

In re: Broward County Public Schools – Personnel Investigation of
Porter, Winfred (P00076485)

INVESTIGATIVE REPORT

July 16, 2019

By: Jennifer V. Ruiz, Esq.
Cole, Scott & Kissane, P.A.
on behalf of Broward County Public Schools



Cole, Scott & Kissane

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EXECUTIVE SUMMARY

CSK Matter #	5888.2349-00	Subject Name:	Winfred Porter	
Employee #	P00076485	Investigator Name:	Jennifer V. Ruiz, Esq.	
Incident Date:	02.14.18	Assignment Date:	01.23.2019; <i>scope refined on 02.28.2019</i>	
Policy Number and Name		Just Cause (JC)	No Just Cause (NJC)	Undetermined (U)
Policy 4.9 - Corrective Action (Allegations Nos. 1-10)			NJC	
Policy 2302 - Facility Security (Allegations No. 10)			NJC	
Policy 4009.11 – Code of Conduct (Allegations Nos. 1-10)			NJC	
Fla. Admin. Code R. 6A-10.081 – The Principles of Professional Conduct for the Education Profession in Florida (Allegations Nos. 1-10)			NJC	
Emergency Preparedness Manual 2017-2018 (Allegation No. 9)			NJC	
Assistant Principal Job Description and Essential Performance Responsibilities (Allegation No. 8)		JC		
Assistant Principal Job Description and Essential Performance Responsibilities (Allegations Nos. 1-7, 9-10)			NJC	

NOTIFICATIONS AND CONSENT TO INTERVIEW

Mr. Porter (former Assistant Principal at Marjory Stoneman Douglas High School) was informed of the pending investigation and allegations asserted via notification letters.¹ Pursuant to Policy 4.9, § 5.13-*Corrective Action*, Mr. Porter is entitled to representation and is represented by attorney Christopher Whitelock of Whitelock & Associates, P.A. All communications from our office were with Mr. Whitelock on behalf of Mr. Porter.² At no time did I speak with Mr. Porter outside the presence of his counsel, Mr. Whitelock. Mr. Porter consented to and attended a recorded, sworn interview on May 22, 2019, where Mr. Whitelock was present.³ To BCPS' knowledge, Mr. Porter is not the subject of a criminal investigation, however, in an abundance of caution and at the request of Mr. Porter's counsel, Mr. Porter was provided with a *Garrity* warning prior to commencement of his sworn interview on May 22, 2019. Mr. Porter's acknowledgment of receipt of the *Garrity* warning, which was prepared by BCPS' Office of the General Counsel, is incorporated as Exhibit 2 to the transcript of Mr. Porter's May 22, 2019 sworn statement.⁴

NOTES

Extraneous factors affecting the completion of this report include the following: the sensitive nature and complexity of the subject matter investigated; delays in production of requested records, statements, and information; volume of records; delay in obtaining the surveillance video, necessary to conduct thorough investigation; ongoing parallel investigations; availability of witnesses (and counsel).

¹ See Not. dated Nov. 26, 2018, Not. dated Apr. 5, 2019. at Composite App. 1.

² See Not. dated Apr. 5, 2019; Not. dated May 14, 2019 at Composite App. 1.

³ See Porter, 05.22.19, Tx. at App. 5.

⁴ See Porter, 05.22.19, Tx. at Ex. 2.

BACKGROUND

Marjory Stoneman Douglas (“MSD”) is a high school within the Broward County School District located in Parkland, Florida. MSD is situated on 45 acres of land, with approximately 3,300 enrolled students.⁵

On February 14, 2018, a former MSD student, [REDACTED] committed one of the deadliest mass school shootings in U.S. History, killing 17 people and injuring 17 others in Building 12 of the MSD Campus (hereinafter referred to as the “Incident”). From the first shots fired by [REDACTED] to the last shot fired, the active shooting lasted approximately 6 minutes and 28 seconds.⁶ At least one teacher within Building 12 during the shooting stated that it all happened “in a matter of just a few seconds.”⁷

In response, then-Governor Rick Scott established the MSD Public Safety Commission to investigate the Incident pursuant to the MSD Public Safety Act.⁸ The MSD Commission commenced its investigation and made certain findings regarding the perceived actions or inactions of MSD administrators prior to and on the day of the Incident. Those findings are contained in the Commission’s Initial Report issued on January 2, 2019.⁹ Certain findings contained in the Commission’s Initial Report form the basis of this personnel investigation.

On November 26, 2018, BCPS through its Special Investigative Unit (SIU), placed Mr. Winfred Porter (MSD Assistant Principal) on notice that he was the subject of a personnel investigation and reassigned from MSD pending the outcome of his personnel investigation.

On January 23, 2019, I was retained to conduct a personnel investigation of Mr. Porter, as to his “actions and/or inactions during the incident that took place on February 14, 2018 at Marjory Stoneman Douglas High School (“Incident”), and whether said employee followed Broward County School Board policies and procedures in effect at that time in response to the Incident.”¹⁰

On February 28, 2019, the scope of my retention and the subject investigation was amended, identifying eight separate allegations, which were extracted from the MSD Commission’s Initial Report. Thus, the scope of this investigation is to: “(a) Determine whether [Mr. Porter] engaged in any of the [ten] alleged actions or inactions . . .; and (b) If so, whether such action or inaction violated any District policy, procedure, and/or his job duties in effect on Feb. 14, 2018.”¹¹

⁵ Rosario, 08.22.18, 6:2; Staubly, 09.05.18, 37:24; Greenleaf, 05.15.19, 22:17-25; Thompson, 08.22.18, 5:7-14.

⁶ MSD Comm’n In. Rep. at 25, 33 (first shot fired at 2:21:30 p.m., last shot fired at 2:27:10 p.m.), available at <http://www.fldc.state.fl.us/MSDHS/CommissionReport.pdf>.

⁷ S. Johnson, 08-24.18, 14:14-20.

⁸ Fla. Stat. § 943.687 (2018).

⁹ See generally MSD Comm’n In. Rep.

¹⁰ See BCPS-CSK Retainer Agreement effective date Jan. 23, 2019.

¹¹ See BCPS-CSK Addendum to Retainer Agreement effective date Feb. 28, 2019.

In preparing the Initial Report, the MSD Commission conducted an exhaustive investigation, interviewing over 100 witnesses consisting of administrators, teachers, students, and other personnel. The Commission also took possession of the relevant external and internal surveillance camera video footage. The Commission prepared diagrams and maps of the MSD campus, certain buildings, and surveillance camera layout.

The Commission provided me with access to and copies of the transcripts of recorded statements taken by law enforcement/Commission Investigators, maps utilized, surveillance camera footage, confidential appendices of the Initial Report, and other data gathered during the Commission's investigation. I conducted an independent review of all materials provided by the Commission, as well as a review of records and information provided by BCPS, in the course of this personnel investigation as set forth below in the *Summary of Investigation*.

The decision to utilize information gathered by the Commission was based on several key factors: the fact that the allegations asserted arise from the investigation conducted by the Commission; the sensitivity of the Incident; efforts to minimize interference with the day-to-day operation of MSD towards the end of the 2018-19 school year; the unavailability of or delay in obtaining certain records; and the time constraints provided by the BCPS Policy 4.9-*Corrective Action* governing personnel investigations. Although access to voluminous information, data, and records, as well as numerous witness statements permitted a thorough review of the allegations asserted, the findings in this Report cannot rule out the effect of unavailable information that could have been discovered with additional time.

ALLEGATIONS ASSERTED

The Amended Scope of this Investigation is to determine whether the following alleged actions or inactions by Mr. Porter violated any existing BCPS policy or the Essential Performance Duties of an Assistant Principal in effect as of February 14, 2018:

1. Allowed the east door to Building 12 to be unlocked and unstaffed on Feb. 14, 2018.
2. Allowed classroom doors to be locked from the outside on Feb. 14, 2018.
3. Allowed teachers to determine whether to lock their assigned classroom doors on Feb. 14, 2018.
4. Decided to lock Building 12's first and third floor bathroom doors prior to and on Feb. 14, 2018.
5. Failed to ensure you and MSDHS personnel were trained on how to operate the MSDHS camera system as of Feb. 14, 2018.

6. Failed to provide teachers with two-way communication system/radios as of Feb. 14, 2018.
7. Failed to ensure that Det. Butler's Code Red Training held on Jan. 11, 2018 was followed and implemented by all teachers (*i.e.*, window coverings, marking hard corners) prior to Feb. 14, 2018.
8. Failed to ensure you and MSDHS personnel understood when and how to call a Code Red.
9. Failed to require or conduct Code Red drills from Feb. 14, 2017 up to and including Feb. 14, 2018.
10. Failed to call a Code Red over the P.A. and/or school radio system until 2:25:22 p.m. (allegations Nos. 1-10 above, hereinafter "Allegations Asserted").

APPLICABLE POLICIES AND DUTIES

Upon reviewing all BCPS policies and Assistant Principal job duties in effect as of February 14, 2018, the following policies and duties were found to apply to the Allegations Asserted against Mr. Porter:

A. Policy 4.9 - *Corrective Action*

Provides, in relevant part, that "[e]mployees are expected to comply with workplace policies, procedures and regulations, local, state, and federal laws, and State Board Rules, both in and out of the work place."¹²

Policy 4.9 further provides that "[s]upervisors are encouraged to continually provide coaching, counseling, feedback, and/or additional support to help ensure each employees' success."¹³

B. Policy 2302 - *Facility Security*

Provides, in relevant part, that "[s]chool/facility administrators (designee) on receipt of any information relative to . . . threats against schools/students, and staff such as . . . suspicious or strange-acting individuals . . . or any other pertinent information concerning safety and security shall notify and forward such information to the SIU immediately."¹⁴

¹² Policy 4.9, adopted 05.01.01, last amended on 04.19.18, available at:

<http://www.broward.k12.fl.us/sbhc/policies/docs/Policy%204.9%20Corrective%20Action.pdf>.

¹³ Policy 4.9, adopted 05.01.01, last amended on 04.19.18, available at:

<http://www.broward.k12.fl.us/sbhc/policies/docs/Policy%204.9%20Corrective%20Action.pdf>.

¹⁴ Policy 2303 at Rules (1)(d), adopted on 07.17.1990, last adopted 11.17.1998, available at:

<http://www.broward.k12.fl.us/sbhc/policies/docs/P2302.000.pdf>.

C. Policy 4009.11 – Code of Conduct

Provides, in relevant part, that “[a]ny violations of law or policy by administrative personnel are subject to disciplinary action by the superintendent.”¹⁵

D. Florida Administrative Code Rule 6A-10.081 – The Principles of Professional Conduct for the Education Profession in Florida

Rule 6A-10.081 provides, in relevant part, that “Florida educators shall be guided by the following ethical principles:”

(2) Florida educators shall comply with the following disciplinary principles. Violation of any of these principles shall subject the individuals to revocation or suspension of the individual educator’s certificate, or the other penalties as provided by law.

(a) Obligation to the student requires that the individual:

1. Shall make reasonable effort to protect the student from conditions harmful to learning and/or to the student’s mental and/or physical health and/or safety.¹⁶

E. Emergency Preparedness Manual 2017-2018

The purpose of the Emergency Preparedness Manual, in effect during the 2017-18 school year, is “to establish a definitive process for initiating and maintaining effective, interactive communications among essential departments/divisions and individuals both within and outside of the District during emergencies and crises.”¹⁷ The Emergency Preparedness Manual contains guidelines and procedures for approximately 20 emergency situations such as, air quality alerts, bees, wasps, hornets, boil water advisories, bomb threats, chemical spills, gas leak, flooding, lightning, medical, fire, tornadoes, unknown powder, and wind (among several others).¹⁸ The Manual also contains extensive procedures in case of a hurricane.¹⁹ As to fires and tornadoes, the Manual provides mandatory drills and drill forms.²⁰

The entire 151-page Manual does not contain any guidelines or procedures on an emergency involving a Code Red situation, an active shooter, or an active killer. The Manual does not contain a requirement or form for any Code Red drill.²¹

¹⁵ Policy 4009.11, adopted 03.02.1978, available at: <http://www.broward.k12.fl.us/sbcpolicies/docs/P4009.011.pdf>

¹⁶ Fla. Admin. Code R. 6A-10.08.

¹⁷ See Emerg. Prep. Man. 2017-18 at (i) at App. 12.

¹⁸ Emerg. Prep. Man. 2017-18 at § A, pp. 1-40.

¹⁹ Emerg. Prep. Man. 2017-18 at § B, pp. 41-78.

²⁰ Emerg. Prep. Man. 2017-17 at 21, 32.

²¹ See generally Emerg. Prep. Man. 2017-18.

F. Assistant Principal - Job Description and Essential Performance Responsibilities

Provides, in relevant part:²²

JOB DESCRIPTION	
POSITION TITLE:	School Assistant Principal
REPORTS TO:	School Principal
SUPERVISES:	Instructional and Service Personnel assigned by the principal.
POSITION GOAL:	To assist the principal in providing vision and leadership to develop, administer and monitor high quality educational programs that optimize the human and material resources, including time and space, available for a successful and safe school program for students, staff and community.
KNOWLEDGE, SKILLS AND ABILITIES:	The Assistant School Principal will effectively execute the performance responsibilities by demonstrating the following knowledge, skills, and abilities to: . . . read, interpret and implement the State Board Rules, Code of Ethics, School Board Policies and appropriate state and federal statutes
ESSENTIAL PERFORMANCE RESPONSIBILITIES:	
In collaboration with Principal, the Assistant School Principal shall assist in leading and managing the school through the categories listed below:	
ORGANIZATIONAL LEADERSHIP:	
16.	Assist in managing the school, operations, and facilities in ways that maximize the use of resources to promote a safe, efficient, legal, and effective learning environment.
18.	Assist in employing an improvement cycle for operational problems that analyzes results, identifies root causes and takes corrective action.
19.	Manage and delegate tasks while consistently demonstrating fiscal efficiency.
22.	Maintain high visibility at school and in the community.
PROFESSIONAL AND ETHICAL LEADERSHIP:	
28.	Demonstrate personal and professional behaviors consistent the Code of Ethics and the Principles of Professional Practice.
30.	Establish the job assignments and supervise all assigned personnel and conducts performance assessments according to School Board Policy and procedures, using instruments adopted by the School Board.
33.	Participate successfully in the training programs offered to increase the individual's skill and proficiency related to the assignments as well as the District's strategic objectives.
37.	Perform other duties as assigned by the Principal, consistent with the goals and objectives of the position.

²² AP Job. Description & Essential Perf. Responsibilities at App 6.

SUMMARY OF EMPLOYMENT HISTORY

Mr. Porter was hired by BCPS in 2007 to teach social studies at Apollo Middle School. Mr. Porter remained a teacher at Apollo Middle until June 2011. While at Apollo Middle, Mr. Porter's performance evaluations reflect that he performed satisfactory and included comments that he "enhances student learning."²³ During the 2011-12 school year, Mr. Porter began teaching at Hollywood Hills High School, where he remained until his promotion and assignment to Assistant Principal at MSD in the 2013-14 school year. Only one performance evaluation from Mr. Porter's time at Hollywood Hills High was contained within his personnel file which shows that in the 2011-12 school year Mr. Porter was effective; no comments were provided.²⁴ While teaching at Apollo Middle and Hollywood Hills High, Mr. Porter pledged a payroll deduction to the Broward Education Foundation.

