURE

After evaluating testimony and evidence in this matter, this Grand Jury also recommends that criminal charges be brought against Kirijan and Brazil for their failure to act on the risk of airborne carcinogenic asbestos exposure to thousands of students, staff and faculty in various buildings throughout the SSD. The evidence upon which that recommendation is based is summarized below.

The Grand Jury learned through a variety of sources, including testimony from the President of Guzek Associates and testimony from an employee of Cocciardi and Associates, an asbestos inspection firm recently hired by the SSD, that asbestos is a naturally occurring mineral that had been used throughout the country for years in commercial and residential buildings for insulation and fire retardant capabilities. Many of those buildings included schools up until the 1970's, when scientific studies confirmed that inhalation of airborne asbestos fibers by humans causes serious health issues, such as asbestosis and mesothelioma. These are both cancers that often take years to manifest after exposure, and that carry extremely high morbidity rates. As a result of these studies, the use of asbestos in the United States as a building material was outlawed. This Grand Jury also learned that when properly contained, asbestos is not harmful. However,

when it flakes and becomes airborne (*i.e.*, "friable"), it is capable of being inhaled and then becomes extremely dangerous to anyone breathing it.

This Grand Jury heard evidence that, while several of the SSD's buildings were constructed after 1990 and contained no asbestos, the older buildings contained quantities of asbestos and, therefore, under federal and state law, required management of that asbestos.

This Grand Jury learned that the principal law regarding the effective monitoring and prevention of asbestos in public buildings is the Federal Asbestos Hazard Emergency Response Act (AHERA). AHERA requires school districts to inspect school buildings for asbestos-containing building material (ACBM), prepare asbestos management plans, and perform asbestos response actions to prevent or reduce asbestos hazards. AHERA further requires districts to perform an original inspection to determine whether asbestos-containing materials are present and then re-inspect the asbestos-containing material in each school every three years. Districts are also required to develop, maintain and update an asbestos management plan; keep a copy of that management plan at the school; and provide yearly notification to parents, teachers and employee organizations on the availability of the school's asbestos management plan and any asbestos-related actions taken or planned in the school(s). Additionally, districts are required to designate a contact person to ensure the school district's responsibilities are properly implemented, to perform periodic surveillance on known or suspected asbestos-containing building material, and to ensure that trained, licensed professionals perform inspections, take response actions, and provide custodial staff with asbestos-awareness training. As detailed below, Kirijan and Brazil failed to comply with AHERA and, in doing so, placed thousands of their students, faculty and staff at risk for asbestos inhalation and its commensurate serious health complications.

This Grand Jury finds it noteworthy that Brazil completed an asbestos building inspection training course and received an asbestos occupation certification in September 2016. Investigators reviewed numerous documents from the SSD reflecting that Brazil's training, certification, fees and expenses were paid for by the SSD. Given his district-funded coursework and certification, it is clear that Brazil was fully aware of the hazards of asbestos and how to identify and address those hazards. However, he failed to take proactive measures to ensure that students, staff and faculty of the SSD were protected from those hazards when he learned of them in the SSD.

This Grand Jury heard testimony that beginning in 2016, the SSD contracted Guzek Associates to perform asbestos inspections and testing throughout the SSD pursuant to the requirements of AHERA. Guzek Associates performed comprehensive inspections in 2016 and again in 2019 pursuant to the contract with the SSD. The company also performed visual inspections every six months during the time periods between the three-year comprehensive testing.

This Grand Jury learned that (as opposed to lead testing, which is objective and specific) asbestos testing, inspections and recommendations depend upon the training and experience of the inspector. The industry uses the following system to identify the risk and urgency with which remediation must occur:

Response Actions as required by AHERA are graded on a 1-7 scale for "Removal Priority," with Level 1 being the highest priority.

If an area is given a Level 1 grade for "Removal Priority," it is deemed to be "Significantly Damaged." The Response Actions for Level 1 are: Evacuate and isolate the area, if needed; Remove the ACBM or enclose or encapsulate if sufficient to contain fibers; Repair of thermal system insulation is allowed if feasible and safe; and Observation and Monitoring required for all friable ACBM.

If an area is given a Level 2 grade for "Removal Priority," it is deemed to be "Damaged with Potential for Significant Damage." The Response Actions for Level 2 are: Evacuate and isolate the area, if needed; Remove, enclose, encapsulate

or repair to correct damage; Take steps to reduce potential for disturbance; Observation and Monitoring required for all friable ACBM.

If an area is given a Level 3 grade for "Removal Priority," it is deemed to be "Damaged with Potential for Damage." The Response Actions for Level 3 are: Remove, enclose, encapsulate or repair to correct damage; Observation and Monitoring required for all friable ACBM.

If an area is given a Level 4 grade for "Removal Priority," it is deemed to be "Damaged with Low Potential for Damage." The Response Actions for Level 4 are: Remove, enclose, encapsulate or repair to correct damage; Observation and Monitoring required for all friable ACBM.

If an area is given a Level 5 grade for "Removal Priority," it is deemed to be "No Damage with Potential for Significant Damage." The Response Actions for Level 5 are: Evacuate or isolate the area, if needed; Take steps to reduce potential for disturbance; Observation and Monitoring required for all friable ACBM.

If an area is given a Level 6 grade for "Removal Priority," it is deemed to be "No Damage with Potential for Damage." The Response Actions for Level 6 are: Take steps to reduce potential for disturbance; Continue Observation and Monitoring for all friable ACBM.

If an area is given a Level 7 grade for "Removal Priority," it is deemed to be "No Damage with Low Potential for Damage." The Response Actions for Level 7 are: Continue Observation and Monitoring for all ACBM until Hazard Assessment factors change.

(emphasis added).

The Grand Jury was presented with the details of the comprehensive asbestos testing performed by Guzek Associates in 2016 and 2019, and the six-month inspections conducted within that three-year time period. In 2016, Guzek Associates inspected 17 buildings in the SSD to determine the types, quantities and conditions of confirmed or assumed asbestos-containing materials within those buildings. Then, between 2016 and 2019, Guzek conducted six-month "Surveillance Inspections" of those 17 SSD buildings for damage to asbestos-containing building material, and recommended response actions for those areas within each building. Between July and November, 2019, Guzek provided "3-Year Re-Inspection Reports" for each of the SSD

buildings that contained ACBM, identifying the material location (floor, room, etc.), the material description (wall, ceiling, pipe insulation, flooring, etc.), AHERA assessment, AHERA Removal Priority and notes. Guzek also provided "Asbestos Management Plans" for each building in the SSD that was constructed before asbestos was banned as a building material.

The Grand Jury heard testimony that the 2016 asbestos testing revealed approximately 74 locations within SSD buildings that were near the highest levels of danger: Level 2 and Level 3 "Removal Priority," which require urgent action for remediation. Specifically, there were 28 locations (wall, ceiling, pipe insulation, flooring, etc.) identified as a Level 2 "Removal Priority," and there were 46 locations identified as a Level 3 "Removal Priority." These areas included numerous classrooms and restrooms, and even a cafeteria, regularly used by children and teachers.

Between the 2016 comprehensive inspection and the 2019 comprehensive re-inspection, 15 of the 74 areas containing ACBM became even worse. Additionally, 42 of the 74 areas retained the same urgent "Removal Priority" levels, demonstrating that the SSD had taken no action to remediate those areas. Of the 74 locations originally designated as urgent "Removal Priority" levels, only 7 had confirmed abatement projects completed between 2016 and 2019. Thus, 67 locations identified as urgent "Removal Priority" levels were ignored, continuing to expose students and staff attending the SSD to hazardous asbestos.

The Grand Jury was presented with Guzek's test results for those 17 buildings in the SSD.

- **Adams Elementary** – The 2016 inspection revealed one Level 2 "Removal Priority" area, and four areas identified as Level 3 "Removal Priority." Specifically, areas within Adams that needed immediate repairs and/or remediation included a basement storage room that was accessible to staff (Level 2); a basement custodian area in the boiler room (Level 3) that had loose debris; 1st floor girls restroom (Level 3) that had loose debris on the floor; the 1st floor gymnasium (Level 3) that had dents in the ceiling; and the 1st floor boys restroom (Level 3) that had loose debris and ripped jacket covers (insulation covering pipes). The restrooms and gymnasium were accessible to students and staff. The 3-Year Re-Inspection completed in

2019 revealed no evidence that any of the Level 2 or Level 3 "Removal Priority" areas were remediated. To the contrary, the 2019 results showed that one area had deteriorated from a Level 3 to a Level 2, and three Level 3 areas remained as Level 3. Only one area that had been scored a Level 2 was rescored as a Level 3 "Removal Priority" during the 3-Year Re-Inspection report in 2019.

- **SSD Administration Building** – The 2016 inspection revealed one area identified as a Level 2 "Removal Priority." Specifically, the area that needed immediate repairs/remediation was the basement steam line room that contained loose debris in the trench and was accessible to staff (Level 2). The 3-Year Re-Inspection completed in 2019 revealed no evidence that the area was fixed and/or abated, as it remained a Level 2 "Removal Priority."
- **Bancroft Elementary** – The 2016 inspection revealed two areas identified as a Level 2 "Removal Priority," and one area identified as a Level 3 "Removal Priority." Specifically, areas within Bancroft that needed immediate repairs and/or remediation included a basement crawl space that was accessible to staff (Level 3) that contained loose debris and torn jackets (rips in insulation); the 1st floor girl's restroom chase (cavity in wall containing plumbing) that was accessible to staff (Level 2) and contained loose debris; and the 2nd floor boy's restroom chase that contained debris on the floor and was accessible to staff (Level 2). The 3-Year Re-Inspection completed in 2019 revealed that those Level 2 areas had deteriorated to Level 1 "Removal Priority," the highest possible "Removal Priority." While the area previously scored as a Level 3 was rescored as a Level 6, there was no documentation reflecting that an abatement project had occurred there.
- **McNichols Plaza** - The 3-Year Re-Inspection completed in 2019 revealed that one area, previously at Level 6, the lowest threat, had deteriorated to a Level 2 "Removal Priority." This area was described in Guzek Associates' reports as the floor tile of the "Office Gym." This storage area was accessible to staff.
- **Memorial Stadium** – The 2016 inspection identified no Level 1, Level 2 or Level 3 "Removal Priority" areas. The results remained the same for the 3-Year Re-Inspection in 2019.
- **Morris Elementary** - The 2016 inspection identified nine areas as a Level 2 "Removal Priority," and thirteen areas as a Level 3 "Removal Priority." Specifically, areas within Morris that needed immediate repairs and/or remediation included: damaged fittings under sinks in classrooms; damaged fittings in the chases of restrooms; and damaged fittings in storage areas. All of these areas are accessible to students and staff. The 3-Year Re-Inspection completed in 2019 revealed that eight of the thirteen Level 3

“Removal Priority” areas had deteriorated. Further, nine Level 2 and Level 3 areas remained the same “Removal Priority” in 2019, demonstrating that the SSD took no action to remediate those high priority areas. According to Guzek Associates’ records, three areas were fixed and/or abated and another two areas may have been fixed and/or abated, as they were rescored to a less urgent “Removal Priority.”

- **Armstrong Elementary** – The 2016 inspection identified one area as a Level 3 “Removal Priority.” The area that needed immediate repairs and/or remediation was Hallway “B” cementitious fittings (Level 3) that had torn jackets. The 3-Year Re-Inspection completed in 2019 revealed that the one Level 3 “Removal Priority” area remained a Level 3.
- **Northeast Intermediate School** – The 2016 inspection identified seven areas as a Level 2 “Removal Priority,” and six areas as a Level 3 “Removal Priority.” Specifically, areas within Northeast Intermediate that needed immediate repair/remediation included: the walls and ceilings of storage areas that doubled as part of the building’s HVAC system; fittings and pipe insulation in storage areas; walls and ceilings within classrooms; pipe fittings within classrooms; and floor tile within classrooms. These areas were accessible to students and staff. The 3-Year Re-Inspection completed in 2019 revealed that one Level 3 “Removal Priority” area had deteriorated, and five Level 2 and four Level 3 areas remained the same, demonstrating that the SSD took no action to remediate those high priority areas. According to Guzek Associates’ records, two areas were fixed and/or abated and another area was not retested during the 2019 3-Year Re-Inspection.
- **Prescott Elementary** – The 2016 inspection identified no Level 1, Level 2 or Level 3 “Removal Priority” areas. However, the 3-Year Re-Inspection completed in 2019 revealed that one area that had been identified as a Level 6 in 2016 had deteriorated to a Level 1 “Removal Priority.” This area was defined as the fittings/pipe insulation of the 2nd Floor, Main Corridor. The Main Corridor area was accessible to students and staff.
- **South Intermediate School** – The 2016 inspection identified four areas as a Level 2 “Removal Priority,” and seven areas as a Level 3 “Removal Priority.” Specifically, areas within South Scranton Intermediate that needed immediate repair/remediation included: fittings and pipe insulation in hallways and common areas; the walls and ceilings of storage areas that doubled as part of the building’s HVAC system; floor tile and mastic in the cafeteria and kitchen; fittings and pipe insulation in storage areas; and fittings and pipe insulation in classrooms. These areas were accessible to students and staff. The 3-Year Re-Inspection completed in 2019 revealed that two of the seven Level 3 “Removal Priority” areas had deteriorated. Additionally, three Level 2 and four Level 3 areas remained the same

“Removal Priority,” demonstrating that the SSD took no action to remediate these high priority areas. According to Guzek Associates’ records, two areas may have been fixed and/or abated, as they were rescored to a less urgent “Removal Priority.” However, there is no documentation reflecting that an abatement project occurred for these areas.

- **Scranton High School** – The 2016 inspection identified no Level 1, Level 2 or Level 3 “Removal Priority” areas. The 3-Year Re-Inspection completed in 2019 reflected the same results.
- **Sumner Elementary** – The 2016 inspection identified no Level 1, Level 2 or Level 3 “Removal Priority” areas. The 3-Year Re-Inspection completed in 2019 revealed that one area that had been identified as a Level 4 in 2016 had deteriorated to Level 3. This area was in the basement boiler room and was accessible to custodial staff.
- **Tripp Elementary** – The 2016 inspection identified no Level 1, Level 2 or Level 3 “Removal Priority” areas. The 3-Year Re-Inspection completed in 2019 contained the same results.
- **West Scranton High School** – The 2016 testing identified three areas as a Level 2 “Removal Priority,” and five areas as a Level 3 “Removal Priority.” Specifically, areas within West Scranton High School that needed immediate repair/remediation included: fittings and pipe insulation in hallways and common areas; bags of loose asbestos in the boiler room; duct insulation in the basement stage storage area; fittings and pipe insulation, along with corrugated panels in a boy’s restroom; and fittings and pipe insulation in a 2nd floor classroom. These areas were accessible to students and staff, with the exception of the boiler room area and basement area which was accessible to the custodial staff. The 3-Year Re-Inspection completed in 2019 revealed that one of the five Level 3 “Removal Priority” areas had deteriorated and three Level 2 and four Level 3 areas remained the same, demonstrating that the SSD took no action to remediate these high priority areas.
- **West Scranton Intermediate School** – The 2016 inspection identified two areas as a Level 3 “Removal Priority.” These two areas had damaged floor tile and mastic. These common areas were accessible to students and staff. The 3-Year Re-Inspection completed in 2019 revealed no evidence that either of these areas were fixed and/or abated, as they both remained as a Level 3 “Removal Priority.”
- **Whittier Elementary School Annex/Nativity** – The 2016 inspection identified three areas as a Level 3 “Removal Priority.” The two classrooms and restroom had damaged fittings and pipe insulation. These areas were accessible to students and staff. The 3-Year Re-Inspection completed in

2019 revealed that one area had deteriorated to a Level 2 "Removal Priority" and the other two areas were fixed and/or abated.

- **Willard Elementary** – The 2016 inspection identified one area as a Level 2 "Removal Priority," and four areas as a Level 3 "Removal Priority." Specifically, areas within Willard that needed immediate repair/remediation included: plaster walls and ceilings in restrooms and common areas, and fittings and pipe insulation in the boiler room and oil tank storage. These areas were accessible to students and staff, with the exception of the boiler room area which was accessible to the custodial staff. The 3-Year Re-Inspection completed in 2019 revealed that three of the four Level 3 "Removal Priority" areas remained the same, demonstrating that the SSD took no action to remediate these high priority areas. According to Guzek Associates' records, two areas may have been fixed and/or abated, as they were rescored to a less urgent "Removal Priority." However, there is no documentation reflecting that an abatement project occurred for these areas.

The Grand Jury was presented with extensive evidence establishing that, beginning in 2016, both Kirijan and Brazil were fully aware of the dangerous asbestos test results warranting immediate remediation. However, neither took the necessary action to remediate those asbestos hazards permeating the buildings in the SSD.

During the course of its 2016-2019 contract with the SSD, Guzek Associates, Inc. had direct contact with Brazil regarding its asbestos testing and findings. Throughout that three-year time period, Guzek repeatedly communicated with Brazil, by e-mail and regular mail, about its asbestos findings and the urgent need for remediation at the numerous schools in the SSD. With rare exceptions, Brazil failed to address the significant areas of concern.

Kirijan was also aware of the hazardous asbestos test results obtained by Guzek Associates in 2016. Through testimony, the Grand Jury learned that Guzek Associates began their district-wide asbestos inspections in July of 2016. This Grand Jury learned that the asbestos issues in the SSD were made part of then-Superintendent Kirijan's weekly senior executive leadership team meeting (SELT) on August 23, 2016. Investigators testified that Kirijan conducted weekly SELT meetings with senior SSD staff members. Prior to each meeting, Kirijan or staff members could

add issues that they wanted to address to an agenda that was prepared prior to each meeting. The Grand Jury's review of the typewritten agenda for the August 23, 2016 "Informational" meeting, identifying Kirijan as the "Meeting Facilitator," revealed that Brazil had submitted an item regarding the "Asbestos management plan progress." Next to that identified topic for discussion, Kirijan hand wrote that "7-8 schools" were "out of compliance." A review of that agenda further indicated that in addition to Kirijan and Brazil, seven other SSD administrators/supervisors were present.

Investigators further testified that they reviewed every available weekly agenda for the SELT meetings from July 2016 through March 19, 2019, and that apart from the August 23, 2016 meeting, Brazil never made another effort to address any asbestos issues at the SELT meeting again. Nor did Kirijan ever add this issue to the SELT meeting agenda. Stated differently, other than that one instance on August 23, 2016, the agenda records do not reflect that the asbestos problems (or lead problems for that matter) were ever raised at the weekly SELT meetings.

During the entire July 2016 to March 2019 time period, Kirijan failed to ensure that the necessary remediation action was taken, thereby continuing to expose students and staff to this environmental danger in their school community.

