

CITY OF NEW YORK
THE SPECIAL COMMISSIONER OF INVESTIGATION
FOR THE NEW YORK CITY SCHOOL DISTRICT

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January 11, 2005

Hon. Joel I. Klein
Chancellor
New York City Public Schools
Department of Education
52 Chambers Street, Room 314
New York, NY 10007

Re: Francisco Diaz
SCI Case #2004-1989

Dear Chancellor Klein:

An investigation conducted by this office has substantiated that 57-year-old Francisco Diaz, a fireman formerly assigned to PS 219 in Brooklyn, sexually abused and criminally touched several female students, both inside and outside of the New York City public school where he was employed, including Student A and at least one of her cousins.¹

We learned about the allegations against Diaz on August 27, 2004, when Student A's father ("Father A") called the Special Commissioner of Investigation ("SCI") and reported that Student A, [REDACTED], had been subjected to sexual contact by Diaz approximately [REDACTED] years earlier.² According to Father A, on more than one occasion, the subject kissed Student A on the lips and forced his tongue into her mouth, while at the school.³ Father A, [REDACTED], further informed SCI that the subject is his brother-in-law and the uncle of Student A.

Investigators from SCI interviewed Father A in September 2004. Father A stated that in March 2004, he was informed by Student A's mother ("Mother A") that their daughter had made an "outcry" to her detailing unwanted sexual contact by Diaz. According to Mother A, Student A told her that twice, while inside the school building at PS 219, Diaz had kissed her on the lips and

¹ According to TEMCO Service Industries, Diaz resigned his position on August 6, 2004. However, on November 10, 2004, Diaz returned to PS 219 and attempted to start work there again. Diaz was turned away from the school facility on that date, and has since been placed on the DOE's employment ineligible list.

³ In his initial complaint, on August 27, 2004, Father A told SCI that these incidents had taken place approximately [REDACTED] years ago when his daughter was [REDACTED].

forced his tongue into her mouth. Father A further stated that in April 2004, he and his brother, ("Uncle A") confronted the subject about kissing Student A. Father A informed investigators that Diaz not only confessed to kissing Student A at that time, but that the confession was tape recorded by Uncle A with the subject's consent.⁴ Finally, Father A informed investigators he had reason to believe that one of his nieces had also been sexually abused by Diaz. According to Father A, the case involving his niece was brought to the attention of law enforcement authorities in [REDACTED], but he was unaware of the outcome of the case.

Investigators later interviewed Student A, in the presence of Mother A and Father A, at her home. According to Student A, the subject forcibly kissed her on the lips and inserted his tongue into her mouth on three or four occasions while inside the PS 219 school building. In addition, Student A recalled three or four other occasions, outside of the school, when Diaz also kissed her and forced his tongue into her mouth. Student A stated that these assaults began in [REDACTED], while she was [REDACTED], and [REDACTED]. She further recalled that, after assaulting her, the subject would tell her to "forget about it like it never happened," and that he "could get into trouble" if anyone found out. Student A confided in investigators that the subject's behavior made her feel "scared," and "angry," and stated that she had informed her mother of these incidents because they had weighed on her mind and she simply needed to tell somebody.

In an interview with SCI, Uncle A confirmed that he and Father A had confronted the subject, in April 2004, regarding his sexual conduct with Student A. Uncle A informed investigators that, during the meeting, the subject admitted to having sexual contact with Student A and two of her female cousins ("Cousin A1" and "Cousin A2"). Uncle A also stated that he had been informed by his [REDACTED] ("Cousin A3") a [REDACTED] female, that the subject had attempted to kiss her on the lips on two separate occasions when she was approximately [REDACTED].⁵ According to Uncle A, one of the incidents occurred while Cousin A3 was at the subject's residence, and the other took place at their church located in Brooklyn. Uncle A was informed by Cousin A3 that on both occasions, the subject attempted to kiss her on the lips, and on one occasion he placed his hand inside the back of her shirt to caress her neck and shoulders.

Investigators interviewed Cousin A1, a [REDACTED] female, at her home in [REDACTED].⁶ Cousin A1 detailed a regular course of sexual abuse by her uncle, Francisco Diaz, beginning when she was [REDACTED] and continuing until she was approximately [REDACTED]. Cousin A1 recalled that the sexual attacks by Diaz, whom she referred to as "Uncle Frankie," began when she was a child, [REDACTED] living in Brooklyn. According to Cousin A1, Diaz sexually assaulted her approximately thirty times, over the course of approximately six years, by inserting his fingers into her vagina or anus.⁷ On several occasions, Cousin A1 recalled, the subject would masturbate while the abuse took place. Cousin A1 stated that, on one occasion, she and her younger cousin, Cousin A3, were alone with the subject in an otherwise empty

⁴ Father A subsequently delivered the tape recording to SCI.