In September 2012, Mr. Porter started the LEAD Program – training and courses for those who wish to become Administrators or Assistant Principals. As part of the LEAD Program, Mr. Porter attended monthly meetings after school hours (4:30-7:30 p.m.), from September 2012 through May 2013 (nine months). LEAD attendance records show that Mr. Porter attended all nine meetings. Mr. Porter stated that the LEAD program did not include any training regarding BCPS' color coding system for emergency situations.²⁵ A final part of the LEAD Program included feedback from Mr. Porter's Supervisor, the Principal at Hollywood Hills High, Lourdes M. Gonzalez. The LEAD Principal Feedback form completed on April 29, 2013 by Principal Gonzalez provides that Mr. Porter is "hardworking . . . willing to learn, a team player, and dedicated."²⁶ Principal Gonzalez further noted that Mr. Porter "is open to the continuous improvement process and actively seeks opportunities to receive feedback regarding his current performance and growth as he completed various tasks."²⁷ Finally, Principal Gonzalez stated that she would "confidently recommend Mr. Porter, without reservation; [h]e has served as Acting Assistant Principal, Magnet Coordinator, SAC Chair, Business Partner Liaison, PLC Facilitator, and various other capacities that have equipped him with the skills that will make him an effective administrator/assistant principal."²⁸ On May 21, 2013, Mr. Porter was provided with a letter certifying his successful completion of the LEAD Program and eligibility to apply for an Assistant Principal position.²⁹

²³ See Relevant portions of Porter's Personnel File at Composite App. 7.

²⁴ See Relevant portions of Porter's Personnel File.

²⁵ Porter, 05.22.19, 8:8-10.

²⁶ LEAD Principal Feedback Form dated Apr. 29, 2013 at App. 8.

²⁷ LEAD Principal Feedback Form dated Apr. 29, 2013.

²⁸ LEAD Principal Feedback Form dated Apr. 29, 2013.

²⁹ LEAD Certificate of Completion dated May 21, 2013 at App. 9.

On June 27, 2013, Mr. Porter applied for the position of Assistant Principal at MSD.³⁰ As part of his application, Mr. Porter submitted his resume, which provided that in the area of School Management he had “[e]xecuted Safety Team’s strategic plan, quickly, orderly, and safely to evacuate students, and communicated with faculty, staff and district personnel to address parental safety concerns during several critical incidents.”³¹ Mr. Porter was appointed as an MSD Assistant Principal for the 2013-14 school year, effective July 24, 2013.³² Mr. Porter’s personnel file provided was missing performance evaluations for the 2013-14 and 2014-15 school years. However, Principal Ty Thompson evaluated Mr. Porter as highly effective for the 2015-16 and 2016-17 school years; no comments were provided.³³

Mr. Porter’s personnel file is devoid of any acknowledgement of Assistant Principal job duties. However, Mr. Porter stated that upon commencing his position as Assistant Principal at MSD, Principal Thompson met with him to go over his duties.³⁴ Mr. Porter further stated that if he was provided with notice of any BCPS mandated training for Assistant Principals, he “would attend it.”³⁵ Mr. Porter’s in-service training attendance records maintained by BCPS’ Office of Professional Development reflect that Mr. Porter attended and completed 67 trainings from August 5, 2008 through February 14, 2018.³⁶ Of the 67 trainings, Mr. Porter attended 33 trainings as a Assistant Principal (*i.e.*, since July 24, 2013).³⁷ However, since I was not provided with all memoranda or notices distributed by BCPS to Principals and Assistant Principals scheduling mandatory trainings for Assistant Principals from July 24, 2013 through February 14, 2018, I am unable to verify whether Mr. Porter attended all mandatory trainings for Assistant Principals during the relevant time period. At least one known mandatory training for Assistant Principals is not reflected on Mr. Porter’s in-service training attendance records: threat assessment training.³⁸ Moreover, it is unclear as to whether Mr. Porter’s in-service training attendance records reflect any trainings that Mr. Porter may have attended that were organized and conducted by BCPS’ Special Investigative Unit (“SIU”).

Mr. Porter remained an Assistant Principal at MSD until November 26, 2018 when he was reassigned pending this investigation.

Mr. Porter’s personnel file does not contain any disciplinary action or reprimand against Mr. Porter up until February 14, 2018, during his 11-year employment with BCPS.

³⁰ See Relevant portions of Porter’s Personnel File at Composite App. 7.

³¹ See Porter’s Assistant Principal (“AP”) Application at 21e, Relevant portions of Porter’s Personnel File.

³² See Relevant portions of Porter’s Personnel File at Composite App. 7

³³ See Relevant portions of Porter’s Personnel File.

³⁴ Porter, 05.22.19, 11:3-22.

³⁵ Porter, 05.22.19, 18:7-10.

³⁶ Porter Training Attendance Records, Nos. 11-77 at App. 10.

³⁷ Porter Training Attendance Records, Nos. 11-43.

³⁸ See generally Porter Training Attendance Records; see also AP Job Description & Essential Perf. Responsibilities at No. 33, *supra* p. 10 and at App. 6.

SUMMARY OF INVESTIGATION

I was retained on January 23, 2019 to conduct a personnel investigation as to Mr. Porter's "actions and/or inactions during the incident that took place on February 14, 2018 at MSD and whether each subject followed Broward County School Board policies and procedures in effect at that time in response to the Incident."³⁹

On January 24, 2019, I commenced this investigation by conducting a thorough review of the MDS Commission's Initial Report issued on January 2, 2019, along with its supporting Appendices, except Appendices F and G marked "Confidential," which were not available to the public. I then determined the materials, documents, records, and information I would need based on the Initial Report. I created a document request log, indicating the documents requested, the date requested, the date received, and marking which documents were reviewed. This log was updated throughout the investigation as materials were received. I then conducted online research to locate and extract those documents available in the public records referenced in the MSD Initial Report. I also conducted research on the BCPS' website to locate, review, and identify all Policies applicable to this investigation. I also requested the documents needed for this investigation from the BCPS's Office of the General Counsel on a rolling basis. Additional documents were requested based on my review of documents produced and witness statements/interviews as the investigation progressed. Many documents were made available, while others were not located.

I reviewed all BCPS policies governing personnel investigations. In particular, Policy 4.9-*Corrective Action*. Due to the types of records requested in this investigation, I also reviewed BCPS policies regarding handling of student records, to ensure compliance therewith; specifically, Policy 5100.2-*Student records: transfer, retention, and disposal*, and Policy 5100.-*Student records: confidentiality and family educational rights*.

I also reviewed the notices of pending investigation served upon the subject prior to and during my retention by BCPS Special Investigative Unit ("SIU") pursuant to Policy 4.9.

I reviewed the job descriptions and essential performance responsibilities in effect as of February 14, 2018 for the following BCPS positions: (1) Campus Monitor; (2) Security Specialist; (3) Assistant Principal; and (4) Principal.

I reviewed LEAD Program attendance and completion records for Mr. Porter.

On February 28, 2019, the scope of my retention and the investigations was amended, identifying specific allegations asserted against Mr. Porter, which were extracted from the MSD Commission's Initial Report. Thus, the scope of this investigation is to: "(a) Determine whether [Mr. Porter] engaged in any of the alleged actions or inactions . . .; and (b) If so, whether such action or inaction violated any District policy, procedure, and/or [his] job duties in effect on Feb. 14, 2018."⁴⁰

³⁹ See BCPS-CSK Retainer Agreement effective date Jan. 29, 2019.

⁴⁰ See BCPS-CSK Addendum to Retainer Agreement effective date Feb. 28, 2019.

Thereafter, I carefully reviewed those BCPS policies I found to be applicable to the allegations asserted against the subject: 2302.11-Facility Security; 4.009.11-Code of Conduct; Fla. Admin. Code Rule 6A-10.081-The Principles of Professional Conduct for the Education Profession; as well as training materials provided to the subject, such as Safe Team Training on The Key to School Safety & Security, 2017-18; Faculty Training on The Key to School Safety & Security, 2017-18; and Emergency Preparedness Manual 2017-18.

I reviewed Mr. Porter's personnel file, including documents reflecting his employment history, applications, appointments, reassignments, certifications, and performance evaluations. I also reviewed Mr. Porter's in-service training attendance records maintained by BCPS' Office of Professional Development.

I reviewed 50 transcripts and 6 summaries of statements taken by MSD Commission law enforcement investigators.⁴¹ I prepared summaries of certain statements and reviewed all statements in detail, extracting corroborating and conflicting portions relevant to the allegations asserted, while developing supplemental questioning for the subject and other witnesses.

I reviewed email production results from the following searches:

Terms	Range	To/From/Between/Copied
"door" and/or "lock"	Jan. 11, 2018 to Feb. 14, 2018	<ul style="list-style-type: none">- Jeff Morford- Kelvin Greenleaf- Winford Porter

I reviewed record production from the following request for Principal Memoranda sent by BCPS to all principals for dissemination:

Terms	Range
Security specialist training	Apr. 10, 2011 – Feb. 14, 2018

However, as of the date of this Report, Principal Memoranda was not provided for the following search request:

Assistant principal training	2002 – Feb. 14, 2018
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On April 11, 2019 at approximately 11:00 a.m., I reviewed the interior camera surveillance video footage of Building 12 taken on February 14, 2018 during the shooting, which was played for me by members of the MSD Commission, confidentially; a copy of the Building 12 interior camera surveillance video footage was not provided. Fire alarm records from the day of the Incident were also not provided.

On May 15, 2019, at 10:00 a.m., I interviewed Kelvin Greenleaf, under oath.

⁴¹ See List of Witness Statements at App. 11.

On May 20, 2019, I conducted an in-person, physical inspection of the MSD exterior campus, inspecting the building layout, Building 1 (administration), and portion of Building 8 (the instrument or band building). I also inspected the perimeter of Building 12 that was accessible (as of May 20, 2019, the 12 Building is fenced off and the interior is not accessible due to the pending criminal case of *State v. [REDACTED]* Case No. 18-001958CF10A, Seventeenth Judicial Circuit, in and for Broward County, Florida).

On May 21, 2019, I spoke with Robert Docimo, counsel for Maria Colavito (retired teacher) regarding setting her interview and confirmed the same via email. After not receiving a response, on June 3, 2019, I followed-up with Mr. Docimo regarding Ms. Colavito's interview. No response was received. I take the non-responsiveness as a refusal to be interviewed.

On May 22, 2019, at 10:00 a.m., I interviewed Winfred Porter, under oath, in the presence of his counsel, Christopher Whitelock.

On May 29, 2019 at 10:00 a.m., I interviewed Denise Reed, under oath, in the presence of her counsel, Christopher Whitelock.

On May 29, 2019 at 2:00 p.m., I interviewed Jeff Morford, under oath, in the presence of his counsel, Christopher Whitelock.

I also reviewed the floor plan and map of MSD Campus, Building 12, and Building 1 (the administration building) prepared by the MSD Commission, which were all authenticated as accurate depictions by the subjects. I also reviewed a map of the MSD campus reflecting the exterior surveillance camera numbers that correspond with the exterior surveillance video footage taken on February 14, 2018, and used that map to assist in review of exterior camera surveillance video footage that was provided by the MSD Commission. I reviewed exterior surveillance camera video footage taken from a total of 12 cameras on February 14, 2018 from approximately 2:18:04 p.m. to 2:31:54 p.m. (each of the 12 surveillance videos started and ended at different times).

I also reviewed an animation prepared by the MSD Commission based on the interior and exterior surveillance camera video footage and 911 call audio recordings taken on February 14, 2018.

On July 2, 2019 at 10:00 a.m., I conducted a follow-up interview of Kelvin Greenleaf who provided sworn affidavit testimony.

ANALYSIS AND FINDINGS

Mr. Porter was interviewed by MSD Commission investigator Detective Walter Bonasaro on August 22, 2018 and again on September 5, 2018.⁴²

I interviewed Mr. Porter, under oath, on May 22, 2019.⁴³

Role of the Assistant Principal at MSD

Oversight and Assigned Duties

As of February 14, 2018, MSD Assistant Principals reported directly to the Principal Ty Thompson, who had been the Principal at MSD since the 2013-14 school year.⁴⁴ During the 2017-18 school year, there were five Assistant Principals at MSD: (1) Ivette Figueroa; (2) Jeff Morford; (3) Winfred Porter; (4) Denise Reed; and (5) Max Rosario.⁴⁵ Pursuant to an Assistant Principal's Job Description and Essential Performance Responsibilities, he or she is to collaborate with the Principal and perform duties assigned by the Principal, which may include, but not be limited to, establishing job assignments for employees whom he or she has been tasked to supervise by the Principal.⁴⁶ Prior to the commencement of a new school year, it was customary for Principal Thompson to review a list of administrative duties for purposes of delegating oversight of the same to the five (5) Assistant Principals (hereinafter referred to as "Assigned Duties").⁴⁷ Some of the Assigned Duties included oversight of transportation, discipline (broken up by grade and alphabet), master scheduling, guidance department, ESE, athletics, professional development, and security, among many others.⁴⁸ However, there does not appear to be a formal list of duties or responsibilities associated with each of the Assigned Duties; for example, there does not appear to be a list of the duties or responsibilities associated with the Assigned Duty of "campus security." Moreover, one duty that was never assigned or delegated to an Assistant Principal by Principal Thompson was the budget; Principal Thompson was responsible for the MSD budget, which was approved by the BCPS District.⁴⁹

Upon assignment, Principal Thompson would meet with the Assistant Principal to discuss his or her Assigned Duties and then, the Assistant Principal would meet with his or her predecessor to effectuate the transition in Duties.⁵⁰ There was no formal training provided regarding the Assigned Duties.⁵¹ Generally, as part of the Assigned Duties, the Assistant Principal was expected

⁴² See Porter, 08.22.18 Tx. at App. 3; Porter, 09.25.18 Tx. at App. 4.

⁴³ See Porter, 05.22.19 Tx. at App. 5.

⁴⁴ AP Job Description & Essential Perf. Responsibilities at App. 6; Reed, 05.29.19, 9:6-9; 19:7-9.

⁴⁵ Porter, 05.22.19, 12:24-15; 13:1; Thompson, 08.22.18, 7:18-25; 8:1-7.

⁴⁶ AP Job Description & Essential Perf. Responsibilities, pp. 2-4, No. 30 at App. 6.

⁴⁷ Porter, 05.22.19, 11:20-22; 13:2-9; Reed, 05.29.19, 8:11-18; 10:5-9; 19:21-22; Morford, 05.29.19, 13:11-13.

⁴⁸ Porter, 05.22.19, 12:1-3, 15-17; Reed, 05.29.19, 9:20-22; Morford, 05.29.19, 11:14-18; 13:17-19;

⁴⁹ Reed, 05.29.19, 31:15-19; Morford, 05.29.19; 31:6-14.

⁵⁰ Porter, 05.22.19, 14:9-25; Reed, 05.29.19, 21:2-4; Morford, 05.29.19, 16:16-25; 17:1-3.