To the contrary, the Grand Jury heard evidence showing that, once aware of the hazardous asbestos conditions in 2016, Kirijan took efforts to conceal problems in the school buildings from others and silence those who tried to talk about them. One example of this was brought to the Grand Jury's attention through the testimony of an Assistant Principal within the SSD. Prior to his/her current role as an Assistant Principal in the SSD, the witness was a Principal at another school within the SSD. The witness testified that, while a Principal at that school, he/she brought to Brazil and Kirijan's attention that ceilings in several classrooms within his/her building had

collapsed. The witness testified that plaster and dust from the ceiling fell on the students, their desks and their school books, necessitating that the students be moved to other classrooms for their safety. The witness further testified that, from the fall of 2018 to the beginning of 2019, he/she repeatedly forwarded photographs of the classroom's conditions by e-mails to individuals in the SSD, including Kirijan and Brazil.

The witness testified that, in response to his/her e-mail complaints, Kirijan approached him/her and directed him/her to stop e-mailing conversations that had previously been discussed and documented by phone. The witness testified that he/she responded to Kirijan that he/she would "never stop e-mailing." The witness then blocked Kirijan's telephone number from his/her phone so she could no longer communicate with him/her by telephone. The witness explained to the Grand Jury that he/she felt it was necessary to do that to ensure that all of his/her communications with Kirijan were documented. The Grand Jury reviewed the e-mails and photographs that the witness had sent to Kirijan and Brazil.

The Grand Jury heard testimony concerning a similar incident from another witness. That witness testified that Kirijan directed him/her to brief the School Board on potential mold issues that had arisen. As the witness was leaving for the meeting, Kirijan told him/her that he/she was not allowed to mention the "m word." When the witness asked her what the "m word" was, she replied "mold." The witness testified that this left him/her in the position of briefing the School Board concerning mold issues without mentioning the word "mold." The witness stated that Kirijan instructed him/her that he/she was not allowed "to say the mold word" at the public hearing because if he/she did, it would "create a panic."

A former high ranking individual in the SSD and former member of SELT, who was employed at the SSD from 2014 to 2019, told investigators about his/her same experience with

Kirijan. He/she too heard Kirijan refer to mold as the "m word," and was told by Kirijan to "stay in [his/her] lane" when he/she questioned something in the district that was outside his/her department. This individual further told investigators about an incident when the SSD was notified that an emotionally disturbed person had been committed to a facility for expressing thoughts of shooting up an elementary school in the district. Kirijan did not even alert security or staff at the targeted school, expressing concern that "it would cause panic."

The Grand Jury believes that this testimony corroborates the conclusion that Kirijan went out of her way to hide the extent of the district's asbestos problem. Investigators testified that they were unable to find any mention of asbestos in Kirijan's SSD e-mails from 2016 through 2019. Investigators testified that they reviewed thousands of Kirijan's e-mails and discovered that the SSD's asbestos crisis was never discussed.

As indicated above, AHERA requires that the asbestos management plan be prepared and that a copy be kept at each school affected. AHERA also requires that the district provide yearly notifications to parents, teachers and employee organizations on the availability of that management plan and any asbestos-related actions taken or planned in the school. These AHERA requirements have been in effect since the 1980's in order to lessen any potential risk to students and staff. AHERA also requires training and notifications to custodial personnel.

The Grand Jury was presented with evidence establishing that Kirijan and Brazil failed to implement any of these federal requirements. When every affected principal was interviewed, each stated that no such plan had been provided to their school, no warnings were given to any of them regarding potential asbestos hazards in their school, and no custodial staff were ever briefed on potential asbestos dangers, let alone trained on how to address them.

Furthermore, investigators interviewed the school board members from 2016 through 2019. Each one advised investigators that they were never told about any potential asbestos issues impacting the district.

The Grand Jury learned that on January 30, 2020, Rosemary Boland, the President of the Scranton Federation of Teachers, sent a letter to Katie Gilmartin, President of the SSD School Board, in which she expressed great concern for the safety of the teachers, students and staff of the SSD upon learning of the possibility of the asbestos-related and lead-related issues in the district. Boland's correspondence demonstrated that the SSD Teacher's Union was never made aware of any asbestos-related issues potentially affecting their members, as required by AHERA.

This Grand Jury learned that the current SSD administration (specifically McTiernan and Dougherty) immediately took steps to close several district buildings after receiving the 2019 asbestos report from Guzek Associates. The district also hired a second inspection firm, which concurred with the Guzek findings that significant issues existed within Northeast Intermediate School, which prevented it from being re-opened during the remainder of the 2019-2020 school year.



**POLICE CRIMINAL COMPLAINT
COMMONWEALTH OF PENNSYLVANIA
VS.**

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: LACKAWANNA

Magisterial District Number: 45-1-02
MDJ Name: Hon. ALYCE M. FARRELL
Address: 130 N. WASHINGTON AVE.
FIRST FLOOR
SCRANTON, PA 18503
Telephone: 570-963-6898

DEFENDANT: (NAME and ADDRESS):
JEFFREY L BRAZIL
First Name Middle Name Last Name Gen.
9 WALDORF LANE
SCRANTON, PA 18505
LAST KNOWN ADDRESS

NCIC EXTRADITION CODE TYPE

<input checked="" type="checkbox"/> 1-Felony Full	<input type="checkbox"/> 5-Felony Pend.	<input type="checkbox"/> C-Misdemeanor Surrounding States	Distance:
<input type="checkbox"/> 2-Felony Ltd.	<input type="checkbox"/> 6-Felony Pend. Extradition Determ.	<input type="checkbox"/> D-Misdemeanor No Extradition	
<input type="checkbox"/> 3-Felony Surrounding States	<input type="checkbox"/> A-Misdemeanor Full	<input type="checkbox"/> E-Misdemeanor Pending	
<input type="checkbox"/> 4-Felony No Ext.	<input type="checkbox"/> B-Misdemeanor Limited	<input type="checkbox"/> F-Misdemeanor Pending Extradition Determ.	

DEFENDANT IDENTIFICATION INFORMATION

Docket Number	Date Filed <u>09/28/20</u>	OTN/LiveScan Number	Complaint/Incident Number <u>BNG0008-17/PA18-176605</u>	Request Lab Services? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
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GENDER <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	DOB <u>05/31/66</u>	POB <u>N/A</u>	Add'l DOB	Co-Defendant(s) <input checked="" type="checkbox"/>
AKA	First Name:	Middle Name:	Last Name:	Gen.

RACE White Asian Black Native American Unknown

ETHNICITY Hispanic Non-Hispanic Unknown

HAIR COLOR GRY (Gray) RED (Red / Auburn) SDY (Sandy) BLU (Blue) PLE (Purple) BRO (Brown)
 BLK (Black) ONG (Orange) WHI (White) XXX (Unk. / Bald) GRN (Green) PNK (Pink)
 BLN (Blonde / Strawberry)

EYE COLOR BLK (Black) BLU (Blue) BRO (Brown) GRN (Green) GRY (Gray)
 HAZ (Hazel) MAR (Maroon) PNK (Pink) MUL (Multicolored) XXX (Unknown)

DNA YES NO DNA Location 225

FBI Number MNU Number Ft. HEIGHT In.
6 0

Defendant Fingerprinted YES NO
Fingerprint Classification:

DEFENDANT VEHICLE INFORMATION

Plate #	State	Hazmat <input type="checkbox"/>	Registration Sticker (MM/YY)	Comm'l Veh. Ind. <input type="checkbox"/>	School Veh. <input type="checkbox"/>	Oth. NCIC Veh. Code	Reg. same as Def. <input type="checkbox"/>
VIN	Year	Make	Model	Style	Color		

Office of the Attorney for the Commonwealth Approved Disapproved because: _____
(The attorney for the Commonwealth may require that the complaint, arrest warrant affidavit, or both be approved by the attorney for the Commonwealth prior to filing. Pa.R.Crim.P.507.)

SDAG ERIK OLSEN (Name of Attorney for Commonwealth - Please Print or Type)
[Signature] (Signature of Attorney for Commonwealth)
9/28/20 (Date)

WE, SA. ROBERT MCHUGH and TFC. MICHAEL MULVEY #516 / 00492923/08250
(Name of Affiant - Please Print or Type) (PSP/MPOETC - Assigned Affiant ID Number & Badge #)

of the Pennsylvania Office of Attorney General and the Pennsylvania State Police (Identify Department or Agency Represented and Political Subdivision) PA0222400/ PAPS1A00 (Police Agency ORI Number)

do hereby state: (check appropriate box)
1. WE accuse the above named defendant who lives at the address set forth above
 I accuse the defendant whose name is unknown to me but who is described as _____
 I accuse the defendant whose name and popular designation or nickname is unknown to me and whom I have therefore designated as John Doe or Jane Doe.

with violating the penal laws of the Commonwealth of Pennsylvania at: 302 SCRANTON SCHOOL DISTRICT
(Subdivision Code) (Place-Political Subdivision)

in LACKAWANNA County 35 on or about AUGUST 2016 TO MARCH 2019
(County Code) (Offense Date)



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: 09/28/20	OTN/LiveScan Number	Complaint/Incident Number BNG0008-17 / PA18-176605
Defendant Name	First: JEFFREY	Middle: L	Last: BRAZIL

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically.

(Set forth a *brief* summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated.

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older: 0
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<input checked="" type="checkbox"/> Lead?	1	4304	(a)(1)	of the	Title 18 , PA Crimes Code	5	F1		200/90Z
Offense #	Section	Subsection	PA Statute (Title)			Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
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Statute Description (include the name of statute or ordinance):

Endangering Welfare of Children

Acts of the accused associated with this Offense:

IN THAT, on or about said date, being a parent, guardian, or other person supervising the welfare of a child under the age of 18 years of age, THE DEFENDANT did knowingly endanger the welfare of children by violating a duty of care, protection or support, namely, by ignoring repeated reports of widespread environmental hazards in the Scranton School District, despite his responsibilities to ensure the health and safety of thousands of students under the age of six (6). TO WIT: The DEFENDANT failed to address the exposure to known levels of lead in water, in violation of Section 4304(a) of the PA Crimes Code.

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older: 0
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<input type="checkbox"/> Lead?	2	4304	(a)(1)	of the	Title 18 , PA Crimes Code	10	F2		200/90Z
Offense #	Section	Subsection	PA Statute (Title)			Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
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Statute Description (include the name of statute or ordinance):

Endangering Welfare of Children

Acts of the accused associated with this Offense:

IN THAT, on or about said date, being a parent, guardian, or other person supervising the welfare of a child under the age of 18 years of age, THE DEFENDANT did knowingly endanger the welfare of children by violating a duty of care, protection or support, namely, by ignoring repeated reports of widespread environmental hazards in the Scranton School District, despite his responsibilities to ensure the health and safety of thousands of students. TO WIT: The DEFENDANT failed to address the exposure to known levels of lead in water, in violation of Section 4304(a) of the PA Crimes Code.



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: 09/28/20	OTN/LiveScan Number	Complaint/Incident Number BNG0008-17 / PA18-176605
Defendant Name	First: JEFFREY	Middle: L	Last: BRAZIL

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically.

(Set forth a *brief* summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated.

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older: 0
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<input type="checkbox"/> Lead?	3	4304	(a)(1)	of the	Title 18 , PA Crimes Code	9	F1		200/90Z
	Offense #	Section	Subsection		PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
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Statute Description (include the name of statute or ordinance):

Endangering Welfare of Children

Acts of the accused associated with this Offense:

IN THAT, on or about said date, being a parent, guardian, or other person supervising the welfare of children under the age of 18 years of age, THE DEFENDANT did knowingly endanger the welfare of children by violating a duty of care, protection or support, namely, by failing to act over the course of three (3) years to address and/or remediate known toxic asbestos in Scranton School District buildings, despite his responsibilities to ensure the health and safety of students under the age of six (6), in violation of Section 4304(a) of the PA Crimes Code. TO WIT: The DEFENDANT failed to act over the course of three (3) years to address and/or remediate known toxic asbestos in Scranton School District buildings, despite his responsibilities to ensure the health and safety of students under the age of six (6).

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older: 0
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<input type="checkbox"/> Lead?	4	4304	(a)(1)	of the	Title 18 , PA Crimes Code	14	F2		200/90Z
	Offense #	Section	Subsection		PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
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Statute Description (include the name of statute or ordinance):

Endangering Welfare of Children

Acts of the accused associated with this Offense:

IN THAT, on or about said date, being a parent, guardian, or other person supervising the welfare of children under the age of 18 years of age, THE DEFENDANT did knowingly endanger the welfare of said child by violating a duty of care, protection or support, namely, by failing to act over the course of three (3) years to address and/or remediate known toxic asbestos in Scranton School District buildings, despite his responsibilities to ensure the health and safety of thousands of students, in violation of Section 4304(a) of the PA Crimes Code. TO WIT: The DEFENDANT failed to act over the course of three (3) years to address and/or remediate known toxic asbestos in Scranton School District buildings, despite his responsibilities to ensure the health and safety of students.



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: 09/28/20	OTN/LiveScan Number	Complaint/Incident Number BNG0008-17 / PA18-176605
Defendant Name	First: JEFFREY	Middle: L	Last: BRAZIL

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically.

(Set forth a *brief* summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated.

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older: 0
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<input type="checkbox"/> Lead?	5	2705	of the	Title 18 , PA Crimes Code	14	M2	04E/90Z	
	Offense #	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
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Statute Description (include the name of statute or ordinance):

Recklessly Endangering Another Person

Acts of the accused associated with this Offense:

IN THAT, on or about said date, THE DEFENDANT did recklessly engage in conduct which placed or may have placed thousands of Scranton School District students, employees, staff and members of the public visiting buildings within the District in danger of death or serious bodily injury, that is to say THE DEFENDANT did fail to act over the course of three (3) years to address and/or remediate known toxic asbestos in Scranton School District buildings, despite his responsibilities to ensure the health and safety of thousands of students, employees, staff and visitors, in violation of Section 2705 of the PA Crimes Code. TO WIT: The DEFENDANT failed to act over the course of three (3) years to address and/or remediate known toxic asbestos in Scranton School District buildings, despite his responsibilities to ensure the health and safety of students, employees, staff and visitors.

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older: 0
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<input type="checkbox"/> Lead?	6	2705	of the	Title 18 , PA Crimes Code	10	M2	04E/90Z	
	Offense #	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
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Statute Description (include the name of statute or ordinance):

Recklessly Endangering Another Person

Acts of the accused associated with this Offense:

IN THAT, on or about said date, THE DEFENDANT did recklessly engage in conduct which placed or may have placed thousands of Scranton School District students, employees, staff and members of the public visiting buildings within the District in danger of death or serious bodily injury, that is to say THE DEFENDANT did ignore repeated reports of widespread environmental hazards in the Scranton School District, despite his responsibilities to ensure the health and safety of thousands of students, employees, staff and visitors. TO WIT: The DEFENDANT failed to address the exposure to known levels of lead in water, in violation of Section 2705 of the PA Crimes Code.



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: 09/28/20	OTN/LiveScan Number		Complaint/Incident Number BNG0008-17 / PA18-176605
Defendant Name	First: JEFFREY	Middle: L	Last: BRAZIL	

- We ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made.
- We verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S.§4904) relating to unsworn falsification to authorities.
- This complaint consists of the preceding page(s) numbered 1 through 4
- We certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

The acts committed by the accused, as listed and hereafter, were against the peace and dignity of the Commonwealth of Pennsylvania and were contrary to the Act(s) of the Assembly, or in violation of the statutes cited.

(Before a warrant of arrest can be issued, an affidavit of probable cause must be completed, sworn to before the issuing authority, and attached.)

SEPTEMBER 28, 2020

(Date)

(Signature of Affiant)

AND NOW, on this date, _____ I certify that the complaint has been properly completed and verified. An affidavit of probable cause must be completed before a warrant can be issued.

(Magisterial District Court Number)

(Issuing Authority)

SEAL



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: 09/28/20	OTN/LiveScan Number:	Complaint/Incident Number BNG0008-17 /PA18-176605
Defendant Name:	First: JEFFREY	Middle: L	Last: BRAZIL

AFFIDAVIT of PROBABLE CAUSE

Your AFFIANTS, Special Agent Robert MCHUGH, Office of Attorney General (hereafter OAG) and Trooper First Class Michael MULVEY of the Pennsylvania State Police (hereafter PSP) being duly sworn, depose and say:

Your AFFIANTS have been involved in an investigation into offenses in violation of the criminal laws of the Commonwealth. The OAG and PSP investigation has utilized the Statewide Investigating Grand Jury and as a result, the Forty-Fourth Statewide Investigating Grand Jury issued Presentment No. 18 on September 18, 2020. This Presentment was accepted by order of the Honorable Lillian H. Ransom, Supervising Judge. The Presentment, attached to this Affidavit and incorporated herein by reference, recommends charges be filed by the Attorney General or his designee against the DEFENDANT as follows:

- Charge 1 – Endangering the Welfare of Children; 4304 (a)(1) / 18 Pa. C.S.A.
- Charge 2 – Recklessly Endangering Another Person; 2705 / 18 Pa. C.S.A.

Your AFFIANTS have reviewed the Presentment and find that the factual findings described therein correspond to the OAG and PSP investigative findings. Your AFFIANTS have reviewed the sworn testimony given by witnesses before the Grand Jury and find that it is consistent with the information contained within the Presentment. Your AFFIANTS have reviewed the evidence presented to the Grand Jury and find that it comports with the result of the OAG and PSP investigative efforts and findings as to the allegations contained in this complaint.

We, SA. Robert MCHUGH and TFC. Michael MULVEY, BEING DULY SWORN ACCORDING TO THE LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

I CERTIFY THAT THIS FILING COMPLIES WITH THE PROVISIONS OF THE CASE RECORDS PUBLIC ACCESS POLICY OF THE UNIFIED JUDICIAL SYSTEM OF PENNSYLVANIA THAT REQUIRE FILING CONFIDENTIAL INFORMATION AND DOCUMENTS DIFFERENTLY THAN NON-CONFIDENTIAL INFORMATION AND DOCUMENTS.

(Signature of Affiant)

Sworn to me and subscribed before me this _____ day of _____

Date _____, Magisterial District Judge

My commission expires first Monday of January,

SEAL

INTRODUCTION

We, the members of the Forty-Fourth Statewide Investigating Grand Jury, having received evidence pertaining to violations of the Pennsylvania Crimes Code occurring in Lackawanna County, Pennsylvania pursuant to Notice of Submission of Investigation No. 22, do hereby make the following findings of fact and recommendation of charges:

OVERVIEW

The Grand Jury conducted an investigation into repeated failures to address immediate health threats from lead and asbestos to the students and employees of the Scranton School District. We conclude that these failures were so blatant that they constitute crimes, and we recommend charges of reckless endangerment and endangering welfare of children. The subjects of the investigation were former Scranton School District (“SSD”) Superintendent Alexis Hazzouri Kirijan (“Kirijan”), former SSD Director of Operations Jeff Brazil (“Brazil”) and current SSD Maintenance Supervisor, Joseph Slack (“Slack”).

