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DISTRICT COURT, COUNTY OF ARAPAHOE, COLORADO Arapahoe County Justice Center 7325 South Potomac Centennial, CO 80112	
THE PEOPLE OF THE STATE OF COLORADO, v. ADRIENNE ("AJ") MACINTOSH, DAVID GONZALEZ, CHERYL SOMERS-WEGIENKA Defendants.	▲ COURT USE ONLY ▲
GEORGE H. BRAUCHLER, District Attorney CHRISTOPHER M. GALLO* Chief Deputy District Attorney 6450 South Revere Parkway Centennial, CO 8011 Registration Number: 38191 *Counsel of Record	Case No: GJ Case No.: <u>17</u> CR 1 Ctrm: 201
18TH JUDICIAL DISTRICT GRAND JURY INDICTMENT	

**COUNT ONE,
(AS TO ALL DEFENDANTS)**

**FAILURE TO REPORT CHILD ABUSE OR
NEGLECT, C.R.S. 19-3-304**

<p>DISTRICT COURT, COUNTY OF ARAPAHOE, COLORADO Arapahoe County Justice Center 7325 South Potomac Centennial, CO 80112</p> <hr/> <p>THE PEOPLE OF THE STATE OF COLORADO,</p> <p>v.</p> <p>ADRIENNE ("AJ") MACINTOSH,</p> <p>DAVID GONZALEZ</p> <p>CHERYL SOMERS- WEGIENKA</p> <p>Defendants.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>GEORGE H. BRAUCLER, District Attorney CHRISTOPHER M. GALLO* Chief Deputy District Attorney 6450 South Revere Parkway Centennial, CO 8011 Registration Number: 38191 *Counsel of Record</p>	<p>Case No:</p> <p>GJ Case No.: ¹⁷ CR 1</p> <p>Ctrm: 201</p>
<p>18TH JUDICIAL DISTRICT GRAND JURY INDICTMENT</p>	

Of the 2017-2018 term of the 18th Judicial District Grand Jury; the 2017-2018 18th Judicial District Grand Jurors, chosen, selected and sworn in the name and by the authority of the People of the State of Colorado, upon their oaths, present the following indictment and described acts, all committed within the County of Douglas, State of Colorado, all done contrary to the form of statutes in such case made and provided, and against the peace and dignity of the People of the State of Colorado, as stated in the counts attached hereto:

COUNT 1- FAILURE TO REPORT CHILD ABUSE OR NEGLECT

Between and including January 1, 2013 and January 4, 2018 Adrienne ("AJ") Macintosh and David Gonzalez, individuals required by law to report the abuse or neglect of a child, and having reasonable cause to know or suspect that a child had been subjected to abuse or neglect, knowingly/willfully failed to immediately report or cause a report to be made of such fact to the county department of human services, or the local law enforcement agency, in violation of C.R.S. 19-3-304.

Detective Doug Kasten of the Aurora Police Department, testified before the Grand Jury. Additionally, Dr. Harry Bull, Adrienne ("AJ") Macintosh, David Gonzalez, Ian LaFarge, Cheryl Somers-Wegienka, Kelley Whalen, Jane McConnell, and Jean Childers, all either current or past employees of the Cherry Creek School District testified before the Grand Jury. Official records of the Cherry Creek School District were submitted for the Grand Jury's consideration. One of the child victims (hereafter identified as CV) of sexual abuse perpetrated by Brian Vasquez while he was a teacher at the Cherry Creek School District testified before the Grand Jury. Also, witnesses [REDACTED] and [REDACTED] testified before the Grand Jury.