⁵¹ Morford, 05.29.19, 16:21-22

to supervise employees within the departments he or she was overseeing.⁵² For example, the Assistant Principal assigned to oversee campus security was responsible for supervising the Security Specialist and the Campus Monitors.⁵³

Principal Thompson held weekly meetings, usually on Mondays, with all MSD administrators (*i.e.*, all Assistant Principals, the Guidance Director, and occasionally the Security Specialist).⁵⁴ Principal Thompson had a printed agenda for the weekly meetings and the Assistant Principals had an opportunity to present topics or concerns for discussion among the MSD administration.⁵⁵ Campus security was often discussed during Principal Thompson's weekly the administration meetings.⁵⁶

Campus Security

At MSD, campus security was one of the Assigned Duties at least as of the 2013-14 school year (when Mr. Porter joined MSD as an Assistant Principal) through the date of the Incident (February 14, 2018).⁵⁷ However, there does not appear to be a formal list of duties or responsibilities associated with the Assigned Duty of security. Principal Thompson assigned oversight of campus security to Mr. Porter at the start of the 2017-18 school year.⁵⁸ Mr. Morford, Ms. Reed, and Mr. Rosario also oversaw security during prior school years.⁵⁹ Since he was assigned to oversee campus security, Mr. Porter handled the day-to-day supervision of the Security Specialist and the Campus Monitors.⁶⁰

The Security Team at MSD on the date of the Incident consisted of Mr. Porter, the Security Specialist (Kelvin Greenleaf), and all Campus Monitors (David Taylor; Elliott Bonner; Aaron Feis; Andrew Medina; Brian Staubly; Ana Ramos).⁶¹ When asked whether Principal Thompson would check in with him as to campus security, Mr. Porter stated, "Mr. Thompson and I we spoke[;] [w]henver there were issues we would - we would talk about it or even, you know, we would bounce ideas off each other just to get clarity and determine which direction we wanted to go in or he wanted to go in as a - as a school."⁶² Principal Thompson stated he did not have formal

⁵² Porter, 05.22.19, 18:22-25; 19:1-6, 11-15; 20:9-12.

⁵³ Porter, 05.22.19, 18:22-25; 19:1-6, 11-15; 20:9-12.

⁵⁴ Porter, 05.22.19, 15:4-10, 23-15; pp. 16-19; Reed, 05.29.19, 17:3-9, 18-19; Morford, 05.29.19, 14:17-25; Thompson, 08.22.18, 58:13-14.

⁵⁵ Porter, 05.22.19, 16:10-13; Morford, 05.29.19, 15:1-10; Reed, 05.29.19, 17:10-19.

⁵⁶ Porter, 05.22.19, Morford, 05.29.19, 15:15-23; Reed, 05.29.19, 17:23-25; 18:1-21

⁵⁷ Greenleaf, 05.22.19, 12:21-25; 13:6-8, 18-21; Porter, 05.22.19, 14:9-25; Reed, 05.29.19, 18:22-25; 19:1-14; Morford, 05.29.19, 13:17-25; 14:1-3.

⁵⁸ Greenleaf, 05.15.19, 13:18-21; Rosario, 08.22.18, 11:6-10; Porter, 05.22.19, 12:20; 14:9-25; 19:2-3, 11-12; Reed, 05.29.19, 18:22-24; Morford, 05.29.19, 14:2-3.

⁵⁹ Greenleaf, 05.15.19, 13:18-21; Rosario, 08.22.18, 11:6-10; Porter, 05.22.19, 14:9-25; Reed, 05.29.19, 18:22-25; 19:3-14; Morford, 05.29.19, 13:17-25; 14:1-3.

⁶⁰ Porter, 05.22.19, 18:22-25; 19:1-6, 11-15; 20:9-12.

⁶¹ Bonner, 09.05.18, 10:21-25; 11:1-5; Taylor, 09.06.18, 3:19-20; 4:11-17; Staubly, 09.05.18, 3:15-17; Thompson, 08.22.18, 17:1, 20-24; 18:9-11.

⁶² Porter, 05.22.19, 20:21-25; 21:1-6.

meetings with Mr. Porter about the little things he did.⁶³ Principal Thompson also stated that Mr. Porter wanted to do a great job, and “he did a lot of things.”⁶⁴

MSD Site Survey by Wexler

Upon being assigned oversight of campus security during the 2017-18 school year, Mr. Porter asked Steven Wexler, a retired United States Secret Service Agent,⁶⁵ to visit MSD and discuss campus security with the Security Team (via a teacher who had a relationship with Mr. Wexler, Mrs. Sandra Davis).⁶⁶ Principal Thompson stated that Mr. Porter was trying to be proactive in his newly Assigned Duty of campus security by having Mr. Wexler contacted.⁶⁷ On December 15, 2017, Mr. Wexler walked around the MSD campus and conducted a site survey; thereafter, he met with certain members of the Security Team: Mr. Porter, Mr. Greenleaf, some Campus Monitors, and Ms. Denise Reed.⁶⁸ The site survey included an examination of MSD’s “hard physical environment,” and “some of their procedures and policy.”⁶⁹ During the meeting, Mr. Wexler discussed certain security concerns he noted at MSD from years of visiting the campus and his site survey; this was done only verbally.⁷⁰ In particular, Mr. Wexler raised concerns regarding MSD’s communications, control command/hierarchy, who can call a Code Red and how, drill evacuation procedure, cameras, and gates.⁷¹ As of December 15, 2017, Mr. Wexler stated that only the administration or Principal could call a Code Red at MSD and that he advised Mr. Porter that any adult should be able to call a Code Red.⁷² Mr. Wexler could not recall discussing with the Security Team that the doors had to be locked other than the door to the Administration building that he used to enter the campus, which was unlocked at that time.⁷³ Mr. Wexler stated that he had discussed potentially coming back in January 2018 to do “an active shooter exercise with one of the classes. . . but [he] never got called . . . to go back . . .”⁷⁴ Mr. Porter stated that based on the meeting with Mr. Wexler, he and Principal Thompson wanted to do an active shooter training.⁷⁵ However, when Principal Thompson asked Scot Peterson, Student Resource Officer assigned to MSD, about such training he was advised that the active shooter training “starts at the elementary school level,” so they “did the best that we could with what we had.”⁷⁶ This is consistent with Mr. Greenleaf’s statement that his understanding is that the

⁶³ Thompson, 08.22.18, 55:5-12.

⁶⁴ Thompson, 08.22.18, 52:25; 53:1-2.

⁶⁵ Mr. Wexler is the father of an MSD alumni who was often a volunteer speaker in years past and was known within the MSD community. Wexler, 06.22.18, pp 7-11.

⁶⁶ Wexler, 06.22.18, 17:10-12; 19:6-7, 15-19.

⁶⁷ Thompson, 08.22.18, 52:1-11.

⁶⁸ Wexler, 06.22.18, 14:10-17; 16:4-22; 18:17-22; 22:218-23; 34:4; Porter, 08.22.18, pp. 50-53.

⁶⁹ Wexler, 06.22.18, 14:19-21.

⁷⁰ Wexler, 06.22.18, 18:17-22; pp. 23-34.

⁷¹ Wexler, 06.22.18, pp. 34-43; Porter, 08.22.18, 50:22-25; pp. 51-53; Greenleaf, 09.05.18, 67:20-22; 68:5-25; 69:2-7.

⁷² Wexler, 06.22.18, 35:14-25; 36:1-3; 37:18-19; p.62.

⁷³ Wexler, 06.22.18, 46:6-22.

⁷⁴ Wexler, 06.22.18, 49:12-23.

⁷⁵ Porter, 08.22.18, 53:8-10.

⁷⁶ Porter, 08.22.18, 53:10-14.

development and conducting of trainings, such as a mandatory Security Specialist training he attended on “school site plans” and “active/shooter/killer/run, hide and fight,” were performed by SIU and coordinated with the Principal.⁷⁷

Key Areas of Investigation

The Allegations Asserted against Mr. Porter arise out of findings contained in the MSD Commission’s Initial Report concerning certain perceived security failures at MSD on the date of the Incident.⁷⁸ Below is an analysis of the Allegations Asserted, witness statements regarding the Allegations, and findings as to whether (1) a preponderance of the evidence establishes the Allegations Asserted and (2) if so, whether any applicable BCPS policies and/or any Essential Performance Responsibilities of an Assistant Principal in existence as of the date of the Incident were violated. For ease of reference, the Allegations Asserted listed herein, *supra* pages 7-8, have been grouped into key areas of investigation: (i) Locking of Doors on Campus (Building 12 doors, classroom doors, and Building 12 bathroom doors); (ii) Surveillance Cameras; (iii) School Radios; (iv) Code Red Training and Implementation; (v) Code Red Drill; and (vi) Calling Code Red Over the School Radio and P.A. System.

(i) Locking Doors

a. East Building 12 Door

As of the date of the Incident, it was an established pattern and practice for the doors to Building 12 to remain unlocked so students could enter and exit the Building for class.⁷⁹ Mr. Porter stated that it was necessary to have the doors to Building 12 unlocked because “we have three thousand kids on campus; [i]t would be unreasonable to expect at any given time – there were thirty classrooms in that building [,] ten on each floor[,] to control the traffic flow and maximize patterns it just made sense to keep the doors opened . . . there was no need to lock the door from our perspective as a leadership team.”⁸⁰ Similarly, Mr. Morford also stated that the doors to Building 12 remained unlocked because of “[t]he amount of students that go in and out of there every period[,] every hour.”⁸¹ Ms. Reed stated that it would have been infeasible to have someone locking and unlocking the doors to Building 12 because there was not enough manpower.⁸² Mr. Porter stated that budget controlled whether he could hire additional Campus Monitors.⁸³ Principal Thompson was responsible for the MSD budget, according to Ms. Reed and

⁷⁷ Greenleaf, 07.02.19 at ¶ 35.

⁷⁸ See Scope of Investigation; Porter Not. of Investigation, Tx. 05.22.19 at Ex. 1; MSD Comm’n In. Rep., 01.02.19, Ch. 3 at pp. 47, #1-3, 6; 48, #9-12; 51, #1-2, 4-5; 52, #9; 82, #1-5; Ch. 5 at p. 168, #8.

⁷⁹ Porter, 05.22.19, 27:8-14; Reed, 05.29.19, 23:14-23; Reed, 08.22.18, 16:9-21; Morford, 05.29.19, 26:23-25; 27:1-10.

⁸⁰ Porter, 05.22.19, 27:21-25; 28:1, 7-9.

⁸¹ Morford, 05.29.19, 26:23-25; 27:1-4.

⁸² Morford, 05.29.19, 27:5-10.

⁸³ Porter, 05.22.19, 28:14-22.

Mr. Morford.⁸⁴ When asked whether the MSD school budget for the 2017-18 school year only allowed for a maximum of six monitors, Mr. Porter responded, “I’m not sure.”⁸⁵ Similarly, when Ms. Reed was asked whether the MSD school budget had a line item for security, she responded that she did not know because “that’s one experience I haven’t had,” because Principal Thompson is always “the lead on the budget.”⁸⁶

Findings as to Allegation No. 1

It is alleged that Mr. Porter “[a]llowed the east door to Building 12 to be unlocked and unstaffed on Feb. 14, 2018.”⁸⁷

It is undisputed that the east door to Building 12 was unlocked and unstaffed on February 14, 2019; however, a preponderance of the evidence shows that it was an established pattern and practice at MSD to have the east door to Building 12 unlocked and unstaffed so students could enter and exit the Building for class, as there were 30 classrooms in Building 12. A preponderance of the evidence also shows that although campus security was one of Mr. Porter’s Assigned Duties during the 2017-18 school year, he was not responsible for making the decision to have the east doors to Building 12 unlocked and unstaffed on the date of the Incident because it was an established practice at MSD. Moreover, there is no evidence that Mr. Porter was on notice that having the east door to Building 12 unlocked and unstaffed posed a safety concern for the students prior to February 14, 2018. In addition, it appears that as of February 14, 2018, MSD may not have had the resources necessary to have an employee staffed at the east Building 12 door for purposes of locking and unlocking the door to provide students with access throughout the day. However, a review of the MSD budget in effect for the 2017-18 school year to evaluate the amount of resources used and remaining as of February 14, 2018 has not been performed.

As such, the preponderance of the evidence does not support that Mr. Porter failed to make a reasonable effort to protect the students from conditions harmful to the students’ physical safety by failing to change the established pattern and practice of keeping the east door to Building 12 unlocked and unstaffed (*see* Fla. Admin. Code R. 6A-10.081(2)(a)(1)). Consequently, Mr. Porter was not in violation of any existing BCPS policy, procedure, or any Assistant Principal Essential Performance Responsibility when the east door to Building 12 was unlocked and unstaffed on February 14, 2018.

⁸⁴ Reed, 05.29.19, 31:15-19; Morford, 05.29.19, 31:6-14.

⁸⁵ Porter, 05.22.19, 29:4-8.

⁸⁶ Reed, 05.29.19, 31:11-19.

⁸⁷ *See* Allegations Asserted at No. 1, *supra* p. 7.

b. Classroom Doors

Building 12 was constructed prior to Mr. Porter joining MSD as an Assistant Principal.⁸⁸ The door handle/hardware of the classroom doors in Building 12 as of February 14, 2018 were the ones in existence since Mr. Porter joined MSD as an Assistant Principal.⁸⁹ When asked whether he had the authority to change the hardware on the classroom doors in Building 12 while he was Assistant Principal, Mr. Porter replied, “those doors are standard across the district, I mean, that’s not something that is uncommon for those types of handles. . . .”⁹⁰ There is no evidence to support that Mr. Porter had the authority to change or modify the door handles/hardware of the classroom doors in Building 12, to change the locking mechanism so that the door would not lock from the outside on February 14, 2018.

While no written policy was found requiring classroom doors to remain locked at all times, it is undisputed that the protocol or “unwritten rule” was that classroom doors were to be locked.⁹¹ While Assistant Principal overseeing security, Mr. Porter strictly enforced keeping classroom doors locked.⁹² Mr. Porter instructed Security Specialist Mr. Greenleaf and Campus Monitors to walk around and make sure the classroom doors were locked.⁹³ If classroom doors were found unlocked, Campus Monitors were to report it to the administration.⁹⁴ In fact, Mr. Porter would check himself for locked classroom doors, as did Mr. Morford and Mr. Greenleaf.⁹⁵ An email extracted from BCPS’ server implies that Mr. Porter was checking whether teachers were locking classroom doors, stating to Mr. Porter: “if you’re checking doors”⁹⁶ Principal Thompson also stated that teachers were always told to keep their doors locked.⁹⁷ One of the teachers located in Building 12 on the day of the Incident who had been at MSD for 15 years, stated that his classroom door was locked that day of the Incident; further, that he routinely locked his door.⁹⁸ Mr. Porter stated that requiring classroom doors to be locked “saved lives” the day of the Incident.⁹⁹

⁸⁸ Porter, 08.22.18, 8:24-25; 9:1-11.

⁸⁹ Porter, 05.22.19, 26:3-9.

⁹⁰ Porter, 05.22.19, 26:10-18.

⁹¹ Greenleaf, 09.05.18, 51:17-24; Porter, 08.22.18, 21:15-25; 22:1-9, 23; 53:20-23; Reed, 08.22.18, 15:4-5, 14-19; Morford, 05.29.19, 27:18-25; Figueroa, 08.22.18, 16:22-23; 17:2-6; Rosario, 08.22.18, 13:23-24; 14:4-6; Thompson, 08.22.18, 30:22-23; Bonner, 09.05.18, 10:1-4; Taylor, 09.06.18, 13:12-19; Ramos, 09.05.18, 15:7-8.

⁹² Greenleaf, 09.05.18, 34:15-16.

⁹³ Greenleaf, 09.05.18, 36:6-11; Staubly, 09.05.18, 34:21-24; Thompson 08.22.18, 40:1-5.

⁹⁴ Greenleaf, 09.05.18, 52:15-25; 53:3-17; Ramos, 09.05.18, 7-8, 15-16; Thompson, 08.22.18, 40:1-5.

⁹⁵ Taylor, 09.09.18, 16:3-9; Greenleaf, 09.05.18, 51:25; 52:1-10, 16-17; Porter, 08.22.18, 53:20-23; Morford, 05.29.19, 28:1-9.

⁹⁶ See Email from teacher Tammy Orilio to Porter dated Jan. 12, 2018, at App. 16.

⁹⁷ Thompson, 08.22.18, 30:22-23.

⁹⁸ S.Johnson, 08.27.18, 19:5-12.

⁹⁹ Porter, 05.22.19, 48:11-19.