These administrators were repeatedly advised by experts of dangerous levels of lead in drinking water in at least ten different schools throughout the district, including classroom sinks and public water fountains. Despite repeated reports over a period of years, the administrators not only failed to fix the problem; they misinformed the public. Superintendent Kirijan and Brazil first held a press conference falsely declaring that the problem had been completely solved. Then they failed to advise teachers, students, parents, or school board members when continued testing demonstrated that, in reality, dozens of contaminated sources were still being used. Kirijan and Brazil took the same approach when advised of dozens of areas of dangerous asbestos exposure affecting at least twelve schools in the district; they failed to act, and instead hid the problem from those in danger.

There is no “safe” level of lead in drinking water; even low levels can lower IQs and affect intellectual development in children, and can cause congenital impairment during pregnancy. Similarly, airborne exposure to asbestos particles can cause life-threatening, untreatable cancers when inhaled. Kirijan and Brazil were advised by outside evaluators of the need for immediate remedial action starting in 2016, and continuing through 2019. They were also on notice of applicable state and federal regulations requiring such action. But little was done.

Only after Supt. Kirijan finally resigned were the problems addressed. When the new administration was advised of the situation, the dangerous water sources were immediately disconnected, and asbestos-affected school district buildings had to be closed until remediation could be undertaken.

THE SCRANTON SCHOOL DISTRICT

The SSD is comprised of eleven elementary schools, three intermediate schools and two high schools, encompassing students attending pre-kindergarten through twelfth grade. The following tables illustrate the student enrollment and staffing levels for each of the schools within the SSD from October 2016 to October 2019. These records were provided to the Grand Jury by the current administration of the SSD.

Student Enrollment	Grades	10/1/16	10/1/17	10/1/18	10/1/19
Scranton High	9 through 12	1,804	1,759	1,770	1,731
West High	9 through 12	940	917	877	1,005
Northeast Intermediate	6 through 8	773	796	864	835
South Intermediate	6 through 8	572	562	613	622
West Intermediate	6 through 8	707	729	768	802
Sumner Elem.	PreK through 5	334	307	315	299
Willard Elem.	PreK through 5	547	533	513	497
Tripp Elem.	PreK through 5	815	779	778	760
Whittier Elem.	PreK through 5	692	681	672	684
McNichols Plaza Elem.	PreK through 5	467	502	456	403
Kennedy Elem.	PreK through 5	436	418	407	437
Armstrong Elem.	PreK through 5	638	613	608	609
Bancroft Elem.	PreK through 5	229	260	244	253
Adams Elem.	PreK through 5	289	311	349	346
Prescott Elem.	PreK through 5	347	339	333	331
Morris Elem.	PreK through 5	315	304	314	322
TOTAL		9,905	9,810	9,881	9,936

Building Staff	2016	2017	2018	2019
Scranton High	193	184	178	162
West High	126	115	123	133
Northeast Intermediate	97	91	84	86
South Intermediate	78	85	70	68
West Intermediate	93	91	83	84
Sumner Elem.	36	36	29	30
Willard Elem.	55	54	54	52
Tripp Elem.	86	94	86	90
Whittier Elem.	69	69	83	75
McNichols Plaza Elem.	53	51	51	53
Kennedy Elem.	48	45	49	46
Armstrong Elem.	60	54	57	60
Bancroft Elem.	43	41	40	39
Adams Elem.	48	41	39	38
Prescott Elem.	41	38	36	36
Morris Elem.	35	38	36	40
Total	1161	1127	1098	1092

The ages of the students attending the SSD during the October 2016 to October 2019 time period ranged from three years old for Pre-Kindergarten to 18 years old for twelfth grade. According to information received from the SSD, in the 2015-2016 school year, there were 1,474

SSD students under the age of six; in the 2016-2017 school year, there were 1,414 SSD students under the age of six; in the 2017-2018 school year, there were 1,481 SSD students under the age of six; in the 2018-2019 school year, there were 1,402 SSD students under the age of six; and in the 2019-2020 school year, there were 1,334 SSD students under the age of six.

JOB RESPONSIBILITIES

The Grand Jury was provided with the job descriptions and job responsibilities for former Superintendent Kirijan, former Director of Operations Brazil, and Maintenance Supervisor Slack, as reflected in their employment contracts with the SSD.

As Superintendent of Schools reporting to the Board of Directors, Kirijan's primary purpose was "to lead and manage the district's internal and external systems to improve student performance." Her essential job functions included, among others, school operations and safety, school district compliance oversight, and school district state reporting. Kirijan was employed with the SSD from July 1, 2015 to August 15, 2019, when she resigned.

As the Chief Operations Officer, reporting directly to the Superintendent of Schools, Brazil's primary job responsibility was to provide "safe, healthy, and efficient facilities that ensure quality educational and workplace environments." His essential job functions included daily shared control, oversight and management of district operations programs, compliance, supervision of facilities, buildings and maintenance, and supervision of district safety and security. Brazil was employed by the SSD from January 3, 2012 through March 29, 2019.

As Maintenance Supervisor, reporting directly to Chief Operations Officer Brazil, Slack's primary function was to "maintain systems and equipment by completing preventive maintenance schedules, restoring, rebuilding, or replacing faulty or inoperative components and parts, supervising staff." His duties and responsibilities at the SSD included inspecting facilities to

determine problems and necessary maintenance, inspecting and maintaining building systems, ensuring adherence to quality standards and health and safety regulations, and maintaining a safe and healthy work environment following standards and procedures in compliance with legal codes and regulations. Slack has been employed by the SSD since October 27, 1986.

LEAD EXPOSURE

In December, 2019, during the course of the investigation, it was brought to PSP Trooper Michael Mulvey's ("Trooper Mulvey") attention that the SSD may have failed to take numerous drinking fountains out of service after learning that they contained dangerously high levels of lead. Trooper Mulvey and Special Agent Robert McHugh of the Office of Attorney General ("Agent McHugh") immediately began investigating these allegations.

On January 6, 2020, Trooper Mulvey and Agent McHugh contacted the current administration of the SSD, specifically Superintendent Missy Rose McTiernan ("McTiernan") and Director of Operations Paul Dougherty ("Dougherty"). McTiernan and Dougherty informed investigators that neither they, nor anyone else to their knowledge currently in the SSD, were ever made aware of high levels of lead in drinking water, but that they would take immediate steps to investigate. Investigators began receiving lead testing reports from Dougherty and McTiernan on January 9, 2020. Those reports confirmed that numerous drinking fountains and sinks had been tested in 2016, and again in 2018 and were found to contain dangerously high amounts of lead. While the 2018 results had been transmitted to the prior SSD administration in January of 2019 (*i.e.*, Kirijan's administration), water facilities were not disconnected and no warning signs were placed on them. By January 10, 2020, in contrast, the current administration of the SSD had shut down all water facilities that had tested for high amounts of lead years earlier. Investigators then

began to determine the facts leading up to the prior administration's failure to protect the safety of the students, faculty, staff and visitors of the SSD.

The Grand Jury's evidence consisted of many forms, including testimony from investigators, current SSD personnel, and experts in the sampling and testing of drinking water, and numerous documents recovered from the SSD and other locations.

Initial Lead Testing in 2016

On March 29, 2016, a member of the local media sent an e-mail to Justin McGregor, then Community Relations Director for the SSD, Kirijan, then Superintendent of the SSD, and a former board member of the SSD, inquiring as to what, if any, lead testing the SSD had done to date in order to protect the students from exposure to high lead levels in water. Emails reflect that, on the following day (March 30, 2016), McGregor responded to the media inquiry that Kirijan handled all press contacts and responses. McGregor further responded that Brazil was the appropriate person to address the media inquiry and he would forward the email chain to both Kirijan and Brazil. E-mail records confirmed that McGregor forwarded the e-mail chain to both Kirijan and Brazil.

In response to the March 2016 press inquiry, and with input from at least one member of the SSD School Board, the SSD entered into a contract with Guzek Associates, Inc. to have all the drinking water outlets in the SSD tested for levels of lead. The President of Guzek Associates testified before the Grand Jury that he entered into this contract with the SSD through Chief Operations Officer Brazil, who had personally contacted him. At the time this action was taken, school districts in the Commonwealth of Pennsylvania were not legally obligated to conduct such testing; thus, the SSD voluntarily initiated this testing. Testing done by Guzek Associates in the spring of 2016 revealed that over one third of the water sources tested contained the presence of

lead. At least 22 water sources (fountains and/or sinks) either met or tested above the United States Environmental Protection Agency's "action trigger level" – 15 parts per billion – thereby necessitating remediation.¹ The testing also confirmed that the water entering the school district buildings provided by the Scranton Water Department contained no discernible levels of lead – meaning that the lead must have been in the buildings' pipes.

Investigators obtained internal SSD records reflecting that after receiving these 2016 test results, the SSD claimed to have taken 19 of the 22 water sources out of operation. With regard to the other 3 water sources, investigators discovered from internal SSD records that the District declined to disconnect two water fountains at Whittier Elementary, claiming that the building used bottled water and therefore no action was necessary. Additionally, even though it was recommended that a kitchen sink at Willard Elementary be disconnected due to high lead concentration, internal reports reflected that the SSD claimed that no action was needed on that sink.

As discussed below, investigators subsequently discovered that 10 of the water sources that Guzek recommended the SSD deactivate in 2016 were still operational in 2018. In addition to the 3 facilities mentioned above that the SSD's own records reflect were not deactivated despite Guzek's directive to disconnect them, Guzek's 2018 lead testing revealed that 7 water sources recommended for deactivation were still operational. All 7 tested positive for the presence of lead.

¹ The Grand Jury was provided with the following information by the EPA regarding standards for safe drinking water. "EPA established the Lead and Copper Rule (LCR) in 1991 to protect public health and reduce exposure to lead in drinking water. The Lead and Copper Rule established a Maximum Contaminant Level Goal (MCLG) of zero for lead. The MCLG is zero because there is no level of exposure to lead that is without risk. The Safe Drinking Water Act requires that EPA establish a treatment technique for contaminants like lead and copper that prevents known or anticipated health effects to the extent feasible. The lead action level is a measure of the effectiveness of the corrosion control treatment in water systems. The action level is not a standard for establishing a safe level of lead in a home. To check if corrosion control is working, EPA requires water systems to test for lead at the tap in certain homes, including those with lead service lines. Systems compare sample results from homes to EPA's action level of 0.015 mg/L (15 ppb)."

As testing showed, however, these “trigger” level sites were only a small portion of over 100 water sources throughout the district with unsafe levels of lead – because there is no safe level of lead. The Grand Jury learned that lead is a naturally occurring heavy metal that is toxic when ingested or absorbed into the body. Through the testing reports of Guzek Associates, the Grand Jury was informed that numerous studies have demonstrated that exposure to lead is a significant health concern, especially for young children whose bodies tend to absorb more lead than the average adult. According to the EPA, even low levels of lead in the blood of children can result in: behavior and learning problems; lower IQ and hyperactivity; slowed growth; hearing problems; and/or anemia. In rare cases, ingestion of lead can cause seizures, coma and even death. Studies have further shown that there is no safe blood lead level in children and, if too much lead is ingested from drinking water, the result can be serious health problems, including brain damage, kidney damage and interference with the production of red blood cells that carry oxygen to parts of the body. Early intervention is crucial, because the effects of lead are cumulative: the longer the child is exposed, the more serious the danger. In addition, adults with kidney problems and high blood pressure can be affected by levels of lead to a greater extent than more healthy adults. Studies have also shown that lead exposure during pregnancy can result in the unborn child receiving this lead through its mother’s bones, which, in turn, can impact brain development of the fetus.

On June 8, 2016, after receiving the results of the 2016 Guzek Associates lead testing report, then Superintendent Kirijan and then Director of Operations Brazil hosted a press conference to announce – inaccurately – that they had effectively addressed any and all lead concerns throughout the SSD. That press conference was reported in various media outlets throughout the region.

Public School Code Lead Amendments

This Grand Jury learned that in June 2018, the Pennsylvania Public School Code of 1949 was amended by Act 39 of 2018. The amendments require school districts throughout the Commonwealth of Pennsylvania to either test all of their drinking water facilities for lead or, in the alternative, have public meetings at least once a year to address why they chose not to test for lead. The 2018 amendments further provide that, if a school district tested for lead levels in its drinking water and found that the lead levels exceeded the EPA's current action level of 15 parts per billion (15 ppb), the school district must immediately implement a plan to ensure that no child or adult will continue to be exposed to lead contaminated drinking water, and must provide an alternative source of drinking water.

Specifically, Act 39 of the Public School Code provides in pertinent part:

Beginning in the 2018-2019 school year, and every school year thereafter, school facilities where children attend school may be tested for lead levels in the drinking water and any school facility whose testing shows lead levels in excess of the maximum contaminant level goal or milligrams per liter as set by the United States Environmental Protection Agency's National Primary Drinking Water Regulations (NPDWR) shall immediately implement a plan to ensure no child or adult is exposed to lead contamination drinking water and that alternative sources of drinking water are made available.

See Public School Code of 1949 Act of Jun. 22, 2018, P.L. 241, No. 39.

As shown above, Pennsylvania's Public School Code's 2018 Amendments reference the EPA's National Primary Drinking Water Regulations (NPDWR) for the standard by which Commonwealth school districts must comply for drinking water. It is in those regulations where the EPA indicates that *.015mg/L* is the highest level of lead that is allowed in drinking water. Those regulations, however, state that the level of lead at which there is "no known or expected risk to health" is zero. In other words, according to the EPA, no lead in drinking water is the only acceptable amount of lead.

The amendments also mandate that any school or district with findings of high lead levels report those elevated lead levels to the Pennsylvania Department of Education for posting on the Department's website.

The SSD provided investigators with an e-mail, dated August 2, 2018, in which a member of the Pennsylvania State Senate informed Kirijan of the 2018 amendments to Act 39 of the Public School Code. In that correspondence, the Senator attached the amendments and informed Kirijan that they required "testing for the presence of lead in school drinking water." The Senator further highlighted the relevant portions of Act 39 and offered to answer any questions that Kirijan had concerning the amendments. The e-mail records revealed that Kirijan received the Senator's e-mail at 9:07 a.m. on August 2, 2018, and then forwarded it and the attached amendments to Brazil at 1:38 p.m. that same day.

Investigators discovered additional correspondence to Kirijan two months later, in which she was further informed about the 2018 amendments. By e-mail dated November 16, 2018, the Senator's Executive Assistant informed Kirijan that the Senator wanted to advise her that "the lead testing requirements for the Department of Education [had] been posted." The Executive Assistant also directed Kirijan to familiarize herself with the new law, and provided an e-mail link to the Department of Education's website concerning compliance with the new law. Kirijan received that e-mail at approximately 4:46 p.m. on November 16, 2018, and forwarded it to Brazil on November 18, 2018, at approximately 8:34 a.m.

Brazil then entered into another lead testing contract with Guzek Associates, Inc. for another complete round of lead testing in the SSD in December of 2018.

December 2018 Lead Testing

In December of 2018, Guzek Associates performed testing for the presence of lead in all fountains and sinks that provided water for drinking and/or food preparation for SSD students, staff and faculty throughout the SSD. These water sources were located in hallways, classrooms and cafeterias throughout the SSD. Of the 303 water sources tested, Guzek Associates informed the SSD that nearly half of them contained measurable amounts of lead.

More specifically, the test results revealed that at least 28 water sources throughout the SSD tested above both the EPA's remediation trigger level and the action level established by the Pennsylvania Department of Environmental Protection. Investigators learned from multiple interviews that each of the 28 fountains/sinks were regularly used by students and staff to consume water. The testing also confirmed that the water entering the school district buildings provided by the Scranton Water Department contained no discernible levels of lead, indicating that the lead was being introduced into the water after entering the SSD's system.

The Grand Jury's review of e-mails, regular mail and testimony demonstrated that, commencing in January of 2019, Guzek Associates sent the December 2018 test results via e-mail and regular mail to Brazil who, in turn, forwarded them to Kirijan and Slack.

Beginning on January 3, 2019, Brazil began receiving results of the Guzek Associates lead testing throughout the SSD. Specifically, Brazil received one e-mail from Guzek Associates on January 3, 2019, one e-mail from Guzek Associates on January 15, 2019, and two e-mails from Guzek Associates on January 23, 2019. In those multiple e-mails, the outside expert identified multiple sink and fountain areas in various SSD schools that "exceeded the EPA Remediation Trigger Level," and recommended "shutting these areas off" immediately.

The Grand Jury was also presented with evidence revealing that, through numerous e-mails in February 2019, Guzek Associates provided Brazil with additional water testing results and reports for schools/facilities in the SSD. In those e-mails, the consultant identified additional areas in the SSD exceeding “the EPA Remediation Trigger Level” and the “PADEP’s Lead Action Level,” and recommended that those areas be disconnected immediately. Moreover, by e-mail dated February 20, 2019, Guzek Associates furnished Brazil with a copy of the EPA’s 73-page manual entitled: “*3 T’s for Reducing Lead in Drinking Water in Schools and Child Care Facilities. A Training, Testing, and Taking Action Approach.*” Finally, on March 4, 2019, Guzek Associates provided Brazil with its 10-page “final list” of test results for all of the water sources in the SSD schools, reiterating those areas containing dangerous levels of lead.

The chart below identifies those sinks and drinking fountains within the SSD that Guzek Associates tested in 2018 and which, in January and February of 2019, they advised Brazil to shut off immediately because of high lead content nearing or exceeding the EPA action level of .015 mg/L. In particular, the five facilities emphasized in bold in the chart are the water sources that the SSD had been told to disconnect in 2016 and which their internal records indicated had been disconnected (but were not).