The evidence, including all exhibits admitted, and testimony from this witness and during the grand jury session(s) establish the following facts:

Summary:

In April, 2013, CV disclosed to a friend that she had a sexual relationship with Brian Vasquez while she was 14 years of age his student at Prairie Middle School. This information was then relayed to defendant Macintosh. Rather than notify law enforcement or social services, Macintosh conducted an investigation into the allegations. Conducting such an investigation was contrary to school district policy, which mandated that the information be provided to the police. School personnel notified teacher Vasquez regarding the allegations, who then proceeded to meet with CV and impress upon her the devastating effects her disclosure would have on his career and family. CV was then summoned to meet with MacIntosh and CV disclosed the existence of the sexual relationship to defendant Macintosh, a Prairie Middle School Dean. Defendant Macintosh asked CV to reconsider her disclosure, in light of the affect that it would have on the perpetrator, Vasquez. CV testified that she expressly told Macintosh that Vasquez had sexually abused her, but ventually denied given the statements being made. Macintosh took CV to defendant Gonzalez, the principal of Prairie Middle School. Gonzalez and Macintosh then both questioned CV about her disclosure of abuse, again importing the consequences to perpetrator Vasquez. CV eventually recanted her disclosure of abuse to both Gonzalez and Macintosh. CV was then quickly subjected to a disciplinary proceeding on or about April 23, 2013, where she was again questioned by Macintosh and Gonzalez, in front of her parents, a counselor, and perpetrator Vasquez, with the professionals in the room again detailing the consequences to perpetrator Vasquez of CV's disclosure. CV recanted her disclosure in that situation, and was suspended from school for several days, for the purported reason that she made up a false allegation against Vasquez.

Both Superintendent Bull and Gonzalez testified that it would be inappropriate to question an alleged victim of sexual abuse with the alleged perpetrator in the room, however the evidence presented to the Grand Jury demonstrates that this is exactly what Macintosh and Gonzalez did.

Both Gonzalez and Macintosh testified that they had no memory of this incident. Furthermore, Gonzalez denied the existence or participation in any meeting with CV.

At no point between April 2013 and when law enforcement requested the disciplinary records for CV did either defendant Macintosh or Gonzalez report the April 2013 disclosure/investigation to law enforcement or the Department of Human Services, as required by law, because they had reason to suspect that Vasquez had abused CV.

In August, 2017 perpetrator Vasquez was interviewed by the Aurora Police Department regarding allegations of sexual abuse pertaining to a different student. He confessed to the sexual abuse of the currently reporting student, and disclosed sexually abusing or exploiting numerous other students starting in 2013. Vasquez specifically disclosed a sexual relationship with CV as CV has reported in 2013. The Aurora Police Department informed Prairie Middle School administration of the fact that that Vasquez had inappropriate, sexual relationships with numerous students dating back to 2013. School staff were not informed of the names of the children disclosed during the course of the investigation. At no point did any member of school staff inform the Aurora Police Department of the prior allegation regarding CV and Vasquez. No member of the Cherry School District subsequently reported any information pertaining to that allegation prior to the Grand Jury's consideration of this investigation.

Disclosure of Sexual Abuse by CV:

CV testified before the Grand Jury. CV described being a student in Vasquez' class at Prairie Middle School during the 2013-2014 school year. CV described numerous instances of sexual abuse perpetrated by Vasquez both on herself, and another student. After remarking about the sexual abuse to a friend, CV described being called to Dean Adrienne ("AJ") Macintosh's office. At Macintosh's office, CV was directly asked about her relationship with Vasquez, and if sexual impropriety had occurred. CV initially disclosed that she was involved in a sexual relationship with Vasquez. When CV hesitated to elaborate further, Macintosh told CV that Vasquez was a valued teacher, and that if CV persisted in her disclosure of sexual abuse, it would ruin his career and his family. CV testified that she was pressured by Macintosh to recant her disclosure of sexual abuse by Vasquez.

CV further testified that she was then taken by Macintosh to Principal David Gonzalez' office, to rehash the same conversation. CV testified that Gonzalez reiterated the potential damage to Vasquez' career, family, and future if she persisted in her disclosure. CV felt pressured to recant her disclosure of sexual abuse by Vasquez. At that point, she stated that she had made up her disclosure, and was informed that she would be suspended from school.

CV described a meeting where Macintosh, Gonzalez, her parents, Vasquez, a counsellor, and potentially other members of Prairie View Middle School staff were present to further discuss her disclosure, and her resulting suspension from school. CV described again being informed (now in the presence of her parents and Vasquez himself) that Vasquez was a valued teacher, and that her disclosure would be personally ruinous to him. CV stated that her disclosure was untrue, and was made to apologize to Vasquez, and hug him at the end of the meeting.