Findings as to Allegations Nos. 2 and 3

It is alleged that Mr. Porter “[a]llowed classroom doors to be locked from the outside on Feb. 14, 2018” (No. 2), and “[a]llowed teachers to determine whether to lock their assigned classroom doors on Feb. 14, 2018” (No. 3).¹⁰⁰

It is undisputed that classroom doors within Building 12 had handles/hardware that allowed the doors to be locked from the outside on February 14, 2018. However, a preponderance of the evidence shows that although campus security was one of Mr. Porter’s Assigned Duties during the 2017-18 school year, he did not have the authority to change the door handles/hardware to the classroom doors in Building 12. Moreover, there is no evidence that Mr. Porter was on notice that Building 12 classroom door handles/hardware in existence as of February 14, 2018 posed a safety concern for the students. As such, the preponderance of the evidence does not support that Mr. Porter failed to make a reasonable effort to protect the students from conditions harmful to the students’ physical safety because the Building 12 classroom doors had handles/hardware that could be locked from the outside (*see* F.A.C. 6A-10.081(2)(a)(1)). Consequently, Mr. Porter was not in violation of any existing BCPS policy, procedure, or any Assistant Principal Essential Performance Responsibility with respect to Allegation No. 2.

There is no evidence to support Allegation No. 3. To the contrary, a preponderance of the evidence shows that teachers were not allowed to determine whether to lock their assigned classroom doors as of February 14, 2018. While there was no written policy requiring classroom doors to be locked, it was an established rule, which Mr. Porter, as well as Mr. Greenleaf and the Campus Monitors enforced. Consequently, since Allegation No. 3 against Mr. Porter is unsupported, there was no violation of any existing BCPS policy, procedure, or any Assistant Principal Essential Performance Responsibility.

c. Building 12 Bathroom Doors

At some point during the 2017-18 school year, it was decided that the first and third floor bathroom doors of Building 12 would be locked.¹⁰¹ While Mr. Porter stated that this procedure had been implemented for more than a month before the Incident, Campus Monitor Andrew Medina stated that the first day this procedure was implemented was the day of the Incident.¹⁰² Campus Monitor David Taylor stated that the decision to lock the first and third floor bathrooms in Building 12 was made by Mr. Porter after they discussed how he was the only Monitor in Building 12, “going up now three flights of stairs all day every day.”¹⁰³ According to Monitor Taylor, the decision was “supposed to be a deterrent for loitering, vaping, skipping, smoking. . . .”¹⁰⁴ Monitor Taylor stated that he and Mr. Porter never discussed that locking these bathroom

¹⁰⁰ See Allegations Asserted at Nos. 2-3, *supra* p. 7.

¹⁰¹ Taylor, 09.06.18, 19:18-25; Medina, 09.06.18, 33:8-25; 34:1; Porter, 05.22.19, 36:8-10, 38:18-25; 39:1-3; Reed, 08.22.18, 17:1-5.

¹⁰² Compare Porter, 05.22.19, 39:4-12, with Medina, 09.06.18, 32:11-23.

¹⁰³ Taylor, 09.06.18, 19:18-25.

¹⁰⁴ Taylor, 09.06.18, 20:3-5.

doors may be a safety hazard.¹⁰⁵ Monitor Taylor also stated that “even if they were open, unlocked, there’s no way to lock them if you’re a kid running in the bathroom, you know, the door just closes behind you.”¹⁰⁶

Mr. Porter stated that to his knowledge there was no policy providing that bathroom doors could not be locked and, in fact, it was a common practice to lock bathroom doors for a variety of reasons; moreover, other bathroom doors on the MSD were also locked (referencing certain classrooms in Buildings 1 and 8).¹⁰⁷ Mr. Porter stated that the decision to lock the first and third floor bathroom doors of Building 12 was made “as an administrative team” and that Principal Thompson was in agreement, stating “I’m pretty sure we were in agreement about that decision.”¹⁰⁸

Mr. Porter stated that he raised problems with Building 12 during an administration meeting; specifically, the need to limit access because it was a three-story building, with 30 classrooms, two bathrooms per floor, where there was only one Campus Monitor and concerns with students vaping and skipping class.¹⁰⁹ However, Security Specialist Greenleaf stated he had no knowledge of the decision to lock the first and third floor bathroom doors in Building 12.¹¹⁰ Both Campus Monitors Bonner and Staubly stated they were not part of the decision to close the first and third floor bathrooms in Building 12.¹¹¹ Mr. Morford also denied being part of the decision to lock the first and third floor bathroom doors of Building 12, stating “when I didn’t have security, I was not involved in that decision making whatsoever.”¹¹² Moreover, Mr. Morford could not recall whether this decision was discussed at an administration meeting.¹¹³ During her August 22, 2018 statement, Ms. Reed stated that it was decided that the first and third floor bathroom doors in Building 12 should be locked because of vaping and destruction by students.¹¹⁴ However, during her May 29, 2019 statement under oath, when asked if she had any knowledge of the decision to lock the first and third floor bathroom doors of Building 12, Ms. Reed stated, “I do not remember the (sic) – I was not part of the discussion of that[;] I don’t remember any of that.”¹¹⁵

¹⁰⁵ Taylor, 09.06.18, 20:6-12.

¹⁰⁶ Taylor, 09.06.18, 20:18-21.

¹⁰⁷ Porter, 05.22.19, 36:16-20; 37:1-15; 38:4.

¹⁰⁸ Porter, 05.22.19, 36:8-1038:18-25; 39:1-3.

¹⁰⁹ Porter, 08.22.18, 38: 8-17.

¹¹⁰ Greenleaf, 09.05.18, 53:6-12, 20-25; 54:10-12; 55:14-21

¹¹¹ Bonner, 09.05.18, 10:14-20; Staubly, 09.05.18, 29:5-20.

¹¹² Morford, 05.29.19, 27:11-19

¹¹³ Morford, 05.29.19, 27:20-23.

¹¹⁴ Reed, 08.22.18, 17:1-5.

¹¹⁵ Reed, 05.29.19, 24:2-6.

Mr. Porter also stated that he observed positive results from implementing this decision, such as “Coach Taylor was able to check bathroom passes[;] [h]e was able to see who was supposed to be there, who wasn’t[;] [i]t was effective and I even got feedback from him about that.”¹¹⁶

Findings as to Allegation No. 4

It is alleged that Mr. Porter “[d]ecided to lock Building 12’s first and third floor bathroom doors prior to and on Feb. 14, 2018.”¹¹⁷

A preponderance of the evidence shows that the decision to lock the first and third floor bathrooms doors in Building 12 prior to and on February 14, 2018 was made by Mr. Porter, and it appears it was done with the knowledge and consent of Principal Thompson. I could not find any BCPS policy prohibiting the locking of bathroom doors. A preponderance of the evidence shows that Mr. Porter made the decision to lock the first and third floor bathrooms doors of Building 12 as a corrective measure to address an identified problem (*i.e.*, student vaping), which is consistent with an Assistant Principal’s duty to “[a]ssist in employment an improvement cycle for operational problems that analyzes results, identifies root causes, and takes corrective action” (*See* AP Essential Performance Responsibilities at No. 18).

Moreover, there is no evidence that Mr. Porter was on notice that locking the first and third floor bathroom doors in Building 12 prior to and on February 14, 2018 posed a safety concern for the students. As such, the preponderance of the evidence does not support that Mr. Porter failed to make a reasonable effort to protect the students from conditions harmful to the students’ physical safety because he decided that the first and third floor bathroom doors in Building 12 were locked prior to and on February 14, 2018 (*see* F.A.C. 6A-10.081(2)(a)(1)). Consequently, Mr. Porter was not in violation of any existing BCPS policy, procedure, or any Assistant Principal Essential Performance Responsibility with respect to Allegation No. 4.

(ii) Surveillance Cameras

Per Mr. Porter, access to the camera room at MSD was restricted to the administration and security personnel.¹¹⁸ The overall consensus is that Assistant Principal Max Rosario was the most knowledgeable person on the MSD Campus in using the surveillance camera system as of February 14, 2018.¹¹⁹ Mr. Rosario was knowledgeable in the operational and technical parts of the camera system.¹²⁰ The next person with the most knowledge in using the camera system was Security

¹¹⁶ Porter, 05.22.19, 39:13-20.

¹¹⁷ *See* Allegations Asserted at No. 4, *supra* p. 7.

¹¹⁸ Porter, 05.22.19, 40:12-25; 41:1-25.

¹¹⁹ Greenleaf, 09.05.18, 4:4-23; Greenleaf, 05.15.19, 42:7-25; 43:1-14; Rosario, 08.22.18, 25:14-15; Morford, 08.22.18, 22:21-24; Porter, 05.22.19, 40:4-8.

¹²⁰ Greenleaf, 09.05.18, 4:4-23.

Specialist Greenleaf.¹²¹ Mr. Rosario stated that he personally trained “many of the security personnel” on how to manipulate the camera system, including campus monitors, the security specialist, and some assistant principals.¹²² Mr. Greenleaf likewise stated that Mr. Rosario trained him on how to use the camera system, and that other security team members were also trained on how to use the cameras, such as: Assistant Principal Porter as well as Campus Monitors Feis, Bonner, and Hixon.¹²³ Mr. Porter confirmed that Mr. Rosario trained him and Mr. Greenleaf on how to use the surveillance camera system.¹²⁴ While Campus Monitor Staubly stated that he did not receive specific training on how to operate the camera system, he acknowledged that he “could operate the cameras a little bit,” and that Bonner and Feis knew how to operate the camera system.¹²⁵ Similarly, Assistant Principal Denise Reed acknowledged that she had some basic knowledge on how to operate the camera system and that most administrators knew how to use the camera system.¹²⁶ Mr. Morford also stated that he had some basic knowledge on operating the camera system from observing others like Mr. Greenleaf, Mr. Rosario, Monitor Feis, and Monitor Hixon.¹²⁷ However, Deputy Scot Peterson, the MSD SRO, did not know how to operate the surveillance camera system.¹²⁸ It appears that Principal Thompson may have also not known how to operate the camera system.¹²⁹ Thus, it appears that at least four Assistant Principals (Rosario, Porter, Reed, and Morford), the Security Specialist (Greenleaf), and at least five Campus Monitors (Feis, Hixon, Taylor, Bonner, Staubly) knew how to operate the camera system to some extent as of February 14, 2018.

Findings as to Allegation No. 5

It is alleged that Mr. Porter “[f]ailed to ensure [he] and MSDHS personnel were trained on how to operate the MSDHS camera system as of Feb. 14, 2018.”¹³⁰

The preponderance of the evidence shows that Mr. Porter was trained and knew how to operate the surveillance camera system at MSD as of February 14, 2018. I was unable to find any BCPS policy requiring all personnel at a school to be trained on how to operate a surveillance camera system, let alone that such duty to train rested upon Mr. Porter, even as the Assistant Principal overseeing security during the 2017-18 school year. For example, the Assistant Principal job description and Essential Performance Responsibilities does not contain any requirement that an Assistant Principal be trained or proficient in the operation of the surveillance camera system, nor does it contain any requirement that an Assistant Principal train other personnel on the use of

¹²¹ Greenleaf, 09.05.18, 4:4-23; 32:11-25; Rosario, 08.22.18, 25:11-20; Staubly, 09.05.18, 5:1-5.

¹²² Rosario, 08.22.18, 25:15-18.

¹²³ Greenleaf, 09.05.18, 4:4-5, 8-10, 24-25; 5:1-8; Greenleaf, 05.15.19, 42:7-25; 43:1-14.

¹²⁴ Porter, 05.22.19, 40:4-8.

¹²⁵ Staubly, 09.05.18, 5:1-5, 8-14.

¹²⁶ Reed, 05.29.19, 27:4-25; 28:1-18.

¹²⁷ Morford, 05.29.19, 28:16-25; 29:1-15.

¹²⁸ Greenleaf, 05.15.19, 43:10-16; Porter, 05.22.19, 40:24-25; 41:1-4.

¹²⁹ Porter, 05.22.19, 41:22-25; 42:1-4.

¹³⁰ See Allegations Asserted at No. 5, *supra* p. 6.

the surveillance camera system. Similarly, there is no evidence that Principal Thompson assigned Mr. Porter with the task of training any MSD personnel on how to operate the camera system. Instead, it appears that access to the camera room where the system is located was restricted to only certain personnel as of February 14, 2018. Notwithstanding, many members of the administration and security personnel had at least basic knowledge in operating the camera system. Consequently, since the evidence shows that Mr. Porter knew how to operate the MSD camera system and did not have a duty to train others on how to use the camera system as of February 14, 2018, Mr. Porter did not violate any BCPS policy or Essential Performance Responsibility with respect to Allegation No. 5.

(iii) School Radios

On the day of the Incident, school radio holders included administrators, security team members, SRO Scot Peterson, and some support personnel.¹³¹ Only some teachers had radios, such as ESE and PE teachers.¹³² As of February 14, 2018, MSD did not have a sufficient inventory of school radios to be able to provide one to every teacher on campus.¹³³

Mr. Porter stated that Assistant Principal Max Rosario handled the radio inventory, distribution, and assignment.¹³⁴ Ms. Reed likewise stated that it was Mr. Rosario had provided one of her ESE teachers with a radio.¹³⁵ When asked whether he had the authority to purchase and provide additional radios for all faculty, Mr. Porter failed to respond, instead stating, “[t]here’s no policy that supports us having to give all teachers radios.”¹³⁶ When asked if there were enough radios at MSD as of the day of the Incident to be able to put a radio in the hand of every teacher, Mr. Porter stated, “no; I don’t think any school has an inventory to support that kind of request.” Similarly, Mr. Morford stated, “budget wise, no, no chance of that.”¹³⁷ Mr. Morford also stated that any requests for additional radios would need to go through Principal Thompson and the school budget.¹³⁸

Findings as to Allegation No. 6

It is alleged that Mr. Porter “[f]ailed to provide teachers with two-way communication system/radios as of Feb. 14, 2018.”¹³⁹

¹³¹ Porter, 05.22.19, 42:5-9.

¹³² Porter, 05.22.19, 42:10-16; Morford, 05.29.19, 30:4-9; Reed, 05.29.19, 24:17-25; 25:1-25; 26:1.

¹³³ Porter, 05.22.19, 42:17-21; 43:16-24.

¹³⁴ Porter, 05.22.19, 43:13-15.

¹³⁵ Reed, 05.29.19, 30:21-25; 31:1-2.

¹³⁶ Porter, 05.22.19, 42:22-25; 43:1

¹³⁷ Morford, 05.29.19, 30: 9.

¹³⁸ Morford, 05.29.19, 30:17-25; 31:1.

¹³⁹ See Allegations Asserted at No. 6, *supra* p. 7.

It is acknowledged that not all teachers had a two-way communication or school radio as of February 14, 2018. It is unclear as to who had authority over the school communication system at MSD as of February 14, 2018 – whether it was Mr. Porter who oversaw security, Mr. Rosario who handled radio assignments, Principal Thompson who oversaw the school budget, or the BCPS District who approves the budget. A review of the MSD budget in effect for the 2017-18 school year to evaluate the amount of resources used and remaining as of February 14, 2018 has not been performed to determine whether it was possible to purchase additional radios for teachers. Additionally, the evidence does not support that the MSD administration discussed or considered providing all teachers with radios as of February 14, 2018. Further investigation may be warranted into the allocation of resources, assignment of duties, and oversight of the communication system at MSD.

While it is unclear as to whether Mr. Porter was responsible for or had authority over school radios, as of February 14, 2018, it was impossible for Mr. Porter to provide radios to all teachers due to an insufficient radio inventory. As such, the preponderance of the evidence does not support that Mr. Porter violated any existing BCPS policy, procedure, or any Assistant Principal Essential Performance Responsibility by failing to provide teachers with a two-way communication system/school radio as of February 14, 2018.