School	Identified Facility	Lead Amount
Armstrong	Health Room Sink	0.036 mg/L
Armstrong	Room 124, Sink	0.041 mg/L
Armstrong	Room 127, Sink	1.09 mg/L
Bancroft	Room 101 - Sink	0.509 mg/L (2016 Recommended Disconnect)
Bancroft	2nd Floor Health Room sink	0.0345 mg/L (2016 Recommended Disconnect)
McNichols	Center Open Area (Black Ceiling), Sink	0.021 mg/L (2016 Recommended Disconnect)
McNichols	Miss Molly's Class Room, Sink (Right)	0.065 mg/L (2016 Recommended Disconnect)
McNichols	Gym, Boy's Restroom, Water Fountain	0.025 mg/L
Nativity	Health room sink	0.0176 mg/L
North Intermediate	1st Floor, Home Economics - Sink #1	0.0182 mg/L
North Intermediate	1st Floor, Home Economics - Sink #4	0.0159 mg/L
North Intermediate	1st Floor, Home Economics - Sink #5	0.0271 mg/L
North Intermediate	1st Floor, Room 121 Sink	0.0176 mg/L
Prescott	2nd Floor, Teachers Lounge Sink	0.0359 mg/L
Prescott	2nd Floor, Room 205 Water Fountain	3.57 mg/L (2016 Recommended Disconnect)
Prescott	2nd Floor, Room 205 Sink	0.0144 mg/L
Prescott	1st Floor, Room 104 Water Fountain	0.0346 mg/L
Prescott	1st Floor, Room 101 Water Fountain	0.0397 mg/L
Prescott	Basement, Health Room Sink	0.0622 mg/L
Scranton High School	1st Floor, Training Room Sink	0.0156 mg/L
Scranton High School	2nd Floor, Kitchen Main Cooking Area, Left Kettle	0.0147 mg/L
West High	Kitchen Ecolab wash sink	0.02379 mg/L
West Intermediate	Auditorium Hall Water Fountain	0.02844 mg/L
West Intermediate	Band Room sink	0.09389 mg/L
West Intermediate	Medical Office Exam Room Sink	0.04751 mg/L
West Intermediate	Main Office Sink	0.66244 mg/L
Whittier	1st Floor Kitchen sink (next to slicer)	.353 mg/L
Whittier	1st Floor Kitchen sink (2 bay sink left side)	0.0261 mg/L

As noted above, seven of the ten water sources (sinks/fountains) identified by Guzek Associates, Inc. during the 2016 testing -- that the SSD never deactivated despite being directed to do so -- were retested by Guzek in 2018 after Guzek technicians discovered that they were still operational. All seven were found to contain lead. Five of those seven water sources tested above both the EPA's remediation trigger level and the action level established by the Pennsylvania Department of Environmental Protection (PADEP) and are contained and emphasized in the chart above.² Most of the 28 sources listed above were at least two times higher than the .015 mg/L immediate action level; some were 50 or 100 times higher. And these 28 were just the worst of the worst; over half of the sources tested showed contamination with lead, for which there is no safe limit.

The Grand Jury reviewed evidence showing that Brazil forwarded the January 2019 e-mails containing the Guzek Associates lead test results to Kirijan. In response to receiving Brazil's January 3, 2019 e-mail, Kirijan, by e-mail dated January 5, 2019, inquired about whether all of the schools had been tested. By e-mail that same day, Brazil responded that all of the schools had been tested but not all results were back yet. By e-mail later that same day, Kirijan advised Brazil that she would report "all to the Board" at the meeting later that month (although, as detailed below, she failed to do so).

Additionally, on January 15, 2019, Brazil forwarded to Kirijan the e-mail and test results he received from Guzek Associates earlier that day, identifying five additional school sinks and fountains at three additional SSD schools that exceeded the EPA's Remediation Trigger Level. In

² Two of the seven water sources tested lower when retested in 2018.

The three water sources identified in the 2016 testing that were not retested by Guzek in 2018 were those in which internal SSD records reflected that no further action was necessary. Investigation revealed that they were never disconnected by the SSD.

response to that e-mail, Kirijan, that same day, asked whether the entire district had been tested and whether the forwarded test results represented the “entire list” of district areas exceeding the EPA Remediation Trigger Level.

The Grand Jury was also presented with evidence revealing that Brazil forwarded all of these e-mails containing the Guzek Associates lead test results to Slack, the Maintenance Supervisor for the SSD. Brazil forwarded the January 3, 2019 e-mail from Guzek Associates to Slack on January 4, 2019, at approximately 5:35 p.m. Brazil forwarded the January 15, 2019 e-mail from Guzek Associates to Slack on January 15, 2019, at approximately 10:24 a.m. (11 minutes after receiving it). In the January 15, 2019 e-mail, Brazil stated: “Joe, place these off limits immediately. Jeff.” Records show that Brazil forwarded the January 23, 2019 e-mail from Guzek Associates (identifying twelve additional water sources at three additional schools to be shut off immediately) to Slack that same day at approximately 4:00 p.m. (approximately 4 minutes after having received it). At approximately 6:19 p.m. that same day, Slack responded to Brazil by stating, “I will make sure they are all shut off in the morning.” But Slack’s e-mail was a false promise. Evidence presented to the Grand Jury revealed that, although his essential responsibilities as Maintenance Supervisor included ensuring strict adherence to health and safety regulations, and despite the assurance in the e-mail, Slack never took any action to disconnect any of the fountains or sinks identified at that time as contaminated by lead.

The Grand Jury further learned that, despite being advised in January 2019 of the hazardous lead test results and despite her primary responsibility of ensuring the safety of school operations in the SSD, Kirijan – like Brazil and Slack – took no action to remove, disconnect or remediate those lead-contaminated water sources, or to satisfy herself that the work had been done.

The Grand Jury also learned that, despite his purportedly concerned e-mails to Slack in January 2019, Brazil took no action to remove, disconnect or remediate those lead contaminated water sources, or to ascertain whether the work had been done.

But the administrators not only failed to ensure that any of these contaminated sources were actually disconnected; they also failed to warn any child, student, faculty member, staff member, parent or visitor about those high lead test results. Even if the sinks and fountains had finally been disconnected, numerous children and staff members had already been ingesting the contaminated water, with cumulative dangerous effect, but were never told. It was not until Trooper Mulvey and Agent McHugh brought the test results to the attention of the new administration (specifically, McTiernan and Dougherty) that those water sources were immediately disconnected and the problem was disclosed.

Until then, only Kirijan, Brazil and Slack could have advised anyone about the situation, because, as SSD e-mails and interviews of SSD personnel demonstrated, no one other than Kirijan, Brazil and Slack had ever been made aware of the dangerously high lead results.

The Grand Jury heard testimony that investigators recovered from Kirijan's file cabinet a folder containing a list of topics that Kirijan considered presenting to the SSD School Board Executive Committee on January 26, 2019. One of the topics was the 2018 Guzek Associates lead test results. Included with that list of topics was a folder containing 13 separate copies of the 2018 test results. This number of copies correlated to the number of board members, board secretary and solicitor attending the upcoming meeting. Kirijan, however, in the end chose not to disclose the information pertaining to the 2018 test results to any of the board members. Investigators interviewed every board member from the relevant 2019 time period and each indicated that they were never told of any lead concerns in the SSD during 2019.

In addition, investigators interviewed every principal at every affected school throughout the SSD. Every principal indicated that they were never informed that there were any lead problems in the building. They each stated that at no point during 2019 were any fountains or sinks turned off in their buildings. Nor were any warning signs posted indicating that a fountain or sink had a high lead reading and should not be used.

Investigators also spoke to every employee associated with the 28 water facilities (such as a sink in a room where they were assigned) from the 2018 testing. With the exception of one sink in a classroom in Bancroft Elementary, each of those individuals indicated that their facility had been operational during the entire affected time period.

Moreover, the Grand Jury heard testimony from an individual who would have been asked to disconnect fountains and sinks throughout the district. That witness testified that he/she never turned off any fountain or sink in 2019, and no one in the SSD ever directed him/her to do so.

Investigators also spoke with the individual employed by the SSD who would have been tasked with printing warning signs to place on or near any affected water facility. That individual informed investigators that he/she never made any warning signs in 2019, and no one ever asked him/her to do so.

Brazil retired from the SSD on March 29, 2019. Kirijan resigned from the SSD on August 15, 2019. The Grand Jury learned that, before leaving the SSD, Kirijan and Brazil never made anyone (other than Slack) aware of the high lead findings from Guzek's 2018 lead testing. Neither took any steps to protect the children and staff utilizing those water facilities from the dangerous exposure to lead. Neither Kirijan nor Brazil even relayed the lead problems to their successors upon their departure from the SSD, thereby continuing the hazardous lead exposure for nearly a

year, until January 2020. Slack, who remains employed at the SSD, never disclosed the dangerous lead exposure to anyone.

This Grand Jury also learned that neither Kirijan -- whose essential job functions as SSD Superintendent included "school district state required reporting" -- nor anyone else from the SSD, forwarded the high lead test results to the Pennsylvania Department of Education, as required by the 2018 amendments.

ASBESTOS EXPOSURE

After evaluating testimony and evidence in this matter, this Grand Jury also recommends that criminal charges be brought against Kirijan and Brazil for their failure to act on the risk of airborne carcinogenic asbestos exposure to thousands of students, staff and faculty in various buildings throughout the SSD. The evidence upon which that recommendation is based is summarized below.

The Grand Jury learned through a variety of sources, including testimony from the President of Guzek Associates and testimony from an employee of Cocciardi and Associates, an asbestos inspection firm recently hired by the SSD, that asbestos is a naturally occurring mineral that had been used throughout the country for years in commercial and residential buildings for insulation and fire retardant capabilities. Many of those buildings included schools up until the 1970's, when scientific studies confirmed that inhalation of airborne asbestos fibers by humans causes serious health issues, such as asbestosis and mesothelioma. These are both cancers that often take years to manifest after exposure, and that carry extremely high morbidity rates. As a result of these studies, the use of asbestos in the United States as a building material was outlawed. This Grand Jury also learned that when properly contained, asbestos is not harmful. However,

when it flakes and becomes airborne (*i.e.*, “friable”), it is capable of being inhaled and then becomes extremely dangerous to anyone breathing it.

This Grand Jury heard evidence that, while several of the SSD’s buildings were constructed after 1990 and contained no asbestos, the older buildings contained quantities of asbestos and, therefore, under federal and state law, required management of that asbestos.

This Grand Jury learned that the principal law regarding the effective monitoring and prevention of asbestos in public buildings is the Federal Asbestos Hazard Emergency Response Act (AHERA). AHERA requires school districts to inspect school buildings for asbestos-containing building material (ACBM), prepare asbestos management plans, and perform asbestos response actions to prevent or reduce asbestos hazards. AHERA further requires districts to perform an original inspection to determine whether asbestos-containing materials are present and then re-inspect the asbestos-containing material in each school every three years. Districts are also required to develop, maintain and update an asbestos management plan; keep a copy of that management plan at the school; and provide yearly notification to parents, teachers and employee organizations on the availability of the school’s asbestos management plan and any asbestos-related actions taken or planned in the school(s). Additionally, districts are required to designate a contact person to ensure the school district’s responsibilities are properly implemented, to perform periodic surveillance on known or suspected asbestos-containing building material, and to ensure that trained, licensed professionals perform inspections, take response actions, and provide custodial staff with asbestos-awareness training. As detailed below, Kirijan and Brazil failed to comply with AHERA and, in doing so, placed thousands of their students, faculty and staff at risk for asbestos inhalation and its commensurate serious health complications.

This Grand Jury finds it noteworthy that Brazil completed an asbestos building inspection training course and received an asbestos occupation certification in September 2016. Investigators reviewed numerous documents from the SSD reflecting that Brazil's training, certification, fees and expenses were paid for by the SSD. Given his district-funded coursework and certification, it is clear that Brazil was fully aware of the hazards of asbestos and how to identify and address those hazards. However, he failed to take proactive measures to ensure that students, staff and faculty of the SSD were protected from those hazards when he learned of them in the SSD.

This Grand Jury heard testimony that beginning in 2016, the SSD contracted Guzek Associates to perform asbestos inspections and testing throughout the SSD pursuant to the requirements of AHERA. Guzek Associates performed comprehensive inspections in 2016 and again in 2019 pursuant to the contract with the SSD. The company also performed visual inspections every six months during the time periods between the three-year comprehensive testing.

This Grand Jury learned that (as opposed to lead testing, which is objective and specific) asbestos testing, inspections and recommendations depend upon the training and experience of the inspector. The industry uses the following system to identify the risk and urgency with which remediation must occur:

Response Actions as required by AHERA are graded on a 1-7 scale for "Removal Priority," with Level 1 being the highest priority.

If an area is given a Level 1 grade for "Removal Priority," it is deemed to be "Significantly Damaged." The Response Actions for Level 1 are: Evacuate and isolate the area, if needed; Remove the ACBM or enclose or encapsulate if sufficient to contain fibers; Repair of thermal system insulation is allowed if feasible and safe; and Observation and Monitoring required for all friable ACBM.

If an area is given a Level 2 grade for "Removal Priority," it is deemed to be "Damaged with Potential for Significant Damage." The Response Actions for Level 2 are: Evacuate and isolate the area, if needed; Remove, enclose, encapsulate

or repair to correct damage; Take steps to reduce potential for disturbance; Observation and Monitoring required for all friable ACBM.

If an area is given a Level 3 grade for "Removal Priority," it is deemed to be "Damaged with Potential for Damage." The Response Actions for Level 3 are: Remove, enclose, encapsulate or repair to correct damage; Observation and Monitoring required for all friable ACBM.

If an area is given a Level 4 grade for "Removal Priority," it is deemed to be "Damaged with Low Potential for Damage." The Response Actions for Level 4 are: Remove, enclose, encapsulate or repair to correct damage; Observation and Monitoring required for all friable ACBM.

If an area is given a Level 5 grade for "Removal Priority," it is deemed to be "No Damage with Potential for Significant Damage." The Response Actions for Level 5 are: Evacuate or isolate the area, if needed; Take steps to reduce potential for disturbance; Observation and Monitoring required for all friable ACBM.

If an area is given a Level 6 grade for "Removal Priority," it is deemed to be "No Damage with Potential for Damage." The Response Actions for Level 6 are: Take steps to reduce potential for disturbance; Continue Observation and Monitoring for all friable ACBM.

If an area is given a Level 7 grade for "Removal Priority," it is deemed to be "No Damage with Low Potential for Damage." The Response Actions for Level 7 are: Continue Observation and Monitoring for all ACBM until Hazard Assessment factors change.

(emphasis added).

The Grand Jury was presented with the details of the comprehensive asbestos testing performed by Guzek Associates in 2016 and 2019, and the six-month inspections conducted within that three-year time period. In 2016, Guzek Associates inspected 17 buildings in the SSD to determine the types, quantities and conditions of confirmed or assumed asbestos-containing materials within those buildings. Then, between 2016 and 2019, Guzek conducted six-month "Surveillance Inspections" of those 17 SSD buildings for damage to asbestos-containing building material, and recommended response actions for those areas within each building. Between July and November, 2019, Guzek provided "3-Year Re-Inspection Reports" for each of the SSD

buildings that contained ACBM, identifying the material location (floor, room, etc.), the material description (wall, ceiling, pipe insulation, flooring, etc.), AHERA assessment, AHERA Removal Priority and notes. Guzek also provided “Asbestos Management Plans” for each building in the SSD that was constructed before asbestos was banned as a building material.

The Grand Jury heard testimony that the 2016 asbestos testing revealed approximately 74 locations within SSD buildings that were near the highest levels of danger: Level 2 and Level 3 “Removal Priority,” which require urgent action for remediation. Specifically, there were 28 locations (wall, ceiling, pipe insulation, flooring, etc.) identified as a Level 2 “Removal Priority,” and there were 46 locations identified as a Level 3 “Removal Priority.” These areas included numerous classrooms and restrooms, and even a cafeteria, regularly used by children and teachers.

Between the 2016 comprehensive inspection and the 2019 comprehensive re-inspection, 15 of the 74 areas containing ACBM became even worse. Additionally, 42 of the 74 areas retained the same urgent “Removal Priority” levels, demonstrating that the SSD had taken no action to remediate those areas. Of the 74 locations originally designated as urgent “Removal Priority” levels, only 7 had confirmed abatement projects completed between 2016 and 2019. Thus, 67 locations identified as urgent “Removal Priority” levels were ignored, continuing to expose students and staff attending the SSD to hazardous asbestos.

The Grand Jury was presented with Guzek’s test results for those 17 buildings in the SSD.

- **Adams Elementary** – The 2016 inspection revealed one Level 2 “Removal Priority” area, and four areas identified as Level 3 “Removal Priority.” Specifically, areas within Adams that needed immediate repairs and/or remediation included a basement storage room that was accessible to staff (Level 2); a basement custodian area in the boiler room (Level 3) that had loose debris; 1st floor girls restroom (Level 3) that had loose debris on the floor; the 1st floor gymnasium (Level 3) that had dents in the ceiling; and the 1st floor boys restroom (Level 3) that had loose debris and ripped jacket covers (insulation covering pipes). The restrooms and gymnasium were accessible to students and staff. The 3-Year Re-Inspection completed in

2019 revealed no evidence that any of the Level 2 or Level 3 “Removal Priority” areas were remediated. To the contrary, the 2019 results showed that one area had deteriorated from a Level 3 to a Level 2, and three Level 3 areas remained as Level 3. Only one area that had been scored a Level 2 was rescored as a Level 3 “Removal Priority” during the 3-Year Re-Inspection report in 2019.

- **SSD Administration Building** – The 2016 inspection revealed one area identified as a Level 2 “Removal Priority.” Specifically, the area that needed immediate repairs/remediation was the basement steam line room that contained loose debris in the trench and was accessible to staff (Level 2). The 3-Year Re-Inspection completed in 2019 revealed no evidence that the area was fixed and/or abated, as it remained a Level 2 “Removal Priority.”
- **Bancroft Elementary** – The 2016 inspection revealed two areas identified as a Level 2 “Removal Priority,” and one area identified as a Level 3 “Removal Priority.” Specifically, areas within Bancroft that needed immediate repairs and/or remediation included a basement crawl space that was accessible to staff (Level 3) that contained loose debris and torn jackets (rips in insulation); the 1st floor girl’s restroom chase (cavity in wall containing plumbing) that was accessible to staff (Level 2) and contained loose debris; and the 2nd floor boy’s restroom chase that contained debris on the floor and was accessible to staff (Level 2). The 3-Year Re-Inspection completed in 2019 revealed that those Level 2 areas had deteriorated to Level 1 “Removal Priority,” the highest possible “Removal Priority.” While the area previously scored as a Level 3 was rescored as a Level 6, there was no documentation reflecting that an abatement project had occurred there.
- **McNichols Plaza** - The 3-Year Re-Inspection completed in 2019 revealed that one area, previously at Level 6, the lowest threat, had deteriorated to a Level 2 “Removal Priority.” This area was described in Guzek Associates’ reports as the floor tile of the “Office Gym.” This storage area was accessible to staff.
- **Memorial Stadium** – The 2016 inspection identified no Level 1, Level 2 or Level 3 “Removal Priority” areas. The results remained the same for the 3-Year Re-Inspection in 2019.
- **Morris Elementary** - The 2016 inspection identified nine areas as a Level 2 “Removal Priority,” and thirteen areas as a Level 3 “Removal Priority.” Specifically, areas within Morris that needed immediate repairs and/or remediation included: damaged fittings under sinks in classrooms; damaged fittings in the chases of restrooms; and damaged fittings in storage areas. All of these areas are accessible to students and staff. The 3-Year Re-Inspection completed in 2019 revealed that eight of the thirteen Level 3

“Removal Priority” areas had deteriorated. Further, nine Level 2 and Level 3 areas remained the same “Removal Priority” in 2019, demonstrating that the SSD took no action to remediate those high priority areas. According to Guzek Associates’ records, three areas were fixed and/or abated and another two areas may have been fixed and/or abated, as they were rescored to a less urgent “Removal Priority.”