Upon completing her suspension, CV was readmitted to Prairie Middle School, at a reentry meeting attended by herself, Macintosh, and Cheryl Somers. At this meeting, CV Macintosh and Somers all signed a re-entry form, referencing CV's conversation with another student about her relationship with Vasquez, and her recantation of that statement.

Investigation by the Aurora Police Department:

Detective Doug Kasten of the Aurora Police Department Crimes Against Children Unit testified before the Grand Jury. Det. Kasten confirmed through the records of the Aurora Police Department, and by speaking with the School Resource Officer assigned to Prairie Middle School at the time that at no point during the 2012-2013 school year did any staff member report sexual abuse by Vasquez to law enforcement. Similarly, Det. Kasten confirmed that no such report had ever been made between 2013 and the consideration of this matter by the Grand Jury.

Det. Kasten described the investigation by the Aurora Police Department of Brian Vasquez, culminating in Vasquez' confession to sexually abusing CV and another student, and sexually abusing and exploiting numerous other students in the years following.

Det. Kasten described the interview of CV's mother by detectives in his unit. CV's mother specifically recalled the suspension meeting that had been disclosed by CV. She recalled numerous members of school staff being present, including the principal (who she described by physical characteristics generally matching Gonzalez), Vasquez, and other members of the administration. CV's mother recalled CV being directly challenged with her disclosure in front of Vasquez, and being again confronted with the consequences of such a disclosure to his family and career. CV's mother recalled CV recanting her disclosure at that point of the meeting.

Det. Kasten described his training in the investigation of crimes against children. Det. Kasten testified that it would never be appropriate question a child victim of sexual abuse in front of their perpetrator. Specifically, Det. Kasten noted that even the mere presence of the perpetrator in front of the child victim would likely influence the victim to not disclose any abuse, at all.

Records of the Cherry Creek School District:

Official records of the Cherry Creek School District were provided to the Grand Jury by the General Counsel/Records Custodian for the school.

Macintosh authored a "Behavior Management Referral" authorizing CV's out of school suspension, and detailing CV's recanted disclosure of sexual abuse by Vasquez as the basis for that suspension. Further, Macintosh authored a letter to CV's parents describing the suspension, and the basis for it, (again, CV's recanted disclosure of sexual abuse by Vasquez). Additionally, Macintosh signed a "Re-Entry" document at the close of CV's suspension further referencing CV's disclosure. During her testimony, Macintosh confirmed her signature on each of these documents.

The Cherry Creek School District further provided the resource videos shown to all staff during the 2012-2013 school year, and the updated video shown each subsequent year. Both videos explain staff's obligation, (both legally, and per district expectation) to immediately report the abuse or suspected abuse of any student to law enforcement. The District's training materials specifically note that sexual abuse is a form of child abuse, and subject to mandatory reporting requirements. The training materials further instruct that the only actions to be taken by a staff member when a child discloses any form of abuse are to listen to the child, and to report the information immediately. Staff members are specifically instructed to not make a child repeat the disclosure, and to not investigate in any way, other than making a report. The training materials further instruct that reporting to the police both verbally, and in writing, is the mandatory protocol for any suspected instances of abuse.

Testimony of Dr. Harry Bull:

Dr. Harry Bull testified that he is presently the Superintendent of Cherry Creek Schools. He began in that position in July, 2013, and was previously the Assistant Superintendent for Human resources.

Dr. Bull testified that it neither is, nor ever has been, the policy of the Cherry Creek School District for staff members to individually investigate allegations of sexual or physical abuse. Dr. Bull testified that staff members are not specially trained in investigative procedures, evidence collection, or interview protocols which would be necessary to properly investigate allegations, especially as pertaining to sexual abuse. Rather, Dr. Bull testified that it was his expectation, and the expectation of the School District, that any staff member confronted with an allegation of abuse, (especially pertaining to sexual abuse by a staff member) would immediately report such an allegation to law enforcement, without attempting to further investigate the matter themselves.