(iv) **Code Red Training and Implementation**

(a) ***Training***

Mr. Porter was the Assistant Principal assigned to oversee campus security at MSD during the 2017-18 school year.¹⁴⁰ Mr. Porter coordinated with Detective Al Butler from the BCPS Special Investigative Unit (“SIU”) to conduct safety and security trainings at the MSD Campus; the Safe Team was to be trained first, then faculty.¹⁴¹

On December 20, 2017, Detective Butler performed a Power Point Presentation to the MSD Safe Team titled “The Key to School Safety & Security” (hereinafter “Safe Team Code Training”).¹⁴² A review of the Safe Team Code Training presentation document in its native form within Microsoft PowerPoint contains meta-data reflecting that it was created on September 8, 2016. Safe Team Training presentation notes provide the following individuals needed to attend the Safe Team Code Training: “All radio holders, Principals and Aps, Head custodian, ESE, Guidance, Clerical, Nurse, Behavior Tech”.¹⁴³

¹⁴⁰ Porter, 05.22.19 20:6-17; 20:4-7; Taylor, 09.06.18, 3:19-20; 4:11-17; Bonner, 09.05.18, 10:21-25; 11:1-5; Staubly, 09.05.18, 3:15-17; 21:16-19. Greenleaf, 05.15.19, 13:18-21; Rosario, 08.22.18, 11:6-10; Thompson, 08.22.18, 8:8-14.

¹⁴¹ Porter, 05.22.19, 45:13-20; Greenleaf, 05.15.19, 31:4-9, 15-23; Butler, 09.07.18, 9:23-25; 10:2-4.

¹⁴² Porter, 05.22.19, 44:10-24; 45:7-25; Ex.4; Greenleaf, 05.15.19, 32:15-25; Ex. 4; Reed, 05.29.19, 32:20-25; 33:1-7, 15-25; Ex. 4; Morford, 05.29.19, 32:7-25; Ex. 7. See also Safe Team Code Train. Pres. w/Notes at App. 13.

¹⁴³ Safe Team Code Train. Pres. at 1, notes.

Detective Butler performed the same presentation on January 11, 2018 for the MSD faculty (hereinafter “Faculty Code Training”) (Safe Team Code Training and Faculty Code Training, collectively “Code Trainings”).¹⁴⁴ Mr. Porter stated that the staff was present for the Faculty Code Training because “these were very serious matters that we took very seriously.”¹⁴⁵ A review of the Faculty Code Training presentation document in its native form within Microsoft PowerPoint contains meta-data reflecting that it was likewise created on September 8, 2016. Based on the meta-data reviewed, it appears both Code Training presentation documents were created over a year before they were presented at MSD in December 2017 (to the Safe Team) and January 2018 (to Faculty).

Both Code Trainings were mandatory and nearly identical in substance.¹⁴⁶ Neither Code Training was videotaped or otherwise recorded. Mr. Porter advised that there were attendance sign-in sheets for the Code Trainings; however, as of the date of this Report, I have neither received nor reviewed any attendance sheets to confirm the attendees.¹⁴⁷ Both Code Trainings started with an audio recording of a 911 call during the Sandy Hook elementary school shooting.¹⁴⁸ Both Code Trainings emphasized “have your doors locked at all times.”¹⁴⁹

The Safe Team Code Training and the Faculty Code Training presentation materials had two differences:

First, the Safe Team Code Training included an explanation of the incident command system. The presentation notes to this particular slide provide: “During a code red it is imperative that the Principal and Head Facilities person get locked down ASAP as they have the master keys on their person.”¹⁵⁰ Detective Butler also stated that the principal or his/her designee is responsible during a Code Red to “get the alert out to everybody that you can, as fast as you can. . . [the] lockdown.”¹⁵¹

Next, the Faculty Code Training included a list of emergency situations that have taken place specifically in Broward Schools from 2002-2017. The presentation notes to this particular slide provide: “Our local schools have had issue (sic) don’t ever think it cant (sic) happen here.”¹⁵² However, both Code Trainings included explanations of all color code situations.¹⁵³

¹⁴⁴ Porter, 05.22.19, 45:22-25; Ex.5; Greenleaf, 05.15.19, 32:15-25, Ex. 3; Reed, 05.29.19, 32:20-25; 33: 1-7; Ex. 5; Morford, 05.29.319, 32:7-25; 33:1-11; Ex. 8; S.Johnson, 08.24.18, 5:2-21. *See also* Faculty Code Train. Pres. w/Notes at App. 14.

¹⁴⁵ Porter, 05.22.19, 46:19-22. *See also* S.Johnson, 08.24.18, 5:2-21 (explaining how the whole staff was trained on active shooter protocol on a planning day after the winter break in 2018).

¹⁴⁶ *Compare* Safe Team Code Train. Pres. w/Notes at App. 13, *with* Faculty Code Train. Pres. w/Notes at App. 14. *See also* Porter, 05.22.19, 46:18-25; 47:1-6.

¹⁴⁷ Porter, 05.22.19, 46:1-7.

¹⁴⁸ Safe Team Code Train. Pres. at 2; Faculty Code Train. Pres. at 2; Porter, 05.22.19, 47:25; 48:1-3.

¹⁴⁹ Safe Team Code Train. Pres. at 5; Faculty Code Train. Pres. at 5; Porter, 05.22.19, 47:15-16.

¹⁵⁰ Safe Team Code Train. Pres. at 8.

¹⁵¹ Butler, 09.07.18, 15:13-23.

¹⁵² Faculty Code Train. Pres. at 6-7.

¹⁵³ Safe Team Code Train. Pres. at 9; Faculty Code Train. Pres. at 9.

In explaining the Code Red procedure, both Code Trainings provided the following: “Code Red - **Lock doors-cover window-move away-stay quiet.**”¹⁵⁴ The presentation notes to this particular slide provide: “If time permits then after you call a Code use plain language instructions to clarify the incident response[;]. . . CODE Red- If you have had active killer training then barricade doors[,] [i]f not then again stay quiet[;] [b]e prepared to fight or flight.”¹⁵⁵

Both Code Trainings included a slide on codes that specifically asked, “who can call a code red? [I]n the case of an active killer who can call 911[?]”¹⁵⁶ The presentation notes for this particular slide provide: “Anyone if you are able via radio or call in to office with information you saw or heard; If you here (sic) gun shots or some kind of terror happening everyone can all 911.”¹⁵⁷ Thereafter, code triggering scenarios were presented along with a question-and-answer session; different scenarios were presented to the Safe Team and Faculty.¹⁵⁸ Detective Butler described the Trainings were very interactive, in which he answered questions and discussed “what-if scenarios” for approximately one hour.¹⁵⁹

Neither one of the Code Trainings mentions hard or safe corners.¹⁶⁰ There is no instruction or note in either Code Training presentation that the administration or teachers should mark hard or safe corners.¹⁶¹ However, it appears that the “move away” portion of the Code Trainings included an explanation of moving away to the “safe zone” or “safe corner” in the classroom, which was the corner furthest away from line of sight through the classroom door window.¹⁶²

In sum, the Code Trainings discussed above provided the following instruction to MSD personnel in the case of a Code Red:

- (1) **Lock doors**
- (2) **Cover window**
- (3) **Move away**
- (4) **Stay quiet**¹⁶³

¹⁵⁴ Safe Team Code Train. Pres. at 9 (emphasis added); Faculty Code Train. Pres. at 9 (emphasis added).

¹⁵⁵ Safe Team Code Train. Pres. at 9; Faculty Code Train. Pres. at 9.

¹⁵⁶ Safe Team Code Train. Pres. at 10; Faculty Code Train. Pres. at 10.

¹⁵⁷ Safe Team Code Train. Pres. at 10; Faculty Code Train. Pres. at 10.

¹⁵⁸ Compare Safe Team Code Train. Pres. at 11, with Faculty Code Train. Pres. at 11.

¹⁵⁹ Butler, 09.07.18, 7:16-18.

¹⁶⁰ See Safe Team Code Train. Pres. at App. 13; Faculty Code Train. Pres. at App. 14.

¹⁶¹ See Safe Team Code Train. Pres.; Faculty Code Train. Pres.

¹⁶² Porter, 05.22.19, 51:22-25, 52:1-9; Morford, 05.29.19, 33:15-20; Thompson, 08.22.18, 35:9-13, 16-21; See also Osio, 02.20.18, p. 12 (while in Building 12 during the Incident, her teacher, Ms. Lazaro, had the students down at the corner of the classroom).

¹⁶³ See Safe Team Code Train. Pres. at 9; Faculty Code Train. Pres. at 9.

Per the presentation notes of both Code Trainings and as corroborated by Detective Butler's statement, all MSD Safe Team members and Faculty were instructed that anyone can call a Code Red via radio or by calling the office.¹⁶⁴ In the case of an active killer, anyone who hears "gun shots or some kind of terror happening" can call 911.¹⁶⁵ Butler recalls instructing staff that anybody can call a Code Red, stating: "whoever is closest to the threat[;] if you see the threat, you make the call[;] you try to get the word out."¹⁶⁶ Mr. Greenleaf likewise recalls hearing Mr. Butler and Mr. Porter instructing the Safe Team and Faculty during the Code Trainings that "anyone can call a Code Red; [a]nyone who sees a threat can call a Code Red."¹⁶⁷

Most administrators also stated that their understanding as of February 14, 2018 was that anyone can call a Code Red.¹⁶⁸ However, the administrators were inconsistent on the method to be used to call the Code Red: some said anyone with a radio can call a Code Red (although there are only limited radio-holders on campus),¹⁶⁹ others said teachers can use a personal cell phone to call the office,¹⁷⁰ while others said teachers can use the PA call button or panic button.¹⁷¹ Detective Butler stated that the safest way for a teacher to call Code Red is to call the office.¹⁷² As of February 14, 2018, one teacher from Building 12 believed that only an administrator can call a Code Red and teachers would have to use their phone to call the office in a life-threatening emergency.¹⁷³ At least two Campus Monitors also stated that their understanding as of February 14, 2018 was that anyone can call a Code Red.¹⁷⁴ However, Campus Monitor Medina had a different understanding: Medina stated he believed he could only call a Code Red if you saw a gun.¹⁷⁵ Medina's account is inconsistent with several other statements about how the MSD faculty and staff were trained at the Code Trainings, as well as the Training materials themselves, and Detective Butler's statement.¹⁷⁶

As such, as of the day of the Incident, there was confusion among the administration, faculty, and staff on the method by which different personnel could call a Code Red and the timing of calling a Code Red; that is, how and when to call a Code Red.

¹⁶⁴ See Safe Team Code Train. Pres. at 10 at App. 13; Faculty Code Train. Pres. at 10 at App. 14; Butler, 09.07.18, 11:12-14; 12:4-7; Thompson, 08.22.18, 40:18-21.

¹⁶⁵ Safe Team Code Train. Pres. at 10; Faculty Code Train. Pres. at 10.

¹⁶⁶ Butler, 09.07.18, 11:12-14; 12:4-7.

¹⁶⁷ Greenleaf, 05.15.19, 66:20-25; 67:1-7.

¹⁶⁸ Greenleaf, 09.05.18, 59:3-9; Porter, 08.22.18, 24:3-10; 32:9-25; 33:1-5; Figueroa, 08.22.18, 20:7-12, 20-25; Rosario, 08.22.18, 14:20-24; 15:5-11; Morford, 08.22.18, 17:1-7.

¹⁶⁹ Figueroa, 08.22.18, 20:7-12; Morford, 08.22.18, 17:1-7;

¹⁷⁰ Porter, 08.22.18, 32:9-25; 33:1-18; Figueroa, 08.22.18, 20:20-25; Thompson, 08.22.18, 41:8-22.

¹⁷¹ Greenleaf, 09.05.18, 60:17-25; 61:1-2; Rosario, 08.22.18, 15:5-11; Thompson, 08.22.18, 41:8-22.

¹⁷² Butler, 09.07.18, 56:13-24.

¹⁷³ Johnson, 08.24.18, 8:3-7, 11-13.

¹⁷⁴ Staubly, 09.05.18, 31:2-20; 32:6-9; Taylor, 09.06.18, 37:11.

¹⁷⁵ Medina, 09.06.18, 42:10-18, 25.

¹⁷⁶ Butler, 09.07.18, 11:12-14; 12:4-7 (stating that he instructed staff that anybody can call a code red; "if you see the threat, you make the call.")

Principal Thompson confirmed that the MSD Security Team (Assistant Principal assigned to security, Security Specialist, and Campus Monitors) was not responsible for conducting any additional training for the staff; that SIU performs the training and that the Security Team is trained at the same time as the rest of the MSD staff.¹⁷⁷ Mr. Greenleaf stated that Detective Butler did a great job with the Code Trainings and was very clear.¹⁷⁸ Ms. Reed likewise stated that upon completing the Code Trainings, she “felt very confident in a Code Red but you don’t know what you’re going to do until your (sic) in it getting shot at.”¹⁷⁹ Campus Monitor Bonner also found the Code Trainings to be helpful.¹⁸⁰

(b) Implementation

Campus Monitor Taylor stated that he saw Mr. Porter and Mr. Greenleaf walking around and checking for implementation of parts of the Code Red training, such as door-locking and identifying safe corners.¹⁸¹ Mr. Porter states that after the Faculty Code Training, teachers were instructed to review the safety procedures with their students in the event of an emergency.¹⁸² Mr. Porter further stated that he and Principal Thompson walked around the MSD Campus after the Faculty Code Training and saw teachers showing students how to get into the safe zone of the classroom, verifying the safe space.¹⁸³ However, Mr. Porter admitted that neither he nor Principal Thompson required teachers to complete the foregoing; rather, “teachers did it at their leisure; [t]hey weren’t required to have it done by the next Wednesday; [t]hey were just told.”¹⁸⁴

A teacher (who was within his Building 12 third-floor classroom the day of the Incident) reported that upon completion of the Faculty Code Training the MSD administration made it “clear” that they wanted teachers to go back to their classes and drill their students on a Code Red.¹⁸⁵ In fact, this particular teacher trained his students on Code Red and what their behavior is supposed to be like, and states that is why his students knew what to do the day of the Incident.¹⁸⁶ This teacher believes it was because of the Faculty Code Training that he and his students were prepared the day of the Incident and “it saved lives.”¹⁸⁷ While four other teachers who were within Building 12 on the day of the Incident were interviewed by the MSD Commission¹⁸⁸ as part of their investigation, the audio recordings were misplaced and there was no transcript available of the interview; rather, the MSD Commission provided an internal investigative report prepared with a summary of the substance of the interviews.¹⁸⁹ While unable to conduct an independent review

¹⁷⁷ Thompson, 08.22.18, 32:22-25; 33:2-6.

¹⁷⁸ Greenleaf, 05.15.19, 33:1-3.

¹⁷⁹ Reed, 05.29.19, 37:23-25.

¹⁸⁰ Bonner, 09.05.18, 13:24-25; 14:1.

¹⁸¹ Taylor, 09.06.18, 18:19-22, 24-25; 19:1-5.

¹⁸² Porter, 05.22.19, 53:21-25; 54:1-16.

¹⁸³ Porter, 05.22.19, 53:25; 54:1-16.

¹⁸⁴ Porter, 05.22.19, 54:21-24.

¹⁸⁵ S.Johnson, 08.24.18, 5:24-25; 6:1-3; 10:19-23.

¹⁸⁶ S.Johnson, 08.24.18, 6:14-19; 7:6-19.