- **Armstrong Elementary** – The 2016 inspection identified one area as a Level 3 “Removal Priority.” The area that needed immediate repairs and/or remediation was Hallway “B” cementitious fittings (Level 3) that had torn jackets. The 3-Year Re-Inspection completed in 2019 revealed that the one Level 3 “Removal Priority” area remained a Level 3.
- **Northeast Intermediate School** – The 2016 inspection identified seven areas as a Level 2 “Removal Priority,” and six areas as a Level 3 “Removal Priority.” Specifically, areas within Northeast Intermediate that needed immediate repair/remediation included: the walls and ceilings of storage areas that doubled as part of the building’s HVAC system; fittings and pipe insulation in storage areas; walls and ceilings within classrooms; pipe fittings within classrooms; and floor tile within classrooms. These areas were accessible to students and staff. The 3-Year Re-Inspection completed in 2019 revealed that one Level 3 “Removal Priority” area had deteriorated, and five Level 2 and four Level 3 areas remained the same, demonstrating that the SSD took no action to remediate those high priority areas. According to Guzek Associates’ records, two areas were fixed and/or abated and another area was not retested during the 2019 3-Year Re-Inspection.
- **Prescott Elementary** – The 2016 inspection identified no Level 1, Level 2 or Level 3 “Removal Priority” areas. However, the 3-Year Re-Inspection completed in 2019 revealed that one area that had been identified as a Level 6 in 2016 had deteriorated to a Level 1 “Removal Priority.” This area was defined as the fittings/pipe insulation of the 2nd Floor, Main Corridor. The Main Corridor area was accessible to students and staff.
- **South Intermediate School** – The 2016 inspection identified four areas as a Level 2 “Removal Priority,” and seven areas as a Level 3 “Removal Priority.” Specifically, areas within South Scranton Intermediate that needed immediate repair/remediation included: fittings and pipe insulation in hallways and common areas; the walls and ceilings of storage areas that doubled as part of the building’s HVAC system; floor tile and mastic in the cafeteria and kitchen; fittings and pipe insulation in storage areas; and fittings and pipe insulation in classrooms. These areas were accessible to students and staff. The 3-Year Re-Inspection completed in 2019 revealed that two of the seven Level 3 “Removal Priority” areas had deteriorated. Additionally, three Level 2 and four Level 3 areas remained the same

“Removal Priority,” demonstrating that the SSD took no action to remediate these high priority areas. According to Guzek Associates’ records, two areas may have been fixed and/or abated, as they were rescored to a less urgent “Removal Priority.” However, there is no documentation reflecting that an abatement project occurred for these areas.

- **Scranton High School** – The 2016 inspection identified no Level 1, Level 2 or Level 3 “Removal Priority” areas. The 3-Year Re-Inspection completed in 2019 reflected the same results.
- **Sumner Elementary** – The 2016 inspection identified no Level 1, Level 2 or Level 3 “Removal Priority” areas. The 3-Year Re-Inspection completed in 2019 revealed that one area that had been identified as a Level 4 in 2016 had deteriorated to Level 3. This area was in the basement boiler room and was accessible to custodial staff.
- **Tripp Elementary** – The 2016 inspection identified no Level 1, Level 2 or Level 3 “Removal Priority” areas. The 3-Year Re-Inspection completed in 2019 contained the same results.
- **West Scranton High School** – The 2016 testing identified three areas as a Level 2 “Removal Priority,” and five areas as a Level 3 “Removal Priority.” Specifically, areas within West Scranton High School that needed immediate repair/remediation included: fittings and pipe insulation in hallways and common areas; bags of loose asbestos in the boiler room; duct insulation in the basement stage storage area; fittings and pipe insulation, along with corrugated panels in a boy’s restroom; and fittings and pipe insulation in a 2nd floor classroom. These areas were accessible to students and staff, with the exception of the boiler room area and basement area which was accessible to the custodial staff. The 3-Year Re-Inspection completed in 2019 revealed that one of the five Level 3 “Removal Priority” areas had deteriorated and three Level 2 and four Level 3 areas remained the same, demonstrating that the SSD took no action to remediate these high priority areas.
- **West Scranton Intermediate School** – The 2016 inspection identified two areas as a Level 3 “Removal Priority.” These two areas had damaged floor tile and mastic. These common areas were accessible to students and staff. The 3-Year Re-Inspection completed in 2019 revealed no evidence that either of these areas were fixed and/or abated, as they both remained as a Level 3 “Removal Priority.”
- **Whittier Elementary School Annex/Nativity** – The 2016 inspection identified three areas as a Level 3 “Removal Priority.” The two classrooms and restroom had damaged fittings and pipe insulation. These areas were accessible to students and staff. The 3-Year Re-Inspection completed in

2019 revealed that one area had deteriorated to a Level 2 “Removal Priority” and the other two areas were fixed and/or abated.

- **Willard Elementary** – The 2016 inspection identified one area as a Level 2 “Removal Priority,” and four areas as a Level 3 “Removal Priority.” Specifically, areas within Willard that needed immediate repair/remediation included: plaster walls and ceilings in restrooms and common areas, and fittings and pipe insulation in the boiler room and oil tank storage. These areas were accessible to students and staff, with the exception of the boiler room area which was accessible to the custodial staff. The 3-Year Re-Inspection completed in 2019 revealed that three of the four Level 3 “Removal Priority” areas remained the same, demonstrating that the SSD took no action to remediate these high priority areas. According to Guzek Associates’ records, two areas may have been fixed and/or abated, as they were rescored to a less urgent “Removal Priority.” However, there is no documentation reflecting that an abatement project occurred for these areas.

The Grand Jury was presented with extensive evidence establishing that, beginning in 2016, both Kirijan and Brazil were fully aware of the dangerous asbestos test results warranting immediate remediation. However, neither took the necessary action to remediate those asbestos hazards permeating the buildings in the SSD.

During the course of its 2016-2019 contract with the SSD, Guzek Associates, Inc. had direct contact with Brazil regarding its asbestos testing and findings. Throughout that three-year time period, Guzek repeatedly communicated with Brazil, by e-mail and regular mail, about its asbestos findings and the urgent need for remediation at the numerous schools in the SSD. With rare exceptions, Brazil failed to address the significant areas of concern.

Kirijan was also aware of the hazardous asbestos test results obtained by Guzek Associates in 2016. Through testimony, the Grand Jury learned that Guzek Associates began their district-wide asbestos inspections in July of 2016. This Grand Jury learned that the asbestos issues in the SSD were made part of then-Superintendent Kirijan’s weekly senior executive leadership team meeting (SELT) on August 23, 2016. Investigators testified that Kirijan conducted weekly SELT meetings with senior SSD staff members. Prior to each meeting, Kirijan or staff members could

add issues that they wanted to address to an agenda that was prepared prior to each meeting. The Grand Jury's review of the typewritten agenda for the August 23, 2016 "Informational" meeting, identifying Kirijan as the "Meeting Facilitator," revealed that Brazil had submitted an item regarding the "Asbestos management plan progress." Next to that identified topic for discussion, Kirijan hand wrote that "7-8 schools" were "out of compliance." A review of that agenda further indicated that in addition to Kirijan and Brazil, seven other SSD administrators/supervisors were present.

Investigators further testified that they reviewed every available weekly agenda for the SELT meetings from July 2016 through March 19, 2019, and that apart from the August 23, 2016 meeting, Brazil never made another effort to address any asbestos issues at the SELT meeting again. Nor did Kirijan ever add this issue to the SELT meeting agenda. Stated differently, other than that one instance on August 23, 2016, the agenda records do not reflect that the asbestos problems (or lead problems for that matter) were ever raised at the weekly SELT meetings.

During the entire July 2016 to March 2019 time period, Kirijan failed to ensure that the necessary remediation action was taken, thereby continuing to expose students and staff to this environmental danger in their school community.

To the contrary, the Grand Jury heard evidence showing that, once aware of the hazardous asbestos conditions in 2016, Kirijan took efforts to conceal problems in the school buildings from others and silence those who tried to talk about them. One example of this was brought to the Grand Jury's attention through the testimony of an Assistant Principal within the SSD. Prior to his/her current role as an Assistant Principal in the SSD, the witness was a Principal at another school within the SSD. The witness testified that, while a Principal at that school, he/she brought to Brazil and Kirijan's attention that ceilings in several classrooms within his/her building had

collapsed. The witness testified that plaster and dust from the ceiling fell on the students, their desks and their school books, necessitating that the students be moved to other classrooms for their safety. The witness further testified that, from the fall of 2018 to the beginning of 2019, he/she repeatedly forwarded photographs of the classroom's conditions by e-mails to individuals in the SSD, including Kirijan and Brazil.

The witness testified that, in response to his/her e-mail complaints, Kirijan approached him/her and directed him/her to stop e-mailing conversations that had previously been discussed and documented by phone. The witness testified that he/she responded to Kirijan that he/she would "never stop e-mailing." The witness then blocked Kirijan's telephone number from his/her phone so she could no longer communicate with him/her by telephone. The witness explained to the Grand Jury that he/she felt it was necessary to do that to ensure that all of his/her communications with Kirijan were documented. The Grand Jury reviewed the e-mails and photographs that the witness had sent to Kirijan and Brazil.

The Grand Jury heard testimony concerning a similar incident from another witness. That witness testified that Kirijan directed him/her to brief the School Board on potential mold issues that had arisen. As the witness was leaving for the meeting, Kirijan told him/her that he/she was not allowed to mention the "m word." When the witness asked her what the "m word" was, she replied "mold." The witness testified that this left him/her in the position of briefing the School Board concerning mold issues without mentioning the word "mold." The witness stated that Kirijan instructed him/her that he/she was not allowed "to say the mold word" at the public hearing because if he/she did, it would "create a panic."

A former high ranking individual in the SSD and former member of SELT, who was employed at the SSD from 2014 to 2019, told investigators about his/her same experience with

Kirijan. He/she too heard Kirijan refer to mold as the “m word,” and was told by Kirijan to “stay in [his/her] lane” when he/she questioned something in the district that was outside his/her department. This individual further told investigators about an incident when the SSD was notified that an emotionally disturbed person had been committed to a facility for expressing thoughts of shooting up an elementary school in the district. Kirijan did not even alert security or staff at the targeted school, expressing concern that “it would cause panic.”

The Grand Jury believes that this testimony corroborates the conclusion that Kirijan went out of her way to hide the extent of the district’s asbestos problem. Investigators testified that they were unable to find any mention of asbestos in Kirijan’s SSD e-mails from 2016 through 2019. Investigators testified that they reviewed thousands of Kirijan’s e-mails and discovered that the SSD’s asbestos crisis was never discussed.

As indicated above, AHERA requires that the asbestos management plan be prepared and that a copy be kept at each school affected. AHERA also requires that the district provide yearly notifications to parents, teachers and employee organizations on the availability of that management plan and any asbestos-related actions taken or planned in the school. These AHERA requirements have been in effect since the 1980’s in order to lessen any potential risk to students and staff. AHERA also requires training and notifications to custodial personnel.

The Grand Jury was presented with evidence establishing that Kirijan and Brazil failed to implement any of these federal requirements. When every affected principal was interviewed, each stated that no such plan had been provided to their school, no warnings were given to any of them regarding potential asbestos hazards in their school, and no custodial staff were ever briefed on potential asbestos dangers, let alone trained on how to address them.

Furthermore, investigators interviewed the school board members from 2016 through 2019. Each one advised investigators that they were never told about any potential asbestos issues impacting the district.

The Grand Jury learned that on January 30, 2020, Rosemary Boland, the President of the Scranton Federation of Teachers, sent a letter to Katie Gilmartin, President of the SSD School Board, in which she expressed great concern for the safety of the teachers, students and staff of the SSD upon learning of the possibility of the asbestos-related and lead-related issues in the district. Boland's correspondence demonstrated that the SSD Teacher's Union was never made aware of any asbestos-related issues potentially affecting their members, as required by AHERA.

This Grand Jury learned that the current SSD administration (specifically McTiernan and Dougherty) immediately took steps to close several district buildings after receiving the 2019 asbestos report from Guzek Associates. The district also hired a second inspection firm, which concurred with the Guzek findings that significant issues existed within Northeast Intermediate School, which prevented it from being re-opened during the remainder of the 2019-2020 school year.



**POLICE CRIMINAL COMPLAINT
COMMONWEALTH OF PENNSYLVANIA
VS.**

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **LACKAWANNA**

Magisterial District Number: **45-1-02**
MDJ Name: Hon. **ALYCE M. FARRELL**
Address: **130 N. WASHINGTON AVE.
FIRST FLOOR
SCRANTON, PA 18503**
Telephone: **570-963-6898**

DEFENDANT: (NAME and ADDRESS):
JOSEPH JOHN SLACK
First Name Middle Name Last Name Gen.
**1109 DARTMOUTH STREET
SCRANTON, PA 18504**

NCIC EXTRADITION CODE TYPE

<input checked="" type="checkbox"/> 1-Felony Full	<input type="checkbox"/> 5-Felony Pend.	<input type="checkbox"/> C-Misdemeanor Surrounding States	Distance:
<input type="checkbox"/> 2-Felony Ltd.	<input type="checkbox"/> 6-Felony Pend. Extradition Determ.	<input type="checkbox"/> D-Misdemeanor No Extradition	
<input type="checkbox"/> 3-Felony Surrounding States	<input type="checkbox"/> A-Misdemeanor Full	<input type="checkbox"/> E-Misdemeanor Pending	
<input type="checkbox"/> 4-Felony No Ext.	<input type="checkbox"/> B-Misdemeanor Limited	<input type="checkbox"/> F-Misdemeanor Pending Extradition Determ.	

DEFENDANT IDENTIFICATION INFORMATION

Docket Number	Date Filed 09/28/20	OTN/LiveScan Number	Complaint/Incident Number BNG0008-17/PA18-176605	Request Lab Services? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
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GENDER <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	DOB 05/01/63	POB N/A	Add'l DOB	Co-Defendant(s) <input checked="" type="checkbox"/>
AKA	First Name:	Middle Name:	Last Name:	Gen.

RACE White Asian Black Native American Unknown

ETHNICITY Hispanic Non-Hispanic Unknown

HAIR COLOR GRY (Gray) RED (Red / Auburn.) SDY (Sandy) BLU (Blue) PLE (Purple) BRO (Brown)
 BLK (Black) ONG (Orange) WHI (White) XXX (Unk. / Bald) GRN (Green) PNK (Pink)
 BLN (Blonde / Strawberry)

EYE COLOR BLK (Black) BLU (Blue) BRO (Brown) GRN (Green) GRY (Gray)
 HAZ (Hazel) MAR (Maroon) PNK (Pink) MUL (Multicolored) XXX (Unknown)

DNA YES NO DNA Location WEIGHT (lbs.) **200**

FBI Number MNU Number Ft. HEIGHT in. **5 7**

Defendant Fingerprinted YES NO

Fingerprint Classification:

DEFENDANT VEHICLE INFORMATION

Plate #	State	Hazmat <input type="checkbox"/>	Registration Sticker (MM/YY)	Comm'l Veh. Ind. <input type="checkbox"/>	School Veh. <input type="checkbox"/>	Oth. NCIC Veh. Code	Reg. same as Def. <input type="checkbox"/>
VIN	Year	Make	Model	Style	Color		

Office of the Attorney for the Commonwealth Approved Disapproved because:
(The attorney for the Commonwealth may require that the complaint, arrest warrant affidavit, or both be approved by the attorney for the Commonwealth prior to filing, Pa.R.Crim.P.507.)

SDAG ERIK OLSEN
(Name of Attorney for Commonwealth - Please Print or Type)

[Signature]
SDAG ERIK C. OLSEN

9/28/20
(Date)

WE, SA. ROBERT MCHUGH and TFC. MICHAEL MULVEY #515 / 00492923/08250
(Name of Affiant - Please Print or Type) (PSP/MPOETC - Assigned Affiant ID Number & Badge #)

of the Pennsylvania Office of Attorney General and the Pennsylvania State Police
(Identify Department or Agency Represented and Political Subdivision)

PA0222400/ PAPSP1A00
(Police Agency ORI Number)

do hereby state: (check appropriate box)

- WE accuse the above named defendant who lives at the address set forth above
 - I accuse the defendant whose name is unknown to me but who is described as
 - I accuse the defendant whose name and popular designation or nickname is unknown to me and whom I have therefore designated as John Doe or Jane Doe.

with violating the penal laws of the Commonwealth of Pennsylvania at: **302 SCRANTON SCHOOL DISTRICT**
(Subdivision Code) (Place-Political Subdivision)

in **LACKAWANNA** County **35** on or about **JANUARY 2019 TO JANUARY 2020**
(County Code) (Offense Date)



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: 09/28/20	OTN/LiveScan Number	Complaint/Incident Number BNG0008-17/PA18-176605
Defendant Name	First: JOSEPH	Middle: JOHN	Last: SLACK

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically.

(Set forth a *brief* summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated.

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older: 0
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<input checked="" type="checkbox"/> Lead?	1	4304	(a)(1)	of the	Title 18 , PA Crimes Code	3	F1		200/90Z
Offense #	Section	Subsection	PA Statute (Title)		Counts	Grade	NCIC Offense Code	UCR/NIBRS Code	

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
-------------------------------------	------------------------	--	---	---

Statute Description (include the name of statute or ordinance):
Endangering Welfare of Children

Acts of the accused associated with this Offense:
IN THAT, on or about said date, being a parent, guardian, or other person supervising the welfare of a child under the age of 18 years of age, THE DEFENDANT did knowingly endanger the welfare of children by violating a duty of care, protection or support, namely, by ignoring repeated reports of widespread environmental hazards in the Scranton School District, despite his responsibilities to ensure the health and safety of thousands of students under the age of six (6). TO WIT: The DEFENDANT failed to address the exposure to known levels of lead in water, in violation of Section 4304(a) of the PA Crimes Code.