Testimony of Adrienne ("AJ") Macintosh and David Gonzalez:

Both Macintosh and Gonzalez testified before the Grand Jury. Both testified that during all relevant times, (April, 2013 onward) they were employees of the Cherry Creek School District, and were aware of their obligations to report actual or suspected physical/sexual abuse of the children in their care to law enforcement. Both testified that they had received continual training from the School District regarding those obligations, including for the 2012-2013 school year, and were aware of the District's policies regarding the immediate reporting of suspected sexual abuse.

Macintosh testified that during the 2012-2013 school year, she was a Dean at Prairie Middle School, responsible for disciplinary issues. Although she was generally aware of the District's expectations regarding the immediate reporting any allegations of sexual abuse, she nonetheless believed it was her individual responsibility to conduct her own personal investigations of allegations of impropriety of any type on the part of school staff, before complying with her obligations under the law. Macintosh testified that she has never been trained in any type of investigative procedures, and has never been trained in the proper

protocol for interviewing suspected victims of sexual abuse. Macintosh was unable to recall with particularity any instance of her actually conducting her own individualized investigation into a staff member pertaining to allegations of abuse of a student. In any event, Macintosh testified that she would have notified the school principal of any allegation of sexual abuse of a student by a teacher.

Macintosh particularly remembered CV as a student at Prairie Middle School, but claimed that she had no memory of any of CV's disclosures of sexual abuse by Vasquez. Macintosh further claimed that she could not remember her involvement in any aspect of the disciplinary process resulting in CV's suspension from school, even when presented with official documentation from the school district bearing her signature, and confirming her presence at the meeting with CV, her parents, and perpetrator Vasquez. To Macintosh's recall, CV's disclosure of sexual abuse by Vasquez would have been the only time a student had disclosed sexual abuse by a teacher during the entirety of her tenure with Prairie Middle School. Further Macintosh did not believe that any other student had ever been suspended for issues resulting from accusing a teacher at Prairie Middle School of sexual abuse. Nonetheless, Macintosh claimed to have no memory of any aspect of her own involvement with CV's disclosure of sexual abuse by Vasquez, and subsequent suspension from school.

Gonzalez testified he was the Principal of Prairie Middle school during the 2012-2013 school year. As Principal of Prairie Middle School, Gonzalez would not necessarily become involved in rudimentary student disciplinary matters, as those would be normally handled by his Deans. However, he testified that he would expect to be immediately notified of any allegation of sexual impropriety between a student and a teacher/staff member, no matter how plausible or implausible. Gonzalez claimed to have no memory of any disclosure made by CV regarding sexual abuse by Vasquez, nor any memory of the disciplinary proceedings resulting from her disclosure. Furthermore, Gonzales denied that the meeting described by CV and her mother occurred.

Both Macintosh and Gonzalez individually testified that they did not personally report CV's disclosures to law enforcement in 2013, and had not reported those disclosures at any later time, up to and including Vasquez being arrested at Prairie Middle School on charges relating to sexual abuse of students. Both acknowledged that nearly immediately subsequent to Vasquez' arrest, school staff was informed of the fact that Vasquez was arrested for circumstances pertaining to inappropriate sexual relationship with a different student. Both Macintosh and Gonzalez individually testified that it was their belief that a student's disclosure of sexual abuse by a teacher would necessarily trigger a mandatory reporter's obligation to report to law enforcement. Both stated that, to their knowledge, no member of school staff, (themselves included) made a report regarding any of the disclosures made by CV regarding Vasquez had at any time subsequent to Vasquez' arrest.

Testimony of Cheryl Somers-Wegienka

Cheryl Somers-Wegienka was a counselor at Prairie Middle School in April of 2013 and, and her signature appears on the re-entry form for CV's suspension. She provided her name, and stated that she was a counselor at Prairie Middle School.