¹⁸⁷ S.Johnson, 08.24.18, 7:6-19.

¹⁸⁸ Teachers interviewed were: Catherine Britt; Marcia Cunningham; Ernest Rospierski; and Shanti Viswanthan.

¹⁸⁹ MSD Public Safety Comm’n Investigative Report No. MSD-0051 (Apr. 25, 2019).

of the statements, the MSD Commission report found that the interviewed teachers' statements "were consistent with information gathered from other teacher interviews with regards to the training provided by Detective Al Butler."¹⁹⁰ At least two of the teachers interviewed credited Detective Butler's Faculty Code Training to knowing to keep students "silent as they were hiding in the corner" and "as saving many lives."¹⁹¹

As of the day of the Incident, nearly all administrators, monitors, and teachers understood what a Code Red meant: lockdown, no movement, due to imminent danger or dangerous threat.¹⁹²

(1) Classroom Doors: "Lock doors"

While no written policy was found requiring classroom doors to remain locked at all times, it is undisputed that the protocol or "unwritten rule" was that classroom doors were to be locked.¹⁹³ Mr. Greenleaf stated that Mr. Porter strictly enforced keeping classroom doors locked.¹⁹⁴ Mr. Porter instructed Campus Monitors to walk around and make sure the classroom doors were locked.¹⁹⁵ If classroom doors were found unlocked, Campus Monitors were to report it to the administration.¹⁹⁶ In fact, Mr. Greenleaf and Mr. Porter would check themselves for locked classroom doors, as did Mr. Morford.¹⁹⁷ An email extracted from BCPS' server implies that Mr. Porter was checking whether teachers were locking classroom doors, stating to Mr. Porter: "if you're checking doors . . ."¹⁹⁸ Moreover, one of the first things emphasized in the Code Trainings was to "have your doors locked at all times."¹⁹⁹ One of the teachers located in Building 12 on the day of the Incident who had been at MSD for 15 years, stated that his classroom door was locked that day of the Incident; further, that he routinely locked his door even before the Code Red training.²⁰⁰ Mr. Porter stated that requiring classroom doors to be locked "saved lives" the day of the Incident.²⁰¹

¹⁹⁰ MSD Public Safety Comm'n Investigative Report No. MSD-0051 (Apr. 25, 2019), at 1.

¹⁹¹ MSD Public Safety Comm'n Investigative Report No. MSD-0051 (Apr. 25, 2019), at 3 (interview summaries of Catherine Britt and Marcia Cunningham).

¹⁹² Greenleaf, 09.05.18, 58:20-25; Porter, 08.22.18, 23:17-25; Reed, 08.22.18, 17:12-19; Morford, 08.22.18, 15:18-19; Figueroa, 08.22.18, 19:7-6; Rosario, 08.22.18, 14:20-24; Thompson, 08.22.18, 32:16-21; Staubly, 09.05.18, 30; Taylor, 09.06.18, 21:1-10; Ramos, 09.05.18, 9:11-15; Bonner, 09.05.18, 11:22-25; 12:1; Johnson, 08.24.18, 4:17-23.

¹⁹³ Greenleaf, 09.05.18, 51:17-24; Porter, 08.22.18, 21:15-25; 22:1-9, 23; 53:20-23; Reed, 08.22.18, 15:4-5, 14-19; Morford, 05.29.19, 28:3-15; Figueroa, 08.22.18, 16:22-23; 17:2-6; Rosario, 08.22.18, 13:23-24; 14:4-6; Thompson, 08.22.18, 30:22-23; Bonner, 09.05.18, 10:1-4; Taylor, 09.06.18, 13:12-19; Ramos, 09.05.18, 15:7-8.

¹⁹⁴ Greenleaf, 09.05.18, 34:15-16.

¹⁹⁵ Greenleaf, 09.05.18, 36:6-11; Staubly, 09.05.18, 34:21-24; Thompson 08.22.18, 40:1-5.

¹⁹⁶ Greenleaf, 09.05.18, 52:15-25; 53:3-17; Ramos, 09.05.18, 7-8, 15-16; Thompson, 08.22.18, 40:1-5.

¹⁹⁷ Taylor, 09.09.18, 16:3-9; Greenleaf, 09.05.18, 51:25; 52:1-10, 16-17; Porter, 08.22.18, 53:20-23; Morford, 05.29.19, 28:7-15.

¹⁹⁸ See Email from teacher Tammy Orilio to Porter dated Jan. 12, 2018, at App. 15.

¹⁹⁹ Safe Team Code Train. Pres. at 5 at App. 13; Faculty Code Train. Pres. at 5 at App. 14.

²⁰⁰ S.Johnson, 08.27.18, 19:5-12.

²⁰¹ Porter, 05.22.19, 48:11-19.

(2) Classroom Door Windows: “Cover window”

Similarly, no written policy was found requiring teachers to cover their classroom door windows during a code red. However, during the Code Red Trainings, MSD personnel were instructed to cover their windows during a Code Red emergency.²⁰² Mr. Porter explained that the Code Training advised teachers to cover the windows to the classroom door so they/students cannot be seen in the safe zone.²⁰³ Mr. Porter stated that during the Faculty Code Training, Detective Butler advised teachers were to cover their windows if there is time depending on where the threat is located.²⁰⁴ Mr. Porter admitted that, unlike locking classroom doors, there was no policy – written or unwritten – that teachers were to cover the door windows, and so the Security Team did not check to see if teachers were covering their door windows.²⁰⁵

Mr. Greenleaf also confirmed there was no requirement for teachers to cover their door windows.²⁰⁶ Principal Thompson stated that the MSD staff received mixed messages from SIU on procedure to cover the classroom door windows; for example, to cover the window fully versus not covering if the threat was within the classroom.²⁰⁷ Principal Thompson stated that, as a result, it was discussed during the Code Trainings that teachers should partially cover the three-quarters of the window to create more of a safe zone.²⁰⁸ However, Campus Monitor Taylor explained that after the Code Trainings, the security team “encouraged our teachers to put cardboard or construction paper on their windows with only, you know, like a one inch sliver so that, you know, if emergency personnel can see in there, if anybody was in there, but nobody could see around the corner from the doors; and some teachers did.”²⁰⁹

When asked how teachers were supposed to cover their door windows, Mr. Greenleaf explained that they would put something in the window, like a piece of cardboard.²¹⁰ Mr. Greenleaf stated that there was nothing in place at MSD as of February 14, 2018, such as a curtain, for teachers to cover the classroom door window.²¹¹ Mr. Greenleaf also stated that after the Code Trainings he never had any conversations with Mr. Porter on how to implement the covering door windows portion of the Code Trainings since there was no mechanism in place to quickly close the windows.²¹² Assistant Principal Denise Reed, who oversaw MSD campus security in the 2013-14 school year,²¹³ stated that teachers were generally not allowed to cover their door windows, except during a Code Red.²¹⁴ Assistant Principal Jeff Morford, who oversaw MSD campus

²⁰² Safe Team Code Train. Pres. at 9 at App. 13; Faculty Code Train. Pres. at 9 at App. 14.

²⁰³ Porter, 05.22.19, 49:17-25.

²⁰⁴ Porter, 05.22.19, 51:6-21.

²⁰⁵ Porter, 05.22.19, 50:14-25.

²⁰⁶ Greenleaf, 05.15.19, 41:18-22.

²⁰⁷ Thompson, 08.22.18, 36:4-16.

²⁰⁸ Thompson, 08.22.18, 36:21-25.

²⁰⁹ Taylor, 09.06.18, 16:12-18.

²¹⁰ Greenleaf, 05.15.19, 39:22-25; 40:1-6.

²¹¹ Greenleaf, 05.15.19, 41:8-17.

²¹² Greenleaf, 05.15.19, 41:23-25; 42:1-4.

²¹³ Reed, 05.29.19, 19:5-8.

²¹⁴ Reed, 05.29.19, 29:20-25; 30:1-10.

security the 2015-2017 school years,²¹⁵ also confirmed teachers were generally not allowed to cover their door windows.²¹⁶ However, Mr. Porter stated that if a teacher covered his/her window pre-Incident, “it would just be in place.”²¹⁷ Ms. Reed stated that the District did not provide any materials to cover the door, but that such materials could have been requested by the Assistant Principal in charge of security to the Principal, and then the Principal would need to find funds to purchase the materials from the school budget.²¹⁸ Mr. Morford also stated that no materials were provided to teachers to cover their door windows and that providing such materials would be a budgetary issue, which Principal Thompson oversaw.²¹⁹ Thus, as of the day of the Incident, there was confusion among the administration regarding how classrooms door windows should and could be covered generally and/or during a Code Red situation.

(3) Safe Area of the Classroom: “Move away”

Marking “hard” or “safe” corners was likewise not a requirement. The Code Training materials make no mention of “hard” or “safe” corners, nor instructs that said corners should be marked with tape or otherwise.²²⁰ Principal Thompson confirmed that teachers were free to set-up their classrooms in a manner conducive to their desired learning environment.²²¹ At least one Campus Monitor does not believe the Code Trainings said anything specifically about taping the floor.²²² Yet, moving away to the furthest corner away from the doors was discussed during the Code Trainings.²²³ By account of one Campus Monitor, after the Code Trainings, Mr. Porter and Mr. Greenleaf “were going around seeing where the best place would be to avoid being seen through that little glass window on the door.”²²⁴ Putting a “tape zone” to mark the safe corners was something that was being discussed between Mr. Porter and Mr. Greenleaf after the Code Trainings and prior to February 14, 2018, but not required.²²⁵ According to a Campus Monitor, only two classrooms in Building 12 had taped or marked “hard” or “safe” corners because the Security Team was testing that procedure.²²⁶ Principal Thompson was surprised that any teacher had taped the floor to indicate the safe corner because doing so was not discussed during the Code Trainings; rather, if a classroom was marked, it was because the teacher took the initiative to do so after the Faculty Code Training.²²⁷

²¹⁵ Morford, 05.29.19, 13:11-20.

²¹⁶ Morford, 05.29.19, 31:15-25.

²¹⁷ Porter, 05.22.19, 50:1-5.

²¹⁸ Reed, 05.29.19, 30:11-25; 31:1-16.

²¹⁹ Morford, 05.29.19, 30:24-25; 31:1-16.

²²⁰ See Safe Team Code Train. Pres. at App. 13; Faculty Code Train. Pres. at App. 14.

²²¹ Thompson, 08.22.18, 30:22-23.

²²² Taylor, 09.06.18, 18:11-14.

²²³ Porter, 05.22.19, 51:25; 52:1-9; Morford, 05.29.19, 33:15-20; Taylor, 09.06.18, 16:1-10; Johnson, 08.24.18, 14:2-7. See also Osio, 02.20.18, p. 12 (while in Building 12 during the Incident, her teacher, Ms. Lazaro, had the students down at the corner of the classroom).

²²⁴ Taylor, 09.06.18, 16:3-9; 18:19-25; 19:1-5.

²²⁵ Taylor, 09.06.18, 16:3-7; 17:19-25; 18:1-10.

²²⁶ Taylor, 09.06.18, 17:19-25; 18:1-10.

²²⁷ Thompson, 08.22.18, 34:1-20.

Findings as to Allegation No. 7

It is alleged that Mr. Porter “[f]ailed to ensure that Det. Butler’s Code Red Training held on Jan. 11, 2018 was followed and implemented by all teachers (i.e., window coverings, marking hard corners) prior to Feb. 14, 2018.”²²⁸

While Mr. Porter has the duty to “[m]anage and delegate tasks while consistently demonstrating fiscal efficiency,”²²⁹ as well as “[e]stablish the job assignments and supervise all assigned personnel,”²³⁰ it is undisputed that Mr. Porter did not assign the organization or coordination of code training to Security Specialist Greenleaf, whom he supervised.²³¹

Rather, the preponderance of the evidence shows that Principal Thompson assigned campus security, which included coordination of code trainings and drills (although there does not appear to be a formal list of duties associated with security) to Assistant Principal Porter during the 2017-18 school year. Moreover, the evidence shows that SIU was responsible for performing code trainings, as well as intimately involved in the scheduling and conducting of code drills.

With respect to ensuring the Code Red portion of the Trainings were implemented by the teachers, I found no BCPS policy or requirement that all aspects of the Code Red Training were to be implemented by teachers in the classrooms as of February 14, 2018.

While there was no written policy requiring classroom doors to be locked, it was an established rule (even before the Code Trainings, but more so after the Code Trainings). A preponderance of the evidence shows that Mr. Porter instructed Mr. Greenleaf as well as the Campus Monitors to regularly check and enforce the locking of classroom doors (Code Red recommendation No. 1– “Lock doors”).

As for covering classroom door windows, there was no written policy or rule that teachers must cover their classroom door windows, nor were teachers provided with materials to use to cover the window. Mr. Porter stated that “there was no firm policy that said cover your windows[;]” rather, Detective Butler of SIU said “[i]f you have time cover your window depending on where the threat is.”²³² While covering the door window was discussed with faculty as part of the Code Trainings, there was confusion on how and how much to cover the windows. Principal Thompson stated that the MSD staff received mixed messages from SIU on procedure to cover the classroom door windows; for example, to cover the window fully versus not covering if the threat was within the classroom.²³³ Principal Thompson stated that, as a result, it was discussed during the Code Trainings that teachers should partially cover the three-quarters of the window to create more of a safe zone.²³⁴ However, it appears that administrators, teachers, and the Security Team

²²⁸ See Allegations Asserted at No 7, *supra* pp. 8.

²²⁹ AP Job Description & Essential Perf. Responsibilities No. 19, *supra* 10.

²³⁰ AP Job Description & Essential Perf. Responsibilities No. 30, *supra* 10.

²³¹ Greenleaf, 05.15.19, 43:21-25; 44:1-8; Thompson, 08.22.18, 32:3-15, 22-25; 33:2-6.

²³² Porter, 05.22.19, 50:23-25; 51:6-13.

²³³ Thompson, 08.22.18, 36:4-16.

²³⁴ Thompson, 08.22.18, 36:21-25.

were still unsure as to how to properly implement this particular Code Red Training recommendation (No. 2 – “cover window”) in the classrooms as of February 14, 2018.

I could not find any written policy or rule requiring that the safe or “hard” corners of the classroom be marked with tape (Code Red recommendation No.3– “move away”). The Code Trainings materials make no mention of taping-off the safe corners of the classroom and there is no witness statements that physically marking the safe corner with tape on the floor was discussed during the Code Trainings, let alone a procedural instruction. At least one witness recalls that only some classrooms had taped-off the safe or “hard” corners as a test during the development of best practices after the Code Trainings while Mr. Porter and Mr. Greenleaf were “spit balling” implementation ideas.²³⁵

As discussed above, a Building 12 teacher who was within third-floor classroom the day of the Incident stated that upon completion of the Faculty Code Training the MSD administration was “clear” that they wanted teachers to go back to their classes and drill their students on a Code Red.²³⁶ In fact, this particular teacher trained his students on Code Red and what their behavior is supposed to be like, and states that is why his students knew what to do the day of the Incident.²³⁷ This teacher believes it was because of the Faculty Code Training that he and his students were prepared the day of the Incident and “it saved lives.”²³⁸

Based on the foregoing, the preponderance of the evidence supports that Mr. Porter instructed teachers to implement the recommendations provided by SIU during the Faculty Code Training. Even with the confusion regarding how much to and what to use to cover the door window, the evidence does not support that Mr. Porter failed to “[a]ssist in managing the school, operations, and facilitates in ways that maximize the use of resources to promote a safe . . . learning environment,”²³⁹ nor failed to “[a]ssist in employing an improvement cycle for operational problems that analyzes results, identifies root causes and takes corrective action”²⁴⁰ regarding the implementation of the Code Red Training recommendations by teachers within the classrooms. Consequently, Mr. Porter did not violate any BCPS policy, procedure, or Essential Performance Responsibility with respect to Allegation No. 7.

