

Response to Khepera School Investigation of Incident of 9/28/04

February 2, 2006

The purpose of this document - in concert with the lawsuit against Khepera Charter School's Board - is to give Carrie Bailey the voice the Board denied her in their maneuverings to gain unfettered control of the school and its two million dollar per year budget.

The investigation report uses unsound reasoning and innuendos to rationalize treating the disputed claim, that Carrie Bailey choked a child, as a fact. It then uses this false premise to disparage her character. In an objective assessment of this report, the Bureau of Unemployment Compensation commented, "In situations where a claimant is discharged, the burden of proof is on the employer to show the claimant's action which caused the separation constitute willful misconduct... In this case the claimant did not admit to the incident which caused the separation and the employer did not submit sufficient information to sustain its burden of proof."

Depositions revealed that the Board met on November 2, 2004 to review the report and discuss Carrie Bailey's employment status. They held this meeting of public officials without notifying Carrie Bailey or the public - clear violations of the Sunshine Act and the school's bylaws. Two days later a letter that terminated Carrie Bailey's employment was drafted and executed via the president's signature, and subsequently delivered to her by mail.

Text from the investigation report follows.

1. STATEMENT: (Carrie Bailey) insists that she did not choke him.
2. STATEMENT: (Rachel Randolph) claims that Ms. Bailey did not touch (the child).
3. STATEMENT: (The bus driver states) Ms. Bailey then dropped her tablet and "grabbed him around the neck."
4. STATEMENT: Afterwards, (the child) showed (the bus driver) a small mark on his neck.
5. STATEMENT: We interviewed (the bus driver) a second time and he clarified that he observed Ms. Bailey choking (the child).
6. PREMISE: As Ms. Bailey and Ms. Randolph have obvious reasons to be biased,
7. PREMISE: and since there are significant inconsistencies in their versions of the incident,
8. UNSOUND CONCLUSION: there are substantial reasons to disbelieve their stories.

9. PREMISE: (The bus driver) did not appear to have an agenda or any motivation to distort the events he observed.
10. INNUENDO: (The bus driver) said that, “there is something wrong with her too.” This comment was based not just on the incident of September 28, but also on his observations of how she has acted with parents and children in the past.
11. UNSOUND CONCLUSION USED AS A PREMISE FOR FURTHER UNSOUND CONCLUSIONS: It appears that Ms. Bailey did in fact choke (the child).
12. UNSOUND CONCLUSION: Ms. Bailey’s response was also out of control and well out of proportion to the provocation.
13. UNSOUND CONCLUSION: It also concerns us that Ms. Bailey and (Rachel Randolph) have falsely described the incident.
14. INNUENDO AND FALSE STATEMENT: Though they saw fit to call the police, (they) did not report the incident to the School’s board of directors.

A sign of unsound reasoning is a failure to account for counterexamples and alternate explanations. (*Example: Interviews reveal that 100% of perpetrators of crime had drunk water within 24 hours prior to their criminal acts. Therefore, drinking water leads to criminal behavior.*) Open meetings and boards with multiple members who are obligated to deliberate on matters from multiple perspectives are supposed to guard against public officials making policy based on unsound reasoning. But as the comment by the Bureau of Unemployment Compensation suggests, this report could not have withstood the scrutiny of the open meeting and honest deliberation that the Board circumvented.

The report attempts to build a case based on eyewitness accounts. However, the soundness of its reasoning is completely undercut by a failure to account for extensive current knowledge regarding eyewitness fallibility. (A good place to begin research on this topic is at www.fulero.com.) An open forum as required of public officials would have forced the Board to weigh the report’s arguments against the following facts.

1. The nature of perception is not represented by the “camera” model, but as a transaction between an active percipient and the observable world.
2. The act of perception is not indifferent but selective. Expectations and earlier experiences shape what is seen.
3. Memory is a composite of retrieved actual perceptions (“I saw the child punch Ms. Bailey; I saw a ruckus; I saw a mark on the child’s neck”) and unconscious reconstruction (or invention) of events not actually perceived, so as to form a coherent logical whole (“Ms. Bailey choked the child in retaliation to his punching her, and left a mark on his neck”).

4. How a question is posed can shape what an eyewitness “remembers”.
5. Chaotic events are more readily remembered, but the accuracy of remembered details within the event is inversely proportional to the amount of chaos.
6. Recounts of events are shaped by unconscious pressures to reduce uncertainty and meet expectations.
7. Recounting memories of events does not increase accuracy of details initially perceived incorrectly, but it does increase confidence.
8. Laypersons confer credibility to accounts of eyewitnesses who appear confident.

An open forum would have given Carrie Bailey the opportunity to offer the following confounding counter considerations to the report’s unsound reasoning and innuendos.