Testimony of [REDACTED]

[REDACTED] testified that while walking home from school CV had had told her something about an inappropriate relationship of some sort with Brian Vasquez. She said that she asked CV how she could do that and "screamed" and was "shocked" and asked her many questions. She asked CV where it happened, and was told by CV that everything happened in the classroom and after school. She asked CV if Vazquez had a wife and kids, and that CV said that Vazquez said that he did not love his wife. She said that she was furious, and was angry that CV had not told her anything before, and that she burst into tears and started crying. She told CV that "we have to tell someone because it is not okay" and that they had to report this professionals. At this point CV said that she was just kidding, and wanted to see what her reaction was, and if she was still CV's friend. CV said that nothing had ever happened and that she made the whole thing up. [REDACTED] later told [REDACTED] about the conversation and indicated she believed CV had made it up. She believed [REDACTED] had received a text message that Vazquez and CV had been having sex. She later learned that [REDACTED] or her mother had reported the concerns regarding the possible relationship to the school administration. She was called in and spoke to Macintosh, with [REDACTED] present. She said the main dean for this community was Mr. Lafarge, but that she only remembered speaking to Ms. Macintosh. She did not remember speaking to Gonzalez. [REDACTED] testified during the meeting that Macintosh told them that she wanted to investigate before anything else happened, and that she asked questions about CV. [REDACTED] testified that she told Macintosh that she believed it was all a joke.

[REDACTED] said that she remembered that CV got suspended. [REDACTED] testified that thereafter there were rumors by kids in her school community that the police were getting involved, but she never was questioned or approached by the police about allegations that Vazquez had abused CV.

[REDACTED] testified that after Vazquez got arrested, she called CV and asked CV if the allegations were true, and whether CV had lied when she said that it was not true in 2013. She said that nothing had happened, and that it was all a joke. She said she was not close with CV at that time.

Testimony of [REDACTED]

[REDACTED] testified that in the spring of their 8th grade year CV had told her that she had been sleeping with Vazquez, and that she did not believe this. [REDACTED] said she spoke to [REDACTED] who said that CV had also told her about sleeping with Vazquez. She said that [REDACTED] told her that CV had said that CV said it was a joke. [REDACTED] said that she told her mother, who told her that if she did not notify the school, that her mom would

tell the school. ██████████ said that she went and told Dean Lafarge. ██████████ had limited memory regarding the details of her conversation with LaFarge or what occurred subsequent to that conversation. She said that she told Lafarge that she was not sure if it was a joke, but that CV said that she was sleeping with Vazquez. She said that Lafarge was shocked, and that he did not appear to believe it, and that he wanted to get it taken care of, and that he wanted to make sure that the proper punishment was brought, and that CV was joking, it was not okay. She remembers at some point having a conversation with LaFarge, Vasquez, and CV, but has no memory about how the conversation came about or how Vasquez or CV were notified. She testified to being called out of class and that she filled out the form in the Dean's office. She believed that Lafarge was present, and that Lafarge was present during the entire thing. She said that she did not remember Ms. Macintosh being present. She says that she believes that Lafarge asked her to fill out the form before any conversation that occurred with LaFarge, Vasquez and CV where CV was required to apologize. She testified that she had no memory of CV being suspended for the allegations but acknowledged that any conversation that occurred with LaFarge, Vasquez, CV and ██████████ would have to have occurred when CV returned to school.

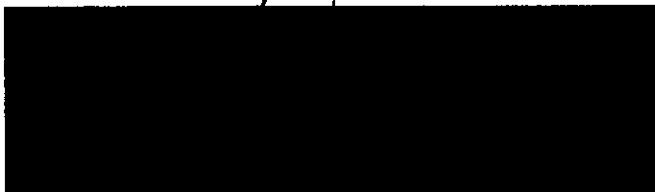
Testimony of Jean Childers

Jean Childers testified that she has worked as secretary at Prairie Middle School since 2011. She said that she is a secretary for the dean's office, and that her job involved keeping the school's discipline records. She said that during 2012-2013 Lafarge was the Community 3 Dean, and that Macintosh would fill in. She said that she remembers CV as a student at Prairie, and an incident where CV was suspended for a statement that she made with respect to a teacher, Brian Vasquez. She said that she remembered that she called the parents to come and pick up the child because the child was being suspended. She was told to do this by Dean Macintosh, and she was doing this because she was bilingual. She testified that she did not remember Lafarge being present. She also remembered two of CV's friends also coming in to give statements. She said that this was a remarkable occurrence, and that this was the only time these type of allegations occurred in the time she has worked at Prairie Middle School. She remembers Ms. Macintosh being in charge of the procedure and CV being brought to the office and a meeting occurring with the staff and CV and CV's parents. She believed that in addition to Whalen being present, Somers would have been present as the interpreter, given school policy/ practice at the time. She did not remember if Gonzalez was present, but would expect that he would be there for allegations of this nature. She said that Macintosh was relatively new as a Dean, and would be expected to consult with other professionals, including Gonzalez regarding this kind of remarkable situation. She entered a behavioral referral, prepared by a dean, into CV's file folder and believes she had some discussion with other teachers/ staff at the time.