⁵ Investigators attempted to interview Cousin A3, however she refused to cooperate.

⁶ Cousin A1 [REDACTED] and former student in the City school system. She moved, with her family, [REDACTED].

⁷ According to Cousin A1, the subject assaulted her approximately seven times at the subject's home in Brooklyn; approximately three times while inside his van also in Brooklyn; approximately six times at PS 219 in Brooklyn; and approximately thirteen times while she was living in [REDACTED].

classroom at his school on Clarkson Avenue in Brooklyn. Cousin A1 recalled that she observed Diaz touching Cousin A3 over her pants. Cousin A1 stated that she told Diaz to leave the younger cousin alone and that he could "do it" to her instead. According to Cousin A1, Diaz allowed Cousin A3 to leave the classroom, and then proceeded to sexually assault Cousin A1 by placing his hand within her underwear and inserting his finger into her anus. Cousin A1 also recalled several occasions, within the subject's Brooklyn home, when the subject would blindfold her and subject her to a "taste tester game." During the course of this "game," Diaz would place pieces of fruit to her lips presumably for her to identify them. On one such occasion, Cousin A1 recalled Diaz placed his penis against her lips and attempted to insert it into her mouth. Cousin A1 pulled away and stated that when she removed the blindfold, she observed Diaz running away while zipping his pants zipper.⁸ On other occasions, both in Brooklyn and in the [REDACTED] locations, the subject would stand behind her and rub his erect penis against her buttocks through her clothes. Cousin A1 recalled that prior to the sexual assaults, Diaz would tell her to "be quiet," and "shhhh." She stated that the subject would always tell her that the assaults were "her fault," and that "no one would believe her" if she reported them. According to Cousin A1, when she was approximately [REDACTED], the on-going abuse was brought to the attention of the [REDACTED] child welfare authorities. After a brief period [REDACTED], the matter was closed.

[REDACTED]

In an interview with investigators from this office, Francisco Diaz admitted his extensive sexual abuse of both Student A and Cousin A1, and further stated that he had once inadvertently touched Cousin A2's breasts. When asked about his contact with Student A, Diaz stated that he would kiss her by putting his lips against hers and forcing his tongue into her mouth. According to Diaz, he did this on three separate occasions when Student A was [REDACTED], and [REDACTED] years-old. Diaz further admitted that these incidents took place both at his apartment in Brooklyn and within the school facilities at PS 219. When questioned about his sexual conduct with Cousin A1, Diaz admitted that he had inserted his finger into her rectum on three occasions while in the bedroom of his residence in Brooklyn, and once while inside his van while located in Brooklyn. Diaz added that, although he initially found these assaults upon his nieces sexually gratifying, he ultimately felt guilty and was unable to maintain an erection. Finally, Diaz admitted that at one point "more than [REDACTED] ago," while "playing" with Cousin A2, a [REDACTED]-year-old female, he inadvertently touched her breasts. He denied any further sexual contact with Cousin A2.⁹

⁸ During a second interview with SCI, Student A was asked whether Diaz had ever attempted the "taste tester game" with her. She responded that he had, and that she was usually in the company of her other cousins. However, Student A stated that she could not recall whether Diaz had attempted to place his penis to her lips.

⁹ On October 20, 2004, SCI received a telephone call from the parent of Cousin A2 stating that she did not wish to be interviewed regarding this matter.

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Francisco Diaz sexually abused several children, over an extended period of time, both inside and outside of the New York City public school where he was employed. Although we acknowledge that the conduct described above took place in the past, and that the statute of limitations may be a problem, this office urges that Francisco Diaz be prosecuted to the fullest extent of the law and held accountable for his despicable actions. Further, it is the recommendation of this office that, no matter the outcome of any criminal proceeding, he continues to be barred from DOE employment and that this matter be considered should he apply for any type of position with the New York City school system, or one of its facilities, in the future.

We are sending a copy of this letter and of our report concerning this investigation to the Office of Legal Services. In addition, we also are forwarding our findings to Kings County District Attorney Charles J. Hynes for whatever action he may deem appropriate. Should you have any inquiries regarding the above, please contact Special Counsel Daniel Schlachet, the attorney assigned to the case. He can be reached at (212) 510-1418. Please notify Mr. Schlachet within thirty days of receipt of this letter of what, if any, action has been taken or is contemplated concerning Francisco Diaz. Thank you for your attention to this matter.

Sincerely,

RICHARD J. CONDON
Special Commissioner
of Investigation for the
New York City School District

By:


Regina A. Loughran
First Deputy Commissioner

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