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older: 0
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<input type="checkbox"/> Lead?	2	4304	(a)(1)	of the	Title 18 , PA Crimes Code	8	F2		200/90Z
Offense #	Section	Subsection	PA Statute (Title)		Counts	Grade	NCIC Offense Code	UCR/NIBRS Code	

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
-------------------------------------	------------------------	--	---	---

Statute Description (include the name of statute or ordinance):
Endangering Welfare of Children

Acts of the accused associated with this Offense:
IN THAT, on or about said date, being a parent, guardian, or other person supervising the welfare of a child under the age of 18 years of age, THE DEFENDANT did knowingly endanger the welfare of children by violating a duty of care, protection or support, namely, by ignoring repeated reports of widespread environmental hazards in the Scranton School District, despite his responsibilities to ensure the health and safety of thousands of students. TO WIT: The DEFENDANT failed to address the exposure to known levels of lead in water, in violation of Section 4304(a) of the PA Crimes Code.



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: 09/28/20	OTN/LiveScan Number	Complaint/Incident Number BNG0008-17/PA18-176605
Defendant Name	First: JOSEPH	Middle: JOHN	Last: SLACK

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically.

(Set forth a *brief* summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated.

<input type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older: 0
--	---	--	--	---

<input type="checkbox"/> Lead?	3	2705	of the	Title 18 , PA Crimes Code	8	M2	04E/90Z	
	Offense #	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

<input type="checkbox"/> PennDOT Data (if applicable)	<input type="checkbox"/> Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
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Statute Description (include the name of statute or ordinance):

Recklessly Endangering Another Person

Acts of the accused associated with this Offense:

IN THAT, on or about said date, THE DEFENDANT did recklessly engage in conduct which placed or may have placed thousands of Scranton School District students, employees, staff and members of the public visiting buildings within the District in danger of death or serious bodily injury, that is to say THE DEFENDANT did ignore repeated reports of widespread environmental hazards in the Scranton School District, despite his responsibilities to ensure the health and safety of thousands of students, employees, staff and visitors. TO WIT: The DEFENDANT failed to address the exposure to known levels of lead in water, in violation of Section 2705 of the PA Crimes Code.



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: 09/28/20	OTN/LiveScan Number		Complaint/Incident Number BNG0008-17/PA18-176605
Defendant Name	First: JOSEPH	Middle: JOHN	Last: SLACK	

- We ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made.
- We verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S.§4904) relating to unsworn falsification to authorities.
- This complaint consists of the preceding page(s) numbered 1 through 3.
- We certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

The acts committed by the accused, as listed and hereafter, were against the peace and dignity of the Commonwealth of Pennsylvania and were contrary to the Act(s) of the Assembly, or in violation of the statutes cited.

(Before a warrant of arrest can be issued, an affidavit of probable cause must be completed, sworn to before the issuing authority, and attached.)

SEPTEMBER 28, 2020

(Date)

(Signature of Affiant)

AND NOW, on this date, _____ I certify that the complaint has been properly completed and verified. An affidavit of probable cause must be completed before a warrant can be issued.

(Magisterial District Court Number)

(Issuing Authority)

SEAL



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: 09/28/20	OTN/LiveScan Number:	Complaint/Incident Number BNG0008-17 /PA18-176605
Defendant Name:	First: JOSEPH	Middle: JOHN	Last: SLACK

AFFIDAVIT of PROBABLE CAUSE

Your AFFIANTS, Special Agent Robert MCHUGH, Office of Attorney General (hereafter OAG) and Trooper First Class Michael MULVEY of the Pennsylvania State Police (hereafter PSP) being duly sworn, depose and say:

Your AFFIANTS have been involved in an investigation into offenses in violation of the criminal laws of the Commonwealth. The OAG and PSP investigation has utilized the Statewide Investigating Grand Jury and as a result, the Forty-Fourth Statewide Investigating Grand Jury issued Presentment No. 18 on September 18, 2020. This Presentment was accepted by order of the Honorable Lillian H. Ransom, Supervising Judge. The Presentment, attached to this Affidavit and incorporated herein by reference, recommends charges be filed by the Attorney General or his designee against the DEFENDANT as follows:

- Charge 1 – Endangering the Welfare of Children; 4304 (a)(1) / 18 Pa. C.S.A.
- Charge 2 – Recklessly Endangering Another Person; 2705 / 18 Pa. C.S.A.

Your AFFIANTS have reviewed the Presentment and find that the factual findings described therein correspond to the OAG and PSP investigative findings. Your AFFIANTS have reviewed the sworn testimony given by witnesses before the Grand Jury and find that it is consistent with the information contained within the Presentment. Your AFFIANTS have reviewed the evidence presented to the Grand Jury and find that it comports with the result of the OAG and PSP investigative efforts and findings as to the allegations contained in this complaint.

We, SA. Robert MCHUGH and TFC. Michael MULVEY, BEING DULY SWORN ACCORDING TO THE LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

I CERTIFY THAT THIS FILING COMPLIES WITH THE PROVISIONS OF THE CASE RECORDS PUBLIC ACCESS POLICY OF THE UNIFIED JUDICIAL SYSTEM OF PENNSYLVANIA THAT REQUIRE FILING CONFIDENTIAL INFORMATION AND DOCUMENTS DIFFERENTLY THAN NON-CONFIDENTIAL INFORMATION AND DOCUMENTS.

(Signature of Affiant)

Sworn to me and subscribed before me this _____ day of _____

Date

, Magisterial District Judge

My commission expires first Monday of January,

SEAL

INTRODUCTION

We, the members of the Forty-Fourth Statewide Investigating Grand Jury, having received evidence pertaining to violations of the Pennsylvania Crimes Code occurring in Lackawanna County, Pennsylvania pursuant to Notice of Submission of Investigation No. 22, do hereby make the following findings of fact and recommendation of charges:

OVERVIEW

The Grand Jury conducted an investigation into repeated failures to address immediate health threats from lead and asbestos to the students and employees of the Scranton School District. We conclude that these failures were so blatant that they constitute crimes, and we recommend charges of reckless endangerment and endangering welfare of children. The subjects of the investigation were former Scranton School District (“SSD”) Superintendent Alexis Hazzouri Kirijan (“Kirijan”), former SSD Director of Operations Jeff Brazil (“Brazil”) and current SSD Maintenance Supervisor, Joseph Slack (“Slack”).

These administrators were repeatedly advised by experts of dangerous levels of lead in drinking water in at least ten different schools throughout the district, including classroom sinks and public water fountains. Despite repeated reports over a period of years, the administrators not only failed to fix the problem; they misinformed the public. Superintendent Kirijan and Brazil first held a press conference falsely declaring that the problem had been completely solved. Then they failed to advise teachers, students, parents, or school board members when continued testing demonstrated that, in reality, dozens of contaminated sources were still being used. Kirijan and Brazil took the same approach when advised of dozens of areas of dangerous asbestos exposure affecting at least twelve schools in the district; they failed to act, and instead hid the problem from those in danger.

There is no “safe” level of lead in drinking water; even low levels can lower IQs and affect intellectual development in children, and can cause congenital impairment during pregnancy. Similarly, airborne exposure to asbestos particles can cause life-threatening, untreatable cancers when inhaled. Kirijan and Brazil were advised by outside evaluators of the need for immediate remedial action starting in 2016, and continuing through 2019. They were also on notice of applicable state and federal regulations requiring such action. But little was done.

Only after Supt. Kirijan finally resigned were the problems addressed. When the new administration was advised of the situation, the dangerous water sources were immediately disconnected, and asbestos-affected school district buildings had to be closed until remediation could be undertaken.

THE SCRANTON SCHOOL DISTRICT

The SSD is comprised of eleven elementary schools, three intermediate schools and two high schools, encompassing students attending pre-kindergarten through twelfth grade. The following tables illustrate the student enrollment and staffing levels for each of the schools within the SSD from October 2016 to October 2019. These records were provided to the Grand Jury by the current administration of the SSD.

Student Enrollment	Grades	10/1/16	10/1/17	10/1/18	10/1/19
Scranton High	9 through 12	1,804	1,759	1,770	1,731
West High	9 through 12	940	917	877	1,005
Northeast Intermediate	6 through 8	773	796	864	835
South Intermediate	6 through 8	572	562	613	622
West Intermediate	6 through 8	707	729	768	802
Sumner Elem.	PreK through 5	334	307	315	299
Willard Elem.	PreK through 5	547	533	513	497
Tripp Elem.	PreK through 5	815	779	778	760
Whittier Elem.	PreK through 5	692	681	672	684
McNichols Plaza Elem.	PreK through 5	467	502	456	403
Kennedy Elem.	PreK through 5	436	418	407	437
Armstrong Elem.	PreK through 5	638	613	608	609
Bancroft Elem.	PreK through 5	229	260	244	253
Adams Elem.	PreK through 5	289	311	349	346
Prescott Elem.	PreK through 5	347	339	333	331
Morris Elem.	PreK through 5	315	304	314	322
TOTAL		9,905	9,810	9,881	9,936

Building Staff	2016	2017	2018	2019
Scranton High	193	184	178	162
West High	126	115	123	133
Northeast Intermediate	97	91	84	86
South Intermediate	78	85	70	68
West Intermediate	93	91	83	84
Sumner Elem.	36	36	29	30
Willard Elem.	55	54	54	52
Tripp Elem.	86	94	86	90
Whittier Elem.	69	69	83	75
McNichols Plaza Elem.	53	51	51	53
Kennedy Elem.	48	45	49	46
Armstrong Elem.	60	54	57	60
Bancroft Elem.	43	41	40	39
Adams Elem.	48	41	39	38
Prescott Elem.	41	38	36	36
Morris Elem.	35	38	36	40
Total	1161	1127	1098	1092

The ages of the students attending the SSD during the October 2016 to October 2019 time period ranged from three years old for Pre-Kindergarten to 18 years old for twelfth grade. According to information received from the SSD, in the 2015-2016 school year, there were 1,474

SSD students under the age of six; in the 2016-2017 school year, there were 1,414 SSD students under the age of six; in the 2017-2018 school year, there were 1,481 SSD students under the age of six; in the 2018-2019 school year, there were 1,402 SSD students under the age of six; and in the 2019-2020 school year, there were 1,334 SSD students under the age of six.

JOB RESPONSIBILITIES

The Grand Jury was provided with the job descriptions and job responsibilities for former Superintendent Kirijan, former Director of Operations Brazil, and Maintenance Supervisor Slack, as reflected in their employment contracts with the SSD.

As Superintendent of Schools reporting to the Board of Directors, Kirijan's primary purpose was "to lead and manage the district's internal and external systems to improve student performance." Her essential job functions included, among others, school operations and safety, school district compliance oversight, and school district state reporting. Kirijan was employed with the SSD from July 1, 2015 to August 15, 2019, when she resigned.

As the Chief Operations Officer, reporting directly to the Superintendent of Schools, Brazil's primary job responsibility was to provide "safe, healthy, and efficient facilities that ensure quality educational and workplace environments." His essential job functions included daily shared control, oversight and management of district operations programs, compliance, supervision of facilities, buildings and maintenance, and supervision of district safety and security. Brazil was employed by the SSD from January 3, 2012 through March 29, 2019.

As Maintenance Supervisor, reporting directly to Chief Operations Officer Brazil, Slack's primary function was to "maintain systems and equipment by completing preventive maintenance schedules, restoring, rebuilding, or replacing faulty or inoperative components and parts, supervising staff." His duties and responsibilities at the SSD included inspecting facilities to

determine problems and necessary maintenance, inspecting and maintaining building systems, ensuring adherence to quality standards and health and safety regulations, and maintaining a safe and healthy work environment following standards and procedures in compliance with legal codes and regulations. Slack has been employed by the SSD since October 27, 1986.

LEAD EXPOSURE

In December, 2019, during the course of the investigation, it was brought to PSP Trooper Michael Mulvey's ("Trooper Mulvey") attention that the SSD may have failed to take numerous drinking fountains out of service after learning that they contained dangerously high levels of lead. Trooper Mulvey and Special Agent Robert McHugh of the Office of Attorney General ("Agent McHugh") immediately began investigating these allegations.

On January 6, 2020, Trooper Mulvey and Agent McHugh contacted the current administration of the SSD, specifically Superintendent Missy Rose McTiernan ("McTiernan") and Director of Operations Paul Dougherty ("Dougherty"). McTiernan and Dougherty informed investigators that neither they, nor anyone else to their knowledge currently in the SSD, were ever made aware of high levels of lead in drinking water, but that they would take immediate steps to investigate. Investigators began receiving lead testing reports from Dougherty and McTiernan on January 9, 2020. Those reports confirmed that numerous drinking fountains and sinks had been tested in 2016, and again in 2018 and were found to contain dangerously high amounts of lead. While the 2018 results had been transmitted to the prior SSD administration in January of 2019 (*i.e.*, Kirijan's administration), water facilities were not disconnected and no warning signs were placed on them. By January 10, 2020, in contrast, the current administration of the SSD had shut down all water facilities that had tested for high amounts of lead years earlier. Investigators then

began to determine the facts leading up to the prior administration's failure to protect the safety of the students, faculty, staff and visitors of the SSD.

The Grand Jury's evidence consisted of many forms, including testimony from investigators, current SSD personnel, and experts in the sampling and testing of drinking water, and numerous documents recovered from the SSD and other locations.

Initial Lead Testing in 2016

On March 29, 2016, a member of the local media sent an e-mail to Justin McGregor, then Community Relations Director for the SSD, Kirijan, then Superintendent of the SSD, and a former board member of the SSD, inquiring as to what, if any, lead testing the SSD had done to date in order to protect the students from exposure to high lead levels in water. Emails reflect that, on the following day (March 30, 2016), McGregor responded to the media inquiry that Kirijan handled all press contacts and responses. McGregor further responded that Brazil was the appropriate person to address the media inquiry and he would forward the email chain to both Kirijan and Brazil. E-mail records confirmed that McGregor forwarded the e-mail chain to both Kirijan and Brazil.

In response to the March 2016 press inquiry, and with input from at least one member of the SSD School Board, the SSD entered into a contract with Guzek Associates, Inc. to have all the drinking water outlets in the SSD tested for levels of lead. The President of Guzek Associates testified before the Grand Jury that he entered into this contract with the SSD through Chief Operations Officer Brazil, who had personally contacted him. At the time this action was taken, school districts in the Commonwealth of Pennsylvania were not legally obligated to conduct such testing; thus, the SSD voluntarily initiated this testing. Testing done by Guzek Associates in the spring of 2016 revealed that over one third of the water sources tested contained the presence of

lead. At least 22 water sources (fountains and/or sinks) either met or tested above the United States Environmental Protection Agency's "action trigger level" – 15 parts per billion – thereby necessitating remediation.¹ The testing also confirmed that the water entering the school district buildings provided by the Scranton Water Department contained no discernible levels of lead – meaning that the lead must have been in the buildings' pipes.

Investigators obtained internal SSD records reflecting that after receiving these 2016 test results, the SSD claimed to have taken 19 of the 22 water sources out of operation. With regard to the other 3 water sources, investigators discovered from internal SSD records that the District declined to disconnect two water fountains at Whittier Elementary, claiming that the building used bottled water and therefore no action was necessary. Additionally, even though it was recommended that a kitchen sink at Willard Elementary be disconnected due to high lead concentration, internal reports reflected that the SSD claimed that no action was needed on that sink.

As discussed below, investigators subsequently discovered that 10 of the water sources that Guzek recommended the SSD deactivate in 2016 were still operational in 2018. In addition to the 3 facilities mentioned above that the SSD's own records reflect were not deactivated despite Guzek's directive to disconnect them, Guzek's 2018 lead testing revealed that 7 water sources recommended for deactivation were still operational. All 7 tested positive for the presence of lead.

¹ The Grand Jury was provided with the following information by the EPA regarding standards for safe drinking water. "EPA established the Lead and Copper Rule (LCR) in 1991 to protect public health and reduce exposure to lead in drinking water. The Lead and Copper Rule established a Maximum Contaminant Level Goal (MCLG) of zero for lead. The MCLG is zero because there is no level of exposure to lead that is without risk. The Safe Drinking Water Act requires that EPA establish a treatment technique for contaminants like lead and copper that prevents known or anticipated health effects to the extent feasible. The lead action level is a measure of the effectiveness of the corrosion control treatment in water systems. The action level is not a standard for establishing a safe level of lead in a home. To check if corrosion control is working, EPA requires water systems to test for lead at the tap in certain homes, including those with lead service lines. Systems compare sample results from homes to EPA's action level of 0.015 mg/L (15 ppb)."

As testing showed, however, these “trigger” level sites were only a small portion of over 100 water sources throughout the district with unsafe levels of lead – because there is no safe level of lead. The Grand Jury learned that lead is a naturally occurring heavy metal that is toxic when ingested or absorbed into the body. Through the testing reports of Guzek Associates, the Grand Jury was informed that numerous studies have demonstrated that exposure to lead is a significant health concern, especially for young children whose bodies tend to absorb more lead than the average adult. According to the EPA, even low levels of lead in the blood of children can result in: behavior and learning problems; lower IQ and hyperactivity; slowed growth; hearing problems; and/or anemia. In rare cases, ingestion of lead can cause seizures, coma and even death. Studies have further shown that there is no safe blood lead level in children and, if too much lead is ingested from drinking water, the result can be serious health problems, including brain damage, kidney damage and interference with the production of red blood cells that carry oxygen to parts of the body. Early intervention is crucial, because the effects of lead are cumulative: the longer the child is exposed, the more serious the danger. In addition, adults with kidney problems and high blood pressure can be affected by levels of lead to a greater extent than more healthy adults. Studies have also shown that lead exposure during pregnancy can result in the unborn child receiving this lead through its mother’s bones, which, in turn, can impact brain development of the fetus.

On June 8, 2016, after receiving the results of the 2016 Guzek Associates lead testing report, then Superintendent Kirijan and then Director of Operations Brazil hosted a press conference to announce – inaccurately – that they had effectively addressed any and all lead concerns throughout the SSD. That press conference was reported in various media outlets throughout the region.

Public School Code Lead Amendments

This Grand Jury learned that in June 2018, the Pennsylvania Public School Code of 1949 was amended by Act 39 of 2018. The amendments require school districts throughout the Commonwealth of Pennsylvania to either test all of their drinking water facilities for lead or, in the alternative, have public meetings at least once a year to address why they chose not to test for lead. The 2018 amendments further provide that, if a school district tested for lead levels in its drinking water and found that the lead levels exceeded the EPA's current action level of 15 parts per billion (15 ppb), the school district must immediately implement a plan to ensure that no child or adult will continue to be exposed to lead contaminated drinking water, and must provide an alternative source of drinking water.