She testified that in 2017 she was called to meeting relating to the arrest of Vazquez, and that this triggered her memory of the prior incident. She said that Gonzalez called a meeting of the staff at the school regarding the arrest. She said that she mentioned her memory of the prior incident to Ms. Johnston, and that later either Mr. Gonzalez or his secretary asked her to pull the file from archives. She said she may have said something to Gonzalez that the prior incident crossed her mind, but did not remember details of any

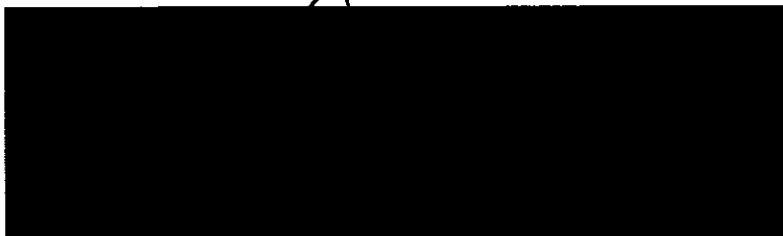
response, but did not remember him being surprised. She said that she did not believe it was possible that Gonzalez was not aware of the allegations against Vazquez and the suspension of CV. She said that this was because the allegations were "so remarkable." She said that during her time at the school, she does not remember any other students being suspended for making an allegation against a teacher, nor any similar allegations against a teacher.

AS TO COUNT ONE RELATING TO ADRIENNE ("AJ") MACINTOSH:



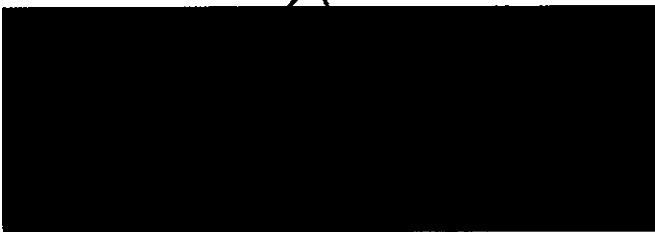
A NO TRUE BILL

AS TO COUNT ONE RELATING TO DAVID GONZALEZ:



A NO TRUE BILL

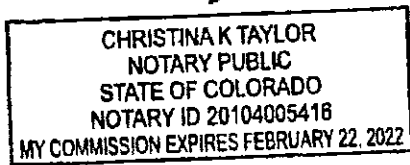
AS TO COUNT ONE RELATING TO CHERYL SOMERS-WEGIENKA:



A NO TRUE BILL

[REDACTED], the Foreperson of the 2017 Eighteenth Judicial District Grand Jury, do hereby swear and affirm that each and every True Bill returned in this Indictment by the 2017 Eighteenth Judicial District Grand Jury was arrived at after deliberation and with the assent and agreement to the existence of probable cause by at least nine members of the 2017 Eighteenth Judicial Dis [REDACTED]

Subscribed and sworn to before me in the County of Douglas, State of Colorado, the 4th day of January, 2018



[Signature]
NOTARY PUBLIC
My Commission Expires: 2/22/22

GEORGE H. BRAUCHLER
District Attorney
Eighteenth Judicial District

[Signature]
Christopher M. Gallo, #38191
Chief Deputy District Attorney
Eighteenth Judicial District

The 2017 18th Judicial District Grand Jury presents the within Indictment, and the same is hereby ORDERED FILED this 10th day of January, 2018

[Signature]
CHIEF JUDGE

SUMMONS TO ISSUE