(The following bullets refer to the numbered items on pages 1 and 2.)

- INNUENDO 10: Carrie Bailey was in the process of establishing a climate for a brand new school using the model of her highly effective mentors. That process involved persuading all stakeholders, including the bus driver, to assume ownership and responsibility for the school’s affairs instead of transferring all problems to her. Proactive managers always draw criticism, just as her mentors did. It takes time to establish a climate. How long that time should be is a matter of judgment. But two months for a brand new institution is certainly not enough. If management style was perceived to be an issue, then a review with someone experienced and knowledgeable enough to engage in that review would have been in order.
- UNSOUND CONCLUSION 11: Carrie Bailey did not choke the child.
- INNUENDO 14: Filing a police report is a standard operating procedure as instructed by the School Climate and Safety Officer at the Charter School Informational Meeting on June 22, 2004. Carrie Bailey, in fact, informed the Board’s secretary, who was the only Board member who had ever responded to her pleas for assistance, advice or support. The incident with the child and his parents (one of whom struck her) was not the only crisis facing her that day. She later worked into the evening, purchasing equipment and cleaning three flooded classrooms in the basement.

The report is filled with WDTM alarm triggers. WDTM is an acronym for “What does that mean?” WDTM alarms go off in the minds of professionals who are offered empty rhetorical flourish as persuasion instead of substantive arguments. A bona fide review of the report would have asked the following questions and would have shown its argumentation to be more representative of an adolescent than an adult

(The following bullets refer to the numbered items on pages 1 and 2.)

- PREMISE 6: What are those obvious reasons?
- PREMISE 7: What are those significant inconsistencies?
- UNSOUND CONCLUSION 8: What are those substantial reasons?
- INNUENDO 10: What are those observations?

In addition to unsound reasoning, the report relies on fallacies in reasoning. A fallacy is a deficiency in the form of an argument that is not immediately apparent. The report uses three to bolster its unsupportable conclusion. One of the fallacy types was recognized so long ago that it has a Latin name. It is called an *ad hominem* argument, and it is one in which attacks on character attempt to imply a lack of credibility. A second fallacy used is *circular reasoning*, and it occurs when a conclusion feeds back to a premise that is used as a reason for reaching a conclusion. The third fallacy is *begging the question*, and it is present in a claim that depends on other claims that have not been established in the argument. The report offers the following fallacious reasoning to bolster a single fallible eyewitness account.

- Ms. Bailey has bad character.
- So Ms. Bailey cannot be believed.
- The bus driver can be believed.
- Since their accounts conflict, Ms. Bailey's account is false.
- Since Ms. Bailey offered a false account, she has bad character.

Awareness of eyewitness fallibility, counter considerations to premises and innuendos, WDTM alarm triggers and fallacies in reasoning leads to the following analysis.

(The following bullets refer to the numbered items on pages 1 and 2.)

- STATEMENT 5: Eyewitness fallibility items 6, 7 & 8 shape this outcome. They refute the implication of reliability.
- PREMISE 6: This is empty rhetorical flourish that lacks the substance to lead to conclusions in a cogent argument.
- PREMISE 7: Based on knowledge of eyewitness fallibility, inconsistencies in versions are normal and expected. The term "significant" is nowhere quantified and must be deemed rhetorical flourish.
- UNSOUND CONCLUSION 8: Knowledge of eyewitness fallibility renders the inference, that inconsistent versions imply intent to deceive, unwarranted. Moreover,

suppose that there was another eyewitness who concurred with the bus driver's claim, but whose total account would certainly be inconsistent with the bus driver's. And suppose that there was only Carrie Bailey denying the claim. Then according to the report's reasoning, the bus driver would have to be disbelieved. And of course if a line of reasoning can lead to contradictory conclusions, then the reasoning is faulty. The term "substantial" is nowhere quantified and must be deemed rhetorical flourish.

- PREMISE 9: Eyewitness fallibility item 8 nullifies this premise's cogency for follow on conclusions.
- INNUENDO 10: The discussion of Carrie Bailey's counter considerations addressed this innuendo.
- UNSOUND CONCLUSION 11: As Perry Mason would say, "This conclusion is not in evidence." It represents the injustices that the development and application of eyewitness fallibility knowledge seek to prevent.
- UNSOUND CONCLUSION 12: This is a textbook *begging the question* fallacy.
- UNSOUND CONCLUSION 13: This is a continuation of the *begging the question* fallacy.
- INNUENDO AND FALSE STATEMENT 14: The discussion of Carrie Bailey's counter considerations addressed this.

As stated at the beginning, the purpose of this document is to give Carrie Bailey the voice the Board denied her in their maneuverings to gain unfettered control of Khepera Charter School and its two million dollar per year budget. It also serves as material in a case study in how the good intentions of school choice legislation can be undermined.