Specifically, Act 39 of the Public School Code provides in pertinent part:

Beginning in the 2018-2019 school year, and every school year thereafter, school facilities where children attend school may be tested for lead levels in the drinking water and any school facility whose testing shows lead levels in excess of the maximum contaminant level goal or milligrams per liter as set by the United States Environmental Protection Agency's National Primary Drinking Water Regulations (NPDWR) shall immediately implement a plan to ensure no child or adult is exposed to lead contamination drinking water and that alternative sources of drinking water are made available.

See Public School Code of 1949 Act of Jun. 22, 2018, P.L. 241, No. 39.

As shown above, Pennsylvania's Public School Code's 2018 Amendments reference the EPA's National Primary Drinking Water Regulations (NPDWR) for the standard by which Commonwealth school districts must comply for drinking water. It is in those regulations where the EPA indicates that **.015mg/L** is the highest level of lead that is allowed in drinking water. Those regulations, however, state that the level of lead at which there is "no known or expected risk to health" is zero. In other words, according to the EPA, no lead in drinking water is the only acceptable amount of lead.

The amendments also mandate that any school or district with findings of high lead levels report those elevated lead levels to the Pennsylvania Department of Education for posting on the Department's website.

The SSD provided investigators with an e-mail, dated August 2, 2018, in which a member of the Pennsylvania State Senate informed Kirijan of the 2018 amendments to Act 39 of the Public School Code. In that correspondence, the Senator attached the amendments and informed Kirijan that they required "testing for the presence of lead in school drinking water." The Senator further highlighted the relevant portions of Act 39 and offered to answer any questions that Kirijan had concerning the amendments. The e-mail records revealed that Kirijan received the Senator's e-mail at 9:07 a.m. on August 2, 2018, and then forwarded it and the attached amendments to Brazil at 1:38 p.m. that same day.

Investigators discovered additional correspondence to Kirijan two months later, in which she was further informed about the 2018 amendments. By e-mail dated November 16, 2018, the Senator's Executive Assistant informed Kirijan that the Senator wanted to advise her that "the lead testing requirements for the Department of Education [had] been posted." The Executive Assistant also directed Kirijan to familiarize herself with the new law, and provided an e-mail link to the Department of Education's website concerning compliance with the new law. Kirijan received that e-mail at approximately 4:46 p.m. on November 16, 2018, and forwarded it to Brazil on November 18, 2018, at approximately 8:34 a.m.

Brazil then entered into another lead testing contract with Guzek Associates, Inc. for another complete round of lead testing in the SSD in December of 2018.

December 2018 Lead Testing

In December of 2018, Guzek Associates performed testing for the presence of lead in all fountains and sinks that provided water for drinking and/or food preparation for SSD students, staff and faculty throughout the SSD. These water sources were located in hallways, classrooms and cafeterias throughout the SSD. Of the 303 water sources tested, Guzek Associates informed the SSD that nearly half of them contained measurable amounts of lead.

More specifically, the test results revealed that at least 28 water sources throughout the SSD tested above both the EPA's remediation trigger level and the action level established by the Pennsylvania Department of Environmental Protection. Investigators learned from multiple interviews that each of the 28 fountains/sinks were regularly used by students and staff to consume water. The testing also confirmed that the water entering the school district buildings provided by the Scranton Water Department contained no discernible levels of lead, indicating that the lead was being introduced into the water after entering the SSD's system.

The Grand Jury's review of e-mails, regular mail and testimony demonstrated that, commencing in January of 2019, Guzek Associates sent the December 2018 test results via e-mail and regular mail to Brazil who, in turn, forwarded them to Kirijan and Slack.

Beginning on January 3, 2019, Brazil began receiving results of the Guzek Associates lead testing throughout the SSD. Specifically, Brazil received one e-mail from Guzek Associates on January 3, 2019, one e-mail from Guzek Associates on January 15, 2019, and two e-mails from Guzek Associates on January 23, 2019. In those multiple e-mails, the outside expert identified multiple sink and fountain areas in various SSD schools that "exceeded the EPA Remediation Trigger Level," and recommended "shutting these areas off" immediately.

The Grand Jury was also presented with evidence revealing that, through numerous e-mails in February 2019, Guzek Associates provided Brazil with additional water testing results and reports for schools/facilities in the SSD. In those e-mails, the consultant identified additional areas in the SSD exceeding “the EPA Remediation Trigger Level” and the “PADEP’s Lead Action Level,” and recommended that those areas be disconnected immediately. Moreover, by e-mail dated February 20, 2019, Guzek Associates furnished Brazil with a copy of the EPA’s 73-page manual entitled: “*3 T’s for Reducing Lead in Drinking Water in Schools and Child Care Facilities. A Training, Testing, and Taking Action Approach.*” Finally, on March 4, 2019, Guzek Associates provided Brazil with its 10-page “final list” of test results for all of the water sources in the SSD schools, reiterating those areas containing dangerous levels of lead.

The chart below identifies those sinks and drinking fountains within the SSD that Guzek Associates tested in 2018 and which, in January and February of 2019, they advised Brazil to shut off immediately because of high lead content nearing or exceeding the EPA action level of .015 mg/L. In particular, the five facilities emphasized in bold in the chart are the water sources that the SSD had been told to disconnect in 2016 and which their internal records indicated had been disconnected (but were not).

School	Identified Facility	Lead Amount
Armstrong	Health Room Sink	0.036 mg/L
Armstrong	Room 124, Sink	0.041 mg/L
Armstrong	Room 127, Sink	1.09 mg/L
Bancroft	Room 101 - Sink	0.509 mg/L (2016 Recommended Disconnect)
Bancroft	2nd Floor Health Room sink	0.0345 mg/L (2016 Recommended Disconnect)
McNichols	Center Open Area (Black Ceiling), Sink	0.021 mg/L (2016 Recommended Disconnect)
McNichols	Miss Molly's Class Room, Sink (Right)	0.065 mg/L (2016 Recommended Disconnect)
McNichols	Gym, Boy's Restroom, Water Fountain	0.025 mg/L
Nativity	Health room sink	0.0176 mg/L
North Intermediate	1st Floor, Home Economics - Sink #1	0.0182 mg/L
North Intermediate	1st Floor, Home Economics - Sink #4	0.0159 mg/L
North Intermediate	1st Floor, Home Economics - Sink #5	0.0271 mg/L
North Intermediate	1st Floor, Room 121 Sink	0.0176 mg/L
Prescott	2nd Floor, Teachers Lounge Sink	0.0359 mg/L
Prescott	2nd Floor, Room 205 Water Fountain	3.57 mg/L (2016 Recommended Disconnect)
Prescott	2nd Floor, Room 205 Sink	0.0144 mg/L
Prescott	1st Floor, Room 104 Water Fountain	0.0346 mg/L
Prescott	1st Floor, Room 101 Water Fountain	0.0397 mg/L
Prescott	Basement, Health Room Sink	0.0622 mg/L
Scranton High School	1st Floor, Training Room Sink	0.0156 mg/L
Scranton High School	2nd Floor, Kitchen Main Cooking Area, Left Kettle	0.0147 mg/L
West High	Kitchen Ecolab wash sink	0.02379 mg/L
West Intermediate	Auditorium Hall Water Fountain	0.02844 mg/L
West Intermediate	Band Room sink	0.09389 mg/L
West Intermediate	Medical Office Exam Room Sink	0.04751 mg/L
West Intermediate	Main Office Sink	0.66244 mg/L
Whittier	1st Floor Kitchen sink (next to slicer)	.353 mg/L
Whittier	1st Floor Kitchen sink (2 bay sink left side)	0.0261 mg/L

As noted above, seven of the ten water sources (sinks/fountains) identified by Guzek Associates, Inc. during the 2016 testing -- that the SSD never deactivated despite being directed to do so -- were retested by Guzek in 2018 after Guzek technicians discovered that they were still operational. All seven were found to contain lead. Five of those seven water sources tested above both the EPA's remediation trigger level and the action level established by the Pennsylvania Department of Environmental Protection (PADEP) and are contained and emphasized in the chart above.² Most of the 28 sources listed above were at least two times higher than the .015 mg/L immediate action level; some were 50 or 100 times higher. And these 28 were just the worst of the worst; over half of the sources tested showed contamination with lead, for which there is no safe limit.

The Grand Jury reviewed evidence showing that Brazil forwarded the January 2019 e-mails containing the Guzek Associates lead test results to Kirijan. In response to receiving Brazil's January 3, 2019 e-mail, Kirijan, by e-mail dated January 5, 2019, inquired about whether all of the schools² had been tested. By e-mail that same day, Brazil responded that all of the schools had been tested but not all results were back yet. By e-mail later that same day, Kirijan advised Brazil that she would report "all to the Board" at the meeting later that month (although, as detailed below, she failed to do so).

Additionally, on January 15, 2019, Brazil forwarded to Kirijan the e-mail and test results he received from Guzek Associates earlier that day, identifying five additional school sinks and fountains at three additional SSD schools that exceeded the EPA's Remediation Trigger Level. In

² Two of the seven water sources tested lower when retested in 2018.

The three water sources identified in the 2016 testing that were not retested by Guzek in 2018 were those in which internal SSD records reflected that no further action was necessary. Investigation revealed that they were never disconnected by the SSD.

response to that e-mail, Kirijan, that same day, asked whether the entire district had been tested and whether the forwarded test results represented the “entire list” of district areas exceeding the EPA Remediation Trigger Level.

The Grand Jury was also presented with evidence revealing that Brazil forwarded all of these e-mails containing the Guzek Associates lead test results to Slack, the Maintenance Supervisor for the SSD. Brazil forwarded the January 3, 2019 e-mail from Guzek Associates to Slack on January 4, 2019, at approximately 5:35 p.m. Brazil forwarded the January 15, 2019 e-mail from Guzek Associates to Slack on January 15, 2019, at approximately 10:24 a.m. (11 minutes after receiving it). In the January 15, 2019 e-mail, Brazil stated: “Joe, place these off limits immediately. Jeff.” Records show that Brazil forwarded the January 23, 2019 e-mail from Guzek Associates (identifying twelve additional water sources at three additional schools to be shut off immediately) to Slack that same day at approximately 4:00 p.m. (approximately 4 minutes after having received it). At approximately 6:19 p.m. that same day, Slack responded to Brazil by stating, “I will make sure they are all shut off in the morning.” But Slack’s e-mail was a false promise. Evidence presented to the Grand Jury revealed that, although his essential responsibilities as Maintenance Supervisor included ensuring strict adherence to health and safety regulations, and despite the assurance in the e-mail, Slack never took any action to disconnect any of the fountains or sinks identified at that time as contaminated by lead.

The Grand Jury further learned that, despite being advised in January 2019 of the hazardous lead test results and despite her primary responsibility of ensuring the safety of school operations in the SSD, Kirijan – like Brazil and Slack – took no action to remove, disconnect or remediate those lead-contaminated water sources, or to satisfy herself that the work had been done.

The Grand Jury also learned that, despite his purportedly concerned e-mails to Slack in January 2019, Brazil took no action to remove, disconnect or remediate those lead contaminated water sources, or to ascertain whether the work had been done.

But the administrators not only failed to ensure that any of these contaminated sources were actually disconnected; they also failed to warn any child, student, faculty member, staff member, parent or visitor about those high lead test results. Even if the sinks and fountains had finally been disconnected, numerous children and staff members had already been ingesting the contaminated water, with cumulative dangerous effect, but were never told. It was not until Trooper Mulvey and Agent McHugh brought the test results to the attention of the new administration (specifically, McTiernan and Dougherty) that those water sources were immediately disconnected and the problem was disclosed.

Until then, only Kirijan, Brazil and Slack could have advised anyone about the situation, because, as SSD e-mails and interviews of SSD personnel demonstrated, no one other than Kirijan, Brazil and Slack had ever been made aware of the dangerously high lead results.

The Grand Jury heard testimony that investigators recovered from Kirijan's file cabinet a folder containing a list of topics that Kirijan considered presenting to the SSD School Board Executive Committee on January 26, 2019. One of the topics was the 2018 Guzek Associates lead test results. Included with that list of topics was a folder containing 13 separate copies of the 2018 test results. This number of copies correlated to the number of board members, board secretary and solicitor attending the upcoming meeting. Kirijan, however, in the end chose not to disclose the information pertaining to the 2018 test results to any of the board members. Investigators interviewed every board member from the relevant 2019 time period and each indicated that they were never told of any lead concerns in the SSD during 2019.

In addition, investigators interviewed every principal at every affected school throughout the SSD. Every principal indicated that they were never informed that there were any lead problems in the building. They each stated that at no point during 2019 were any fountains or sinks turned off in their buildings. Nor were any warning signs posted indicating that a fountain or sink had a high lead reading and should not be used.

Investigators also spoke to every employee associated with the 28 water facilities (such as a sink in a room where they were assigned) from the 2018 testing. With the exception of one sink in a classroom in Bancroft Elementary, each of those individuals indicated that their facility had been operational during the entire affected time period.

Moreover, the Grand Jury heard testimony from an individual who would have been asked to disconnect fountains and sinks throughout the district. That witness testified that he/she never turned off any fountain or sink in 2019, and no one in the SSD ever directed him/her to do so.

Investigators also spoke with the individual employed by the SSD who would have been tasked with printing warning signs to place on or near any affected water facility. That individual informed investigators that he/she never made any warning signs in 2019, and no one ever asked him/her to do so.

Brazil retired from the SSD on March 29, 2019. Kirijan resigned from the SSD on August 15, 2019. The Grand Jury learned that, before leaving the SSD, Kirijan and Brazil never made anyone (other than Slack) aware of the high lead findings from Guzek's 2018 lead testing. Neither took any steps to protect the children and staff utilizing those water facilities from the dangerous exposure to lead. Neither Kirijan nor Brazil even relayed the lead problems to their successors upon their departure from the SSD, thereby continuing the hazardous lead exposure for nearly a

year, until January 2020. Slack, who remains employed at the SSD, never disclosed the dangerous lead exposure to anyone.

This Grand Jury also learned that neither Kirijan -- whose essential job functions as SSD Superintendent included "school district state required reporting" -- nor anyone else from the SSD, forwarded the high lead test results to the Pennsylvania Department of Education, as required by the 2018 amendments.

ASBESTOS EXPOSURE

After evaluating testimony and evidence in this matter, this Grand Jury also recommends that criminal charges be brought against Kirijan and Brazil for their failure to act on the risk of airborne carcinogenic asbestos exposure to thousands of students, staff and faculty in various buildings throughout the SSD. The evidence upon which that recommendation is based is summarized below.

The Grand Jury learned through a variety of sources, including testimony from the President of Guzek Associates and testimony from an employee of Cocciardi and Associates, an asbestos inspection firm recently hired by the SSD, that asbestos is a naturally occurring mineral that had been used throughout the country for years in commercial and residential buildings for insulation and fire retardant capabilities. Many of those buildings included schools up until the 1970's, when scientific studies confirmed that inhalation of airborne asbestos fibers by humans causes serious health issues, such as asbestosis and mesothelioma. These are both cancers that often take years to manifest after exposure, and that carry extremely high morbidity rates. As a result of these studies, the use of asbestos in the United States as a building material was outlawed. This Grand Jury also learned that when properly contained, asbestos is not harmful. However,

when it flakes and becomes airborne (*i.e.*, “friable”), it is capable of being inhaled and then becomes extremely dangerous to anyone breathing it.

This Grand Jury heard evidence that, while several of the SSD’s buildings were constructed after 1990 and contained no asbestos, the older buildings contained quantities of asbestos and, therefore, under federal and state law, required management of that asbestos.

This Grand Jury learned that the principal law regarding the effective monitoring and prevention of asbestos in public buildings is the Federal Asbestos Hazard Emergency Response Act (AHERA). AHERA requires school districts to inspect school buildings for asbestos-containing building material (ACBM), prepare asbestos management plans, and perform asbestos response actions to prevent or reduce asbestos hazards. AHERA further requires districts to perform an original inspection to determine whether asbestos-containing materials are present and then re-inspect the asbestos-containing material in each school every three years. Districts are also required to develop, maintain and update an asbestos management plan; keep a copy of that management plan at the school; and provide yearly notification to parents, teachers and employee organizations on the availability of the school’s asbestos management plan and any asbestos-related actions taken or planned in the school(s). Additionally, districts are required to designate a contact person to ensure the school district’s responsibilities are properly implemented, to perform periodic surveillance on known or suspected asbestos-containing building material, and to ensure that trained, licensed professionals perform inspections, take response actions, and provide custodial staff with asbestos-awareness training. As detailed below, Kirijan and Brazil failed to comply with AHERA and, in doing so, placed thousands of their students, faculty and staff at risk for asbestos inhalation and its commensurate serious health complications.

This Grand Jury finds it noteworthy that Brazil completed an asbestos building inspection training course and received an asbestos occupation certification in September 2016. Investigators reviewed numerous documents from the SSD reflecting that Brazil's training, certification, fees and expenses were paid for by the SSD. Given his district-funded coursework and certification, it is clear that Brazil was fully aware of the hazards of asbestos and how to identify and address those hazards. However, he failed to take proactive measures to ensure that students, staff and faculty of the SSD were protected from those hazards when he learned of them in the SSD.

This Grand Jury heard testimony that beginning in 2016, the SSD contracted Guzek Associates to perform asbestos inspections and testing throughout the SSD pursuant to the requirements of AHERA. Guzek Associates performed comprehensive inspections in 2016 and again in 2019 pursuant to the contract with the SSD. The company also performed visual inspections every six months during the time periods between the three-year comprehensive testing.

This Grand Jury learned that (as opposed to lead testing, which is objective and specific) asbestos testing, inspections and recommendations depend upon the training and experience of the inspector. The industry uses the following system to identify the risk and urgency with which remediation must occur:

Response Actions as required by AHERA are graded on a 1-7 scale for "Removal Priority," with Level 1 being the highest priority.

If an area is given a Level 1 grade for "Removal Priority," it is deemed to be "Significantly Damaged." The Response Actions for Level 1 are: Evacuate and isolate the area, if needed; Remove the ACBM or enclose or encapsulate if sufficient to contain fibers; Repair of thermal system insulation is allowed if feasible and safe; and Observation and Monitoring required for all friable ACBM.

If an area is given a Level 2 grade for "Removal Priority," it is deemed to be "Damaged with Potential for Significant Damage." The Response Actions for Level 2 are: Evacuate and isolate the area, if needed; Remove, enclose, encapsulate

or repair to correct damage; Take steps to reduce potential for disturbance; Observation and Monitoring required for all friable ACBM.

If an area is given a Level 3 grade for "Removal Priority," it is deemed to be "Damaged with Potential for Damage." The Response Actions for Level 3 are: Remove, enclose, encapsulate or repair to correct damage; Observation and Monitoring required for all friable ACBM.