Findings as to Allegations No. 8

On the other hand, the preponderance of the evidence supports that Mr. Porter “[f]ailed to ensure [he] and MSDHS personnel understood when and how to call a Code Red.”²⁴¹ Once the Code Trainings were conducted, Mr. Porter had a duty to “[a]ssist in managing the school,

²³⁵ Taylor, 09.06.18, 17:19-25; 18:1-10

²³⁶ S.Johnson, 08.24.18, 5:24-25; 6:1-3; 10:19-23.

²³⁷ S.Johnson, 08.24.18, 6:14-19; 7:6-19.

²³⁸ S.Johnson, 08.24.18, 7:6-19.

²³⁹ AP Job Description & Essential Perf. Responsibilities No. 16, *supra* 10.

²⁴⁰ AP Job Description & Essential Perf. Responsibilities No. 18, *supra* 10.

²⁴¹ See Allegations Asserted at No. 8, *supra* p. 8.

operations, and facilitates in ways that maximize the use of resources to promote a safe . . . learning environment,”²⁴² by ensuring that MSD staff understood when and how to call a Code Red.

Even prior to the Code Red Trainings, Mr. Porter was on notice that there was an operational problem at MSD with who, when, and how a Code Red could be called or otherwise published to the MSD campus. To that end, Mr. Porter, upon being assigned campus security during the 2017-18 school year, had a duty to “[a]ssist in employing an improvement cycle for [such] operational problem,” by “identif[y]ing root causes and take[ing] corrective action.”²⁴³ On December 15, 2017, Mr. Wexler met with Mr. Porter and discussed his observations based on the site survey and examination of some of MSD’s procedures and policy.²⁴⁴ Mr. Wexler stated that, during the meeting, he specifically raised concerns regarding MSD’s communications, control command/hierarchy, and who can call a Code Red and how (among other concerns).²⁴⁵ In particular, Mr. Wexler stated that as of December 15, 2017, only the administration or Principal could call a Code Red at MSD and that he advised Mr. Porter that any adult should be able to call a Code Red.²⁴⁶ Mr. Porter corroborated Mr. Wexler’s account, acknowledging that, as a result, he “got clarification from SIU and we confirmed that anyone could call [a Code Red].”²⁴⁷ However, Mr. Porter did not seek or obtain clarification from SIU regarding *when* and *how* to call a Code Red and otherwise failed to “identify root causes and take corrective action regarding this operational problem.”²⁴⁸

Although the Code Training Presentations reflect that MSD Safe Team members and Faculty were instructed that anyone *can* call a Code Red,²⁴⁹ the evidence shows that as of February 14, 2018 MSD personnel did not know *when* or *how* to call a Code Red.

For example, while SIU Detective Butler instructed the staff that anybody *can* call a Code Red, stating: “whoever is closest to the threat[;] if you see the threat, you make the call[;] you try to get the word out.”²⁵⁰ One Campus Monitor (Medina) believed he could only call a Code Red *when* he saw a gun.²⁵¹ Similarly, although Mr. Greenleaf recalls hearing Mr. Butler and Mr. Porter instruct during the Code Trainings that “anyone can call a Code Red; [a]nyone who sees a threat *can* call a Code Red,”²⁵² at least five (5) Campus Monitors who admitted hearing or must have heard gunshots the day of the Incident, failed to call a Code Red for a variety of known and

²⁴² AP Job Description & Essential Perf. Responsibilities No. 16, *supra* 9

²⁴³ AP Job Description & Essential Perf. Responsibilities Nos. 18, 37, *supra* 9.

²⁴⁴ Wexler, 06.22.18, 14:10-17, 19-21; 16:4-22; 18:17-22; 22:218-23; 34:4. *See also* Porter 08.22.18, pp. 50-53.

²⁴⁵ Wexler, 06.22.18, 18:17-22; pp. 23-43. *See also* Greenleaf, 09.05.18, 67:20-22; 68:5-25; 69:2-7; Porter, 08.22.18, 52:1-14.

²⁴⁶ Wexler, 06.22.18, 35:14-25; 36:1-3; 37:18-19; p.62.

²⁴⁷ Porter, 08.22.18, 52:1-7.

²⁴⁸ AP Job Description & Essential Perf. Responsibilities Nos. 18, 37, *supra* 9.

²⁴⁹ *See* Safe Team Code Train. Pres. at 10; Faculty Code Train. Pres. at 10; Butler, 09.07.18, 11:12-14; 12:4-7; Thompson, 08.22.18, 40:18-21.

²⁵⁰ Butler, 09.07.18, 11:12-14; 12:4-7.

²⁵¹ Medina, 09.06.18, 42:10-18, 25 (it bears to note that Medina’s account is inconsistent with other statements about how the MSD faculty and staff were trained at the Code Trainings, as well as the Training materials themselves, and Detective Butler’s statement at Butler, 09.07.18, 11:12-14; 12:4-7; but it does show his belief as to when he could have called a Code Red, albeit mistaken).

²⁵² Greenleaf, 05.15.19, 66:20-25; 67:1-7 (emphasis added).

unknown reasons.²⁵³ This evidences an operational problem or basic misunderstanding on *when* and *how* to call a Code Red.

In addition, although most administrators stated that their understanding as of February 14, 2018 was that anyone *can* call a Code Red,²⁵⁴ they were inconsistent on *how* to call the Code Red: some said anyone with a radio can call a Code Red (although there are only limited radio-holders on campus),²⁵⁵ others said teachers can use a personal cell phone to call the office,²⁵⁶ while others said teachers can use the PA call button or panic button.²⁵⁷

Although, Detective Butler stated that the safest way for a teacher to call Code Red is to call the office,²⁵⁸ as of February 14, 2018, one teacher from within Building 12 the day of the Incident believed that only an administrator can call a Code Red and teachers would have to use their phone to call the office in a life-threatening emergency.²⁵⁹

As of February 14, 2018, there was significant confusion among the administration, faculty, and staff regarding *when* and *how* different personnel could call a Code Red when faced with a threat, which created a known operational problem in the implementation of the Code Red Trainings at MSD while campus security was Mr. Porter's Assigned Duty. Consequently, a preponderance of the evidence supports that Mr. Porter violated Assistant Principal Essential Performance Responsibilities Nos. 16 and 18 with respect to Allegation No. 8. Further investigation may be warranted into the development, implementation, and oversight of the Code Trainings materials and instructions provided to the MSD staff by SIU and whether they provided the MSD administration with sufficient guidance and information regarding when and how to call a Code Red, so the same could have been adequately implemented.

²⁵³ *i.e.*, Monitor Medina, 42: 10-15, 25 (stating he thought he had to see (rather than hear) a gun); Monitor Staubly, 21:2-9 (stating he was focused on getting the kids out); Taylor, pp. 47-48, (stating he tried to, but then locked down within Building 12); Monitor Hixon (deceased) (despite gunshots recorded via cell phone videos taken within classroom 1215 at 2:22:13 p.m., Hixon entered Building 12 at 2:22:48 p.m. without first calling a Code Red for unknown reasons (MSD Comm'n In. Rep., 01.02.19, at pp. 26, 27); Monitor Feis (deceased) (also despite gunshots recorded from within classroom 1215 at 2:22:13 p.m., attempted to enter Building 12 at 2:23:25 p.m. without first calling a Code Red for unknown reasons, and also after student Chris McKenna reported to him (MSD Comm'n In. Rep., 01.02.19, at p. 28); Chris McKenna stated that N. Cruz told him "you better get out of here, something bad is about to happen" while loading his rifle in the stairwell (MSD Comm'n In. Rep., 01.02.19, at p. 25).

²⁵⁴ Greenleaf, 09.05.18, 59:3-9; Porter, 08.22.18, 24:3-10; 32:9-25; 33:1-5; Figueroa, 08.22.18, 20:7-12, 20-25; Rosario, 08.22.18, 14:20-24; 15:5-11; Morford, 08.22.18, 17:1-7.

²⁵⁵ Figueroa, 08.22.18, 20:7-12; Morford, 08.22.18, 17:1-7;

²⁵⁶ Porter, 08.22.18, 32:9-25; 33:1-18; Figueroa, 08.22.18, 20:20-25; Thompson, 08.22.18, 41:8-22.

²⁵⁷ Greenleaf, 09.05.18, 60:17-25; 61:1-2; Rosario, 08.22.18, 15:5-11; Thompson, 08.22.18, 41:8-22.

²⁵⁸ Butler, 09.07.18, 56:13-24.

²⁵⁹ S.Johnson, 08.24.18, 8:3-7, 11-13.

(v) Code Red Drill

The Essential Performance Responsibilities for an Assistant Principal include “[p]erform other duties as assigned by the Principal, consistent with the goals and objectives of the position.”²⁶⁰ Organization of school safety programs and drills were assigned by Principal Thompson to a Assistant Principal Porter, to be coordinated with SIU.²⁶¹

As of February 14, 2018, I could not find any BCPS policy requiring that schools conduct drills on any of the codes, let alone Code Red. Mr. Greenleaf confirmed that in the 2017-18 school year, it was Mr. Porter who advised Mr. Greenleaf when a drill was to be conducted.²⁶² Mr. Greenleaf was not sure, however, whether the decision to conduct a drill came from Mr. Porter or the Principal.²⁶³

Mr. Porter, while admitting he had not organized a Code Red drill as of February 14, 2018, stated that he had not done so as of said date because “there was no policy pre-Incident that said a Code Red drill needs to be conducted as frequently as any other fire drill or . . . tornado drill. . . .”²⁶⁴ Mr. Porter explained that he could conduct a code drill at any point through the course of the year and that was something he was working on with Detective Butler; and that he and Principal Thompson were pushing for a Code Red drill prior to the Incident.²⁶⁵ Principal Thompson also stated that BCPS wants some type of code drill done once a year and that such drill is to be coordinated with SIU.²⁶⁶ Principal Thompson confirmed that no Code Red drill had been completed prior to the Incident, stating that a Code Red drill was planned, but a date not yet set before MSD was faced with the live scenario.²⁶⁷

However, Assistant Principal Reed indicated that SIU decides what code will be drilled; stating, “It’s all up to them [SIU]; [t]hey’re responsible for what we practice.”²⁶⁸ Ms. Reed (at MSD since 2010), also stated that while she was the Assistant Principal overseeing security (the 2013-14 school year), she brought in some SWAT members from the Broward County Sheriff’s Office to conduct an active shooter presentation, and BCPS’ SIU was also present.²⁶⁹ Mr. Greenleaf (at MSD since 2011) and Mr. Morford (at MSD since 2013) also recall this voluntary active shooter training during the 2013-14 school year.²⁷⁰ Ms. Reed reported that although she wanted to conduct an active shooter live training, SIU said she could not and, instead, required her to conduct a Code Black drill (*i.e.*, evacuation due to bomb threat)²⁷¹ during the 2013-14 school

²⁶⁰ AP Job Description & Essential Perf. Responsibilities, No. 37 at App. 6.

²⁶¹ Greenleaf, 05.15.19, 43:21-25; 44:1-8; Thompson, 08.22.18, 32:3-15, 22-25; 33:2-6.

²⁶² Greenleaf, 05.15.19, 43:21-25; 44:1-4.

²⁶³ Greenleaf, 05.15.19, 43:21-25; 44:1-4.

²⁶⁴ Porter, 05.22.19, 52:19-25; 53:1-8.

²⁶⁵ Porter, 05.22.19, 52:22-25.

²⁶⁶ Thompson, 08.22.18, 39:5-9.

²⁶⁷ Thompson, 08.22.18, 37:22-24; 47:12-21.

²⁶⁸ Reed, 05.29.19, 51:25; 52:1-6.

²⁶⁹ Reed, 05.29.19, 50:18-25; 51:1-7.

²⁷⁰ Morford, 05.29.19, 15:25; 16:1-9; Greenleaf, 05.15.19, 9:6-25; 10:1-20.

²⁷¹ See Greenleaf, 05.15.19, at Ex. 2, p. 2.

year.²⁷² Mr. Morford recalls Ms. Reed being upset about not being allowed to conduct an active shooter training, although, he cannot recall specifics.²⁷³

It is undisputed that a Code Red drill was intended to be conducted sometime after the Faculty Code Training held on January 11, 2018.²⁷⁴ With respect to a Code Red drill, Detective Butler confirmed that since the Safe Team and Faculty had been trained, the drill was next; but, the Incident happened first.²⁷⁵ However, it is unknown whether a date certain had been scheduled for such Code Red Drill.²⁷⁶

Unfortunately, the MSD community never had the opportunity to conduct a Code Red drill before they were tested with a real crisis on February 14, 2018.

Findings as to Allegations No. 9

It is alleged that Mr. Porter “[f]ailed to require or conduct Code Red drills from Feb. 14, 2017 up to and including Feb. 14, 2018.”²⁷⁷

As an initial matter, campus security was only one of Mr. Porter’s Assigned Duties during the 2017-18 school year. Thus, to the extent the Assistant Principal assigned to oversee security was responsible for requiring or conducting a Code Red drill, Mr. Porter would not have assumed that responsibility from February 14, 2017 through August 20, 2017 (the day before the first day of school 2017-18),²⁷⁸ as alleged. Rather, Mr. Morford oversaw security during the 2016-17 school year (including from February 14, 2017 through August 20, 2017).

Although Mr. Porter has the duty to “[m]anage and delegate tasks while consistently demonstrating fiscal efficiency,”²⁷⁹ as well as “[e]stablish the job assignments and supervise all assigned personnel,”²⁸⁰ it is undisputed that Mr. Porter did not assign the organization or coordination of code drills to Security Specialist Greenleaf, whom he supervised.²⁸¹

There is conflicting information as to who was responsible for organizing and performing code drills: Mr. Greenleaf says it was Mr. Porter or Principal Thompson, Mr. Porter says he organized drills according to BCPS policy, and Ms. Reed says SIU decides what and when to code

²⁷² Reed, 05.29.19, 51:2-22.

²⁷³ Morford, 05.29.19, 15:25; 16:1-9.

²⁷⁴ Staubly, 09.05.18, 32:20-22; Taylor, 09.06.18, 31:3-16; Figueroa, 08.22.18, 23:22-23; Reed, 08.22.18, 17:22-25; 18:10-22; 27:4-7, 8-7; Morford, 08.22.18, 14-15; Porter, 08.22.18, 53:8-14; Thompson, 08.22.18, 37:22-24; 47:12-21; Butler, 09.07.18, 8:22-25; 9:3-5.

²⁷⁵ Butler, 09.07.18, 8:22-25; 9:3-5.

²⁷⁶ Thompson, 08.22.18, 47:12-21.

²⁷⁷ See Allegations Asserted at No. 9, *supra* p. 8.

²⁷⁸ See BCPS 2017-18 School Calendar, available at <https://www.imagineschoolathroward.org/school-updates/my-post>.

²⁷⁹ AP Job Description & Essential Perf. Responsibilities No. 19, *supra* 10.

²⁸⁰ AP Job Description & Essential Perf. Responsibilities No. 30, *supra* 10.