If an area is given a Level 4 grade for "Removal Priority," it is deemed to be "Damaged with Low Potential for Damage." The Response Actions for Level 4 are: Remove, enclose, encapsulate or repair to correct damage; Observation and Monitoring required for all friable ACBM.

If an area is given a Level 5 grade for "Removal Priority," it is deemed to be "No Damage with Potential for Significant Damage." The Response Actions for Level 5 are: Evacuate or isolate the area, if needed; Take steps to reduce potential for disturbance; Observation and Monitoring required for all friable ACBM.

If an area is given a Level 6 grade for "Removal Priority," it is deemed to be "No Damage with Potential for Damage." The Response Actions for Level 6 are: Take steps to reduce potential for disturbance; Continue Observation and Monitoring for all friable ACBM.

If an area is given a Level 7 grade for "Removal Priority," it is deemed to be "No Damage with Low Potential for Damage." The Response Actions for Level 7 are: Continue Observation and Monitoring for all ACBM until Hazard Assessment factors change.

(emphasis added).

The Grand Jury was presented with the details of the comprehensive asbestos testing performed by Guzek Associates in 2016 and 2019, and the six-month inspections conducted within that three-year time period. In 2016, Guzek Associates inspected 17 buildings in the SSD to determine the types, quantities and conditions of confirmed or assumed asbestos-containing materials within those buildings. Then, between 2016 and 2019, Guzek conducted six-month "Surveillance Inspections" of those 17 SSD buildings for damage to asbestos-containing building material, and recommended response actions for those areas within each building. Between July and November, 2019, Guzek provided "3-Year Re-Inspection Reports" for each of the SSD

buildings that contained ACBM, identifying the material location (floor, room, etc.), the material description (wall, ceiling, pipe insulation, flooring, etc.), AHERA assessment, AHERA Removal Priority and notes. Guzek also provided “Asbestos Management Plans” for each building in the SSD that was constructed before asbestos was banned as a building material.

The Grand Jury heard testimony that the 2016 asbestos testing revealed approximately 74 locations within SSD buildings that were near the highest levels of danger: Level 2 and Level 3 “Removal Priority,” which require urgent action for remediation. Specifically, there were 28 locations (wall, ceiling, pipe insulation, flooring, etc.) identified as a Level 2 “Removal Priority,” and there were 46 locations identified as a Level 3 “Removal Priority.” These areas included numerous classrooms and restrooms, and even a cafeteria, regularly used by children and teachers.

Between the 2016 comprehensive inspection and the 2019 comprehensive re-inspection, 15 of the 74 areas containing ACBM became even worse. Additionally, 42 of the 74 areas retained the same urgent “Removal Priority” levels, demonstrating that the SSD had taken no action to remediate those areas. Of the 74 locations originally designated as urgent “Removal Priority” levels, only 7 had confirmed abatement projects completed between 2016 and 2019. Thus, 67 locations identified as urgent “Removal Priority” levels were ignored, continuing to expose students and staff attending the SSD to hazardous asbestos.

The Grand Jury was presented with Guzek’s test results for those 17 buildings in the SSD.

- **Adams Elementary** – The 2016 inspection revealed one Level 2 “Removal Priority” area, and four areas identified as Level 3 “Removal Priority.” Specifically, areas within Adams that needed immediate repairs and/or remediation included a basement storage room that was accessible to staff (Level 2); a basement custodian area in the boiler room (Level 3) that had loose debris; 1st floor girls restroom (Level 3) that had loose debris on the floor; the 1st floor gymnasium (Level 3) that had dents in the ceiling; and the 1st floor boys restroom (Level 3) that had loose debris and ripped jacket covers (insulation covering pipes). The restrooms and gymnasium were accessible to students and staff. The 3-Year Re-Inspection completed in

2019 revealed no evidence that any of the Level 2 or Level 3 “Removal Priority” areas were remediated. To the contrary, the 2019 results showed that one area had deteriorated from a Level 3 to a Level 2, and three Level 3 areas remained as Level 3. Only one area that had been scored a Level 2 was rescored as a Level 3 “Removal Priority” during the 3-Year Re-Inspection report in 2019.

- **SSD Administration Building** – The 2016 inspection revealed one area identified as a Level 2 “Removal Priority.” Specifically, the area that needed immediate repairs/remediation was the basement steam line room that contained loose debris in the trench and was accessible to staff (Level 2). The 3-Year Re-Inspection completed in 2019 revealed no evidence that the area was fixed and/or abated, as it remained a Level 2 “Removal Priority.”
- **Bancroft Elementary** – The 2016 inspection revealed two areas identified as a Level 2 “Removal Priority,” and one area identified as a Level 3 “Removal Priority.” Specifically, areas within Bancroft that needed immediate repairs and/or remediation included a basement crawl space that was accessible to staff (Level 3) that contained loose debris and torn jackets (rips in insulation); the 1st floor girl’s restroom chase (cavity in wall containing plumbing) that was accessible to staff (Level 2) and contained loose debris; and the 2nd floor boy’s restroom chase that contained debris on the floor and was accessible to staff (Level 2). The 3-Year Re-Inspection completed in 2019 revealed that those Level 2 areas had deteriorated to Level 1 “Removal Priority,” the highest possible “Removal Priority.” While the area previously scored as a Level 3 was rescored as a Level 6, there was no documentation reflecting that an abatement project had occurred there.
- **McNichols Plaza** - The 3-Year Re-Inspection completed in 2019 revealed that one area, previously at Level 6, the lowest threat, had deteriorated to a Level 2 “Removal Priority.” This area was described in Guzek Associates’ reports as the floor tile of the “Office Gym.” This storage area was accessible to staff.
- **Memorial Stadium** – The 2016 inspection identified no Level 1, Level 2 or Level 3 “Removal Priority” areas. The results remained the same for the 3-Year Re-Inspection in 2019.
- **Morris Elementary** - The 2016 inspection identified nine areas as a Level 2 “Removal Priority,” and thirteen areas as a Level 3 “Removal Priority.” Specifically, areas within Morris that needed immediate repairs and/or remediation included: damaged fittings under sinks in classrooms; damaged fittings in the chases of restrooms; and damaged fittings in storage areas. All of these areas are accessible to students and staff. The 3-Year Re-Inspection completed in 2019 revealed that eight of the thirteen Level 3

“Removal Priority” areas had deteriorated. Further, nine Level 2 and Level 3 areas remained the same “Removal Priority” in 2019, demonstrating that the SSD took no action to remediate those high priority areas. According to Guzek Associates’ records, three areas were fixed and/or abated and another two areas may have been fixed and/or abated, as they were rescored to a less urgent “Removal Priority.”

- **Armstrong Elementary** – The 2016 inspection identified one area as a Level 3 “Removal Priority.” The area that needed immediate repairs and/or remediation was Hallway “B” cementitious fittings (Level 3) that had torn jackets. The 3-Year Re-Inspection completed in 2019 revealed that the one Level 3 “Removal Priority” area remained a Level 3.
- **Northeast Intermediate School** – The 2016 inspection identified seven areas as a Level 2 “Removal Priority,” and six areas as a Level 3 “Removal Priority.” Specifically, areas within Northeast Intermediate that needed immediate repair/remediation included: the walls and ceilings of storage areas that doubled as part of the building’s HVAC system; fittings and pipe insulation in storage areas; walls and ceilings within classrooms; pipe fittings within classrooms; and floor tile within classrooms. These areas were accessible to students and staff. The 3-Year Re-Inspection completed in 2019 revealed that one Level 3 “Removal Priority” area had deteriorated, and five Level 2 and four Level 3 areas remained the same, demonstrating that the SSD took no action to remediate those high priority areas. According to Guzek Associates’ records, two areas were fixed and/or abated and another area was not retested during the 2019 3-Year Re-Inspection.
- **Prescott Elementary** – The 2016 inspection identified no Level 1, Level 2 or Level 3 “Removal Priority” areas. However, the 3-Year Re-Inspection completed in 2019 revealed that one area that had been identified as a Level 6 in 2016 had deteriorated to a Level 1 “Removal Priority.” This area was defined as the fittings/pipe insulation of the 2nd Floor, Main Corridor. The Main Corridor area was accessible to students and staff.
- **South Intermediate School** – The 2016 inspection identified four areas as a Level 2 “Removal Priority,” and seven areas as a Level 3 “Removal Priority.” Specifically, areas within South Scranton Intermediate that needed immediate repair/remediation included: fittings and pipe insulation in hallways and common areas; the walls and ceilings of storage areas that doubled as part of the building’s HVAC system; floor tile and mastic in the cafeteria and kitchen; fittings and pipe insulation in storage areas; and fittings and pipe insulation in classrooms. These areas were accessible to students and staff. The 3-Year Re-Inspection completed in 2019 revealed that two of the seven Level 3 “Removal Priority” areas had deteriorated. Additionally, three Level 2 and four Level 3 areas remained the same

“Removal Priority,” demonstrating that the SSD took no action to remediate these high priority areas. According to Guzek Associates’ records, two areas may have been fixed and/or abated, as they were rescored to a less urgent “Removal Priority.” However, there is no documentation reflecting that an abatement project occurred for these areas.

- **Scranton High School** – The 2016 inspection identified no Level 1, Level 2 or Level 3 “Removal Priority” areas. The 3-Year Re-Inspection completed in 2019 reflected the same results.
- **Sumner Elementary** – The 2016 inspection identified no Level 1, Level 2 or Level 3 “Removal Priority” areas. The 3-Year Re-Inspection completed in 2019 revealed that one area that had been identified as a Level 4 in 2016 had deteriorated to Level 3. This area was in the basement boiler room and was accessible to custodial staff.
- **Tripp Elementary** – The 2016 inspection identified no Level 1, Level 2 or Level 3 “Removal Priority” areas. The 3-Year Re-Inspection completed in 2019 contained the same results.
- **West Scranton High School** – The 2016 testing identified three areas as a Level 2 “Removal Priority,” and five areas as a Level 3 “Removal Priority.” Specifically, areas within West Scranton High School that needed immediate repair/remediation included: fittings and pipe insulation in hallways and common areas; bags of loose asbestos in the boiler room; duct insulation in the basement stage storage area; fittings and pipe insulation, along with corrugated panels in a boy’s restroom; and fittings and pipe insulation in a 2nd floor classroom. These areas were accessible to students and staff, with the exception of the boiler room area and basement area which was accessible to the custodial staff. The 3-Year Re-Inspection completed in 2019 revealed that one of the five Level 3 “Removal Priority” areas had deteriorated and three Level 2 and four Level 3 areas remained the same, demonstrating that the SSD took no action to remediate these high priority areas.
- **West Scranton Intermediate School** – The 2016 inspection identified two areas as a Level 3 “Removal Priority.” These two areas had damaged floor tile and mastic. These common areas were accessible to students and staff. The 3-Year Re-Inspection completed in 2019 revealed no evidence that either of these areas were fixed and/or abated, as they both remained as a Level 3 “Removal Priority.”
- **Whittier Elementary School Annex/Nativity** – The 2016 inspection identified three areas as a Level 3 “Removal Priority.” The two classrooms and restroom had damaged fittings and pipe insulation. These areas were accessible to students and staff. The 3-Year Re-Inspection completed in

2019 revealed that one area had deteriorated to a Level 2 “Removal Priority” and the other two areas were fixed and/or abated.

- **Willard Elementary** – The 2016 inspection identified one area as a Level 2 “Removal Priority,” and four areas as a Level 3 “Removal Priority.” Specifically, areas within Willard that needed immediate repair/remediation included: plaster walls and ceilings in restrooms and common areas, and fittings and pipe insulation in the boiler room and oil tank storage. These areas were accessible to students and staff, with the exception of the boiler room area which was accessible to the custodial staff. The 3-Year Re-Inspection completed in 2019 revealed that three of the four Level 3 “Removal Priority” areas remained the same, demonstrating that the SSD took no action to remediate these high priority areas. According to Guzek Associates’ records, two areas may have been fixed and/or abated, as they were rescored to a less urgent “Removal Priority.” However, there is no documentation reflecting that an abatement project occurred for these areas.

The Grand Jury was presented with extensive evidence establishing that, beginning in 2016, both Kirijan and Brazil were fully aware of the dangerous asbestos test results warranting immediate remediation. However, neither took the necessary action to remediate those asbestos hazards permeating the buildings in the SSD.

During the course of its 2016-2019 contract with the SSD, Guzek Associates, Inc. had direct contact with Brazil regarding its asbestos testing and findings. Throughout that three-year time period, Guzek repeatedly communicated with Brazil, by e-mail and regular mail, about its asbestos findings and the urgent need for remediation at the numerous schools in the SSD. With rare exceptions, Brazil failed to address the significant areas of concern.

Kirijan was also aware of the hazardous asbestos test results obtained by Guzek Associates in 2016. Through testimony, the Grand Jury learned that Guzek Associates began their district-wide asbestos inspections in July of 2016. This Grand Jury learned that the asbestos issues in the SSD were made part of then-Superintendent Kirijan’s weekly senior executive leadership team meeting (SELT) on August 23, 2016. Investigators testified that Kirijan conducted weekly SELT meetings with senior SSD staff members. Prior to each meeting, Kirijan or staff members could

add issues that they wanted to address to an agenda that was prepared prior to each meeting. The Grand Jury's review of the typewritten agenda for the August 23, 2016 "Informational" meeting, identifying Kirijan as the "Meeting Facilitator," revealed that Brazil had submitted an item regarding the "Asbestos management plan progress." Next to that identified topic for discussion, Kirijan hand wrote that "7-8 schools" were "out of compliance." A review of that agenda further indicated that in addition to Kirijan and Brazil, seven other SSD administrators/supervisors were present.

Investigators further testified that they reviewed every available weekly agenda for the SELT meetings from July 2016 through March 19, 2019, and that apart from the August 23, 2016 meeting, Brazil never made another effort to address any asbestos issues at the SELT meeting again. Nor did Kirijan ever add this issue to the SELT meeting agenda. Stated differently, other than that one instance on August 23, 2016, the agenda records do not reflect that the asbestos problems (or lead problems for that matter) were ever raised at the weekly SELT meetings.

During the entire July 2016 to March 2019 time period, Kirijan failed to ensure that the necessary remediation action was taken, thereby continuing to expose students and staff to this environmental danger in their school community.

To the contrary, the Grand Jury heard evidence showing that, once aware of the hazardous asbestos conditions in 2016, Kirijan took efforts to conceal problems in the school buildings from others and silence those who tried to talk about them. One example of this was brought to the Grand Jury's attention through the testimony of an Assistant Principal within the SSD. Prior to his/her current role as an Assistant Principal in the SSD, the witness was a Principal at another school within the SSD. The witness testified that, while a Principal at that school, he/she brought to Brazil and Kirijan's attention that ceilings in several classrooms within his/her building had

collapsed. The witness testified that plaster and dust from the ceiling fell on the students, their desks and their school books, necessitating that the students be moved to other classrooms for their safety. The witness further testified that, from the fall of 2018 to the beginning of 2019, he/she repeatedly forwarded photographs of the classroom's conditions by e-mails to individuals in the SSD, including Kirijan and Brazil.

The witness testified that, in response to his/her e-mail complaints, Kirijan approached him/her and directed him/her to stop e-mailing conversations that had previously been discussed and documented by phone. The witness testified that he/she responded to Kirijan that he/she would "never stop e-mailing." The witness then blocked Kirijan's telephone number from his/her phone so she could no longer communicate with him/her by telephone. The witness explained to the Grand Jury that he/she felt it was necessary to do that to ensure that all of his/her communications with Kirijan were documented. The Grand Jury reviewed the e-mails and photographs that the witness had sent to Kirijan and Brazil.

The Grand Jury heard testimony concerning a similar incident from another witness. That witness testified that Kirijan directed him/her to brief the School Board on potential mold issues that had arisen. As the witness was leaving for the meeting, Kirijan told him/her that he/she was not allowed to mention the "m word." When the witness asked her what the "m word" was, she replied "mold." The witness testified that this left him/her in the position of briefing the School Board concerning mold issues without mentioning the word "mold." The witness stated that Kirijan instructed him/her that he/she was not allowed "to say the mold word" at the public hearing because if he/she did, it would "create a panic."

A former high ranking individual in the SSD and former member of SELT, who was employed at the SSD from 2014 to 2019, told investigators about his/her same experience with

Kirijan. He/she too heard Kirijan refer to mold as the “m word,” and was told by Kirijan to “stay in [his/her] lane” when he/she questioned something in the district that was outside his/her department. This individual further told investigators about an incident when the SSD was notified that an emotionally disturbed person had been committed to a facility for expressing thoughts of shooting up an elementary school in the district. Kirijan did not even alert security or staff at the targeted school, expressing concern that “it would cause panic.”

The Grand Jury believes that this testimony corroborates the conclusion that Kirijan went out of her way to hide the extent of the district’s asbestos problem. Investigators testified that they were unable to find any mention of asbestos in Kirijan’s SSD e-mails from 2016 through 2019. Investigators testified that they reviewed thousands of Kirijan’s e-mails and discovered that the SSD’s asbestos crisis was never discussed.

As indicated above, AHERA requires that the asbestos management plan be prepared and that a copy be kept at each school affected. AHERA also requires that the district provide yearly notifications to parents, teachers and employee organizations on the availability of that management plan and any asbestos-related actions taken or planned in the school. These AHERA requirements have been in effect since the 1980’s in order to lessen any potential risk to students and staff. AHERA also requires training and notifications to custodial personnel.

The Grand Jury was presented with evidence establishing that Kirijan and Brazil failed to implement any of these federal requirements. When every affected principal was interviewed, each stated that no such plan had been provided to their school, no warnings were given to any of them regarding potential asbestos hazards in their school, and no custodial staff were ever briefed on potential asbestos dangers, let alone trained on how to address them.

Furthermore, investigators interviewed the school board members from 2016 through 2019. Each one advised investigators that they were never told about any potential asbestos issues impacting the district.

The Grand Jury learned that on January 30, 2020, Rosemary Boland, the President of the Scranton Federation of Teachers, sent a letter to Katie Gilmartin, President of the SSD School Board, in which she expressed great concern for the safety of the teachers, students and staff of the SSD upon learning of the possibility of the asbestos-related and lead-related issues in the district. Boland's correspondence demonstrated that the SSD Teacher's Union was never made aware of any asbestos-related issues potentially affecting their members, as required by AHERA.

This Grand Jury learned that the current SSD administration (specifically McTiernan and Dougherty) immediately took steps to close several district buildings after receiving the 2019 asbestos report from Guzek Associates. The district also hired a second inspection firm, which concurred with the Guzek findings that significant issues existed within Northeast Intermediate School, which prevented it from being re-opened during the remainder of the 2019-2020 school year.