²⁸¹ Greenleaf, 05.15.19, 43:21-25; 44:1-8; Thompson, 08.22.18, 32:3-15, 22-25; 33:2-6.

drill. Principal Thompson says that the code training is performed by SIU and then the code drill is coordinated with SIU. Thus, it is unclear as to whether the responsibility or duty to conduct a Code Red drill rested upon Mr. Porter, Principal Thompson, or SIU, and/or shared by all three. Further investigation may be warranted into the development, implementation, and oversight of trainings performed by SIU at schools, such as code trainings. Notwithstanding, as of February 14, 2018, I could not find any BCPS policy requiring that schools conduct drills on any of the codes, let alone Code Red. While the Emergency Preparedness Manual in effect in 2017-18 contains drill requirements for fires and tornadoes, it does not contain a Code Red drill requirement. Moreover, Principal Thompson stated that BCPS wants some type of code drill done once a year and that such drill is to be coordinated with SIU.²⁸² Mr. Porter corroborated such understanding, stating that he could conduct a code drill at any point through the course of the school year.²⁸³ Since as of February 14, 2018 there were approximately four months left in the 2017-18 school year, Mr. Porter still had an opportunity to coordinate a code drill to comply with pre-Incident existing (unwritten) BCPS policy noted by Principal Thompson (although, it could have been any code color and not necessarily red).

Based on the foregoing, there is insufficient evidence to support that Mr. Porter failed to require or conduct Code Red drills from Aug. 21, 2017 up to and including Feb. 14, 2018, as alleged; thus, Mr. Porter did not violate any BCPS policy, procedure, or Essential Performance Responsibility with respect to the same.

(vi) **Calling Code Red Over the School Radio and P.A. the Day of the Incident**

(a) ***MSD School Radio and P.A. System***

It is undisputed that the MSD school radio system on February 14, 2018 had no recording capability and suffered from clogging when multiple people attempted to use the system. This is evidenced by the wide variety of witness accounts as to what was heard (or not heard) transmitted through the school radio the day of the Incident; witnesses described the radio traffic as hectic during the Incident.²⁸⁴ That being said, it is highly likely that many communications were attempted to be transmitted or “called” over the school radio that were not received or acknowledged by all radio-holders the day of the Incident. Moreover, multiple witnesses reported that SRO Scot Peterson instructed everyone to get off the school radio.²⁸⁵

In describing the operation of the school radio system, one teacher stated “there’s been plenty of times I’m standing next to a fellow co-worker who also has a radio, and there’s something that’s broadcast over the radio and it goes over one radio but not the other; so that’s a very common thing that still happens today.”²⁸⁶ Mr. Porter similarly stated that “if multiple people are trying to communicate . . . it gets clogged up[;] [t]he communication doesn’t come through.”²⁸⁷

²⁸² Thompson, 08.22.18, 39:5-9.

²⁸³ Porter, 05.22.19, 52:22-25.

²⁸⁴ Porter, 08.22.18, 41:13-24; Morford, 05.29.19, 40:19-20; Taylor, 09.06.18, 47:16-23; Ramos, 09.05.18, 23:8-25, Greenleaf, 05.15.19, 61:5-8; Reed, 05.29.19, 55:16-17.

²⁸⁵ Reed, 05.29.19, 55:18; Greenleaf, 05.15.19, 61:9-12; Ramos, 09.05.18, 26:1-3.

²⁸⁶ Rule, 05.15.19, 5:11-20.

²⁸⁷ Porter, 08.22.18, 41:17-21.

Review of footage captured by MSD exterior surveillance cameras the day of the Incident shows that many radio-holders, including Mr. Porter, held up their radios to their mouths as if transmitting or attempting to transmit communication. However, confirmation of who said what and when is nearly impossible without audio recording.

There are discrepancies among witness statements with regard to what was heard over the school radio, as well as transmitted or “called” over the radio, the day of the Incident. However, four witnesses, including Mr. Porter, stated that the first Code Red heard over the school radio was transmitted by Campus Monitor Bonner, after he confirmed the sounds coming from Building 12 were gunshots, not firecrackers.²⁸⁸

A review of exterior surveillance camera footage from February 14, 2018 corroborates Monitor Bonner’s account of when he called a Code Red.²⁸⁹ For example, the footage of, and statement by, a teacher located by the tennis courts (on the west side of campus and Building 12), and her reaction to a transmission received over the school radio at approximately 2:24:57 p.m. corroborates Bonner’s account of when he called a Code Red over the radio.²⁹⁰ Observations of students who were captured by surveillance cameras leaving campus and then running back to go into classrooms in what appears to be a panic – into Building 2 at approximately 2:24:57 p.m., Building 9 at approximately 2:25:03 p.m., and Building 6 at approximately 2:25:09 p.m. – also corroborate that Bonner’s Code Red was the first Code Red transmitted over the radio at approximately 2:24:54 p.m.²⁹¹

As of February 14, 2018, MSD had a P.A. system that works like an intercom used to broadcast communications to the classrooms.²⁹² The P.A. control tower has a microphone and is located at the front of Building 1/Administration, adjacent to the reception area and the door to Assistant Principal Reed’s office.²⁹³ To broadcast communications over the P.A. system into the classrooms, one could either use the microphone at the tower in Building 1, or use a telephone to

²⁸⁸ Greenleaf, 09.05.18, 14:11-19; 21:8-11 (stating Bonner called code red); Greenleaf, 05.15.19, 63:1-9 (stating he heard Bonner call code red over the radio); Porter, 08.22.18, 33:20-24 (stating he heard Bonner call a code red over the radio); Porter, 05.22.19, 63:19; 66:14-15; 67:11-13 (stating, “I heard Coach Bonner call a code red;” Bonner “was the first person that I heard call a code red;” “I remember very vividly that the first person that I heard was Elliot Bonner”); Taylor, 09.06.18, 37:12-20 (stating “I heard Coach Bonner call it [code red]”); Medina, 09.06.18, 111:1-4, 17-23 (stating he heard Bonner call a code red over the radio when he “was the only voice” on the radio at that time); Rule, 04.01.19, 4:14-25; 5:1, 3-4 (stating she heard a male, boisterous voice say “code red, code red . . . two times, and it came through loud and clear over the radio”).

²⁸⁹ Compare Bonner, 09.05.18, 17:9-17, with Surveillance from Building 13, Camera 55 at 2:24:54-56 p.m.

²⁹⁰ See Rule, 04.01.19, 3-5; Surveillance from Building 9, Camera 38, at 2:24:57-58 p.m.

²⁹¹ Surveillance from Building 1, Camera 9 at 2:24:57 p.m.; Surveillance from Building 1, Camera 10 at 2:24:57 p.m.; Surveillance from Building 9, Camera 38 at 2:25:03 p.m.; Surveillance from Building 6, Camera 60 at 2:25:09 p.m.

²⁹² Porter, 09.25.18, 6-13.

²⁹³ Porter, 08.22.18, 35:19-22; Porter, 09.25.18, 6:7-16; Porter, 05.22.19, 61:20-23; 62:25: 63:1-4; Ex. 3; Reed, 05.29.19, 16: 3-8; Ex. 3.

dial in and input a code.²⁹⁴ According to Mr. Porter, to use the microphone, you “just press . . . turn it on, hit mic, pick it up, turn that on, and talk.”²⁹⁵

(b) Whether Mr. Porter Called a Code Red Over the School Radio and/or the P.A.

During his first interview by the MSD Commission investigator, Detective Bonasaro, Mr. Porter was asked how a Code Red procedure would be initiated pre-Incident.²⁹⁶ Mr. Porter stated as follows:

I would say that someone notifies you that there's a suspicious – the suspicious activity on campus and Administration will be made aware of it. . . we'd get on the P.A. and make an announcement, teachers and students please be advised this is Code Red and then there would be a lockdown; [l]aw enforcement will be contacted simultaneously.²⁹⁷

Mr. Porter further explained how a Code Red would be initiated: “if I'm the one that's seeing it, I'd say Code Red on the radio; [a]nd whoever is near the P.A. would then announce on the P.A. because obviously all teachers don't have radios.”²⁹⁸ During his August 22, 2018 interview, Mr. Porter stated that after he heard Campus Monitor (or Coach) Bonner say Code Red, “then I said Code Red, and then I said it on the P.A.”²⁹⁹ Explaining his actions the day of the Incident, Mr. Porter again stated, “when I heard Coach Bonner call Code Red, I ran back up to the [P.A.] panel and called – you know, back up to the microphone [of the P.A.] and called Code Red.”³⁰⁰

Detective Bonasaro conducted a follow-up interview of Mr. Porter on September 25, 2018.³⁰¹ During the interview, Mr. Porter was shown a three-minute clip of surveillance video taken from Camera 49 within the MSD front office.³⁰² Mr. Porter identified himself on the video and proceeded to explain his actions as shown on the video, which initially included checking the fire panel within SRO Peterson's office, grabbing his radio, and calling evacuation over the P.A.³⁰³ Mr. Porter then again states that he was prompted to call Code Red “[w]hen I heard Coach Bonner

²⁹⁴ Porter, 08.22.18, 35:23-25; 36:1-12.

²⁹⁵ Porter, 08.22.18, 36:10-12.

²⁹⁶ Porter, 08.22.18, 32:9-11.

²⁹⁷ Porter, 08.22.18, 32:12-22.

²⁹⁸ Porter, 08.22.18, 33: 7-18.

²⁹⁹ Porter, 08.22.18, 34: 12-13.

³⁰⁰ Porter, 08.22.18, 37:6-8. *See also* Porter, 08.22.18, 36:3-12 (explaining how to broadcast over the P.A., he would use a microphone).

³⁰¹ Porter, 09.25.18 at App. 4 (Mr. Porter's counsel was present).

³⁰² Porter, 09.25.18, 3:14-21; 5:20.

³⁰³ Porter, 09.25.18, 3:22-23; pp. 4-6.

say Code Red on the radio.”³⁰⁴ Mr. Porter states that he then went to the P.A. and called Code Red over the P.A.³⁰⁵

Mr. Porter again stated, under oath, during his May 22, 2019 interview that Coach Bonner “was the first person that I heard call a Code Red.”³⁰⁶ Mr. Porter’s account of his actions the day of the Incident was consistent with his two prior statements. Mr. Porter explained once he heard Bonner call Code Red over the radio he started calling Code Red over the radio.³⁰⁷ At least one witness believes she may have heard Mr. Porter’s voice call a Code Red over the radio, as well.³⁰⁸ Then, Mr. Porter opened the door to let in students and staff members who were standing outside because he “wanted them to be safe,” and “didn’t know what the threat was.”³⁰⁹ Next, he went to the P.A. system and he called “a Code Red over the P.A.”³¹⁰

Video surveillance from within Building 1 appears to corroborate most of Mr. Porter’s statements.³¹¹ At approximately 2:25:22 p.m., Mr. Porter is seen approaching the P.A. system tower and holding up his radio (this is less than a minute since Bonner called Code Red over the radio – the first Code Red Mr. Porter heard).³¹² This is when Mr. Porter states he called “a Code Red over the P.A.”³¹³ At 2:25:31 p.m., Mr. Porter is seen standing by the P.A. system appearing to speak into his radio.³¹⁴ Thereafter, Mr. Porter is observed opening the door to Building 1 to let in several students.³¹⁵ Observations of students who were captured by surveillance cameras leaving campus and then running back to go into classrooms in what appears to be a panic by Building 1 at approximately 2:25:27 p.m., corroborates that in Mr. Porter’s statement that he called Code Red over his radio and the P.A. after Bonner, at 2:25:22 p.m.³¹⁶

Findings as to Allegation No. 10

It is alleged that Mr. Porter “[f]ailed to call a Code Red over the P.A. and/or school radio system until 2:25:22 p.m.”³¹⁷

³⁰⁴ Porter, 09.25.18, 8:8-11.

³⁰⁵ Porter, 09.25.18, 8:15-25; 9:12.

³⁰⁶ Porter, 05.22.19, 66:11-15.

³⁰⁷ Porter, 05.22.19, 63:19-21; 66:16-19.

³⁰⁸ Figueroa, 08.22.18, 31:1-3.

³⁰⁹ Porter, 05.22.19, 64:1-2; 66:16-25.

³¹⁰ Porter, 05.22.19, 64:11-12.

³¹¹ Surveillance from Building 1, Camera 49.

³¹² Surveillance from Building 1, Camera 49, at 2:25:23 p.m.

³¹³ Porter, 05.22.19, 64:11-12.

³¹⁴ Surveillance from Building 1, Camera 49, at 2:25:31 p.m.

³¹⁵ Surveillance from Building 1, Camera 49 at 2:25:34-39 p.m.

³¹⁶ Surveillance from Building 1, Camera 10 at 2:25:27 p.m.

³¹⁷ See Allegations Asserted at No. 10, *supra* p. 8.

It is undisputed that the MSD school radio system on the day of the Incident was in high use and transmissions were ineffective. It is possible that a radio holder attempted to transmit information and believed transmission had been effectuated, when no such transmission was received by other radio holders. Due to the lack of audio recording and the overall unreliability of the radio transmission system, as well as the lack of audio on the exterior surveillance cameras, it cannot be determined whether Mr. Porter called or attempted to call a Code Red over the school radio system. While, Mr. Porter is seen holding his radio to his mouth multiple times during the Incident, before and after Bonner's Code Red, it cannot be verified that Mr. Porter successfully transmitted a Code Red over the radio. Although, at least one witness believes she heard Mr. Porter's voice over the radio call a Code Red. The observation through video surveillance of students located throughout the campus supports that the first Code Red called, successfully transmitted, and received over the school radio was Bonner's Code Red at 2:24:54 p.m.

The day of the Incident, it was not until he opened the door to let students into Building 1 after hearing Bonner's Code Red that Mr. Porter heard faint gunshots for the first time.³¹⁸ A preponderance of the evidence shows that Mr. Porter called or at least attempted to call a Code Red over his radio and the P.A. system after 2:25:22 p.m. (less than a minute after Bonner's Code Red) because he had not previously heard Code Red transmitted over the radio; thus, Mr. Porter was unable to call Code Red any earlier. There is insufficient evidence to find that Mr. Porter failed to "make reasonable effort to protect the student from conditions harmful to . . . the student's . . . physical . . . safety," (Fla. Admin. Code R. 6A-10.081(2)(a)1). A preponderance of the evidence supports that the day of the Incident Mr. Porter took "reasonable effort[s] to protect the student[s] [in Building 1] from conditions harmful to . . . the students['] . . . physical . . . safety." Accordingly, Mr. Porter did not violate any BCPS policy, procedure, or Essential Performance Responsibility with respect to Allegation No. 10.

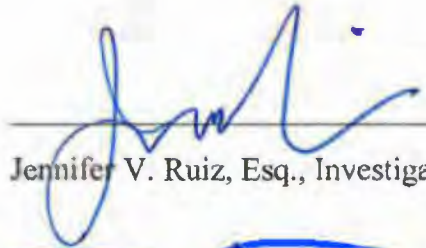
CONCLUSION

For the reasons set forth herein, a preponderance of the evidence does not support that Mr. Porter violated BCPS' Policy 4.9 - *Corrective Action*, Policy 2302 - *Facility Security*, the Emergency Preparedness Manual 2017-2018, Policy 4009.11 – Code of Conduct, or Rule 6A-10.081 of the Florida Administrative Code – *The Principles of Professional Conduct for the Education Profession in Florida* with respect to the Allegations Asserted Nos. 1-7, 9-10.

However, a preponderance of the evidence supports that Mr. Porter violated Nos. 16 and 18 of the Essential Performance Responsibilities of an Assistant Principal in effect as of February 14, 2018 with respect to Allegation Asserted No. 8. Consequently, pursuant to Policy 4.9, just cause exists for corrective action against Mr. Porter as a result of the Allegations Asserted No. 8.


³¹⁸ Porter, 05.22.19, 67:24-25; 68:1-5.

SIGNATURES



Jennifer V. Ruiz, Esq., Investigator

07.16.2019
Date



Barry A. Postman, Esq.

7/16/19
Date