

To: Terry Wirginis
From: Paul J. Giuffre, Solicitor
Date: June 26, 2019
Re: Document Destruction Complaint



At your request, I began gathering some basic information related to Dr. Cook's concern that district records or documents subject to a Right-to-Know request were ordered removed from the administrative offices for shredding. This summary is being prepared for you to share with independent counsel.

On the afternoon of June 19 (email sent at 1:36 p.m.), Dr. Cook notified you and me about her concerns. At approximately the same time, an RTK request from Mary Niederberger at Public Source was forwarded to me by Donna Beley. (Ms. Niederberger's email was sent to the district at 1:01 p.m.) Ms. Beley is Dr. McCommons' assistant and is responsible for assisting Dr. McCommons respond to all RTK requests. She usually, if not always, forwards RTKs to me. (Donna's direct dial is 412-967-2431.) Dr. Cook's original email is Bates page 1, my response is at page 2, and the RTK request is at pages 3 - 6.

Upon seeing the emails from Dr. Cook and Ms. Beley, I emailed Dr. Cook asking her for some additional information. She did not respond.

After receiving your instruction, I spoke with Ms. Beley. She advised me that she sometimes contacts Smartheath Shredding, a subsidiary of Weleski Transfer, to schedule pick-up of the locked bins stored onsite at the administrative offices. She told me that she did not make any recent request and that most recently Liz Dessel had been responsible for contacting Smartearth. Ms. Beley provided me with the name and telephone number of her contact at Smartearth – Justin; 724-409-5826.

I called and spoke with Justin Scisciani. According to Justin, a man appeared at a Weleski facility and identified himself to the receptionist as a Fox Chapel Area employee. The man stated that some of the bins brought in contained documents that were not supposed to be shredded and asked the they "hold off" on shredding anything. Justin pointed out that the man came to the "wrong facility", the document bins were not at that location. He also indicated that documents had been removed from more than one FCASD location and he was not sure which bin or which location the man was referring. At that time Justin told me the documents had not been shredded and were being stored safely. I indicated to Justin that the documents should not be destroyed or accessed by anyone until Weleski received further instruction from me. Justin did not know the man's name or anything else about him but believed he "worked at one of [Fox Chapel Area's] buildings. I asked if the receptionist was available. Instead, Justin asked me to hold and spoke with her. Her relayed that the man gave the name "Arnold" but no other information. Justin confirmed that Liz had contacted him about the shredding. He thought the documents were supposed to be picked up the day prior to when they were (June 17 not June 18) but pick-up was delayed to pick-up other FCASD bins on the same date. He was unsure when Liz contacted him or whether by email or phone call. Justin told me he would be in until around 5 p.m. and asked me to call back once I knew what the district wanted done with the documents. I placed a second call to Justin to clarify a few things, including my request that any records or notes of his contact with Liz or anyone's contact with Arnold or

anyone else representing himself as a district employee be preserved. He did not answer. But a short time later, shortly before 5 p.m., Justin called me. The purpose of his call was to tell me that the documents had already been shredded. He had hoped I would call back to direct them to shred the documents, but he wanted to be “completely honest with [me]”. No one marked the bins to indicate the contents should not be destroyed and “Mark went ahead and shredded them”. After our second conversation I sent Justin an email summarizing our discussions. My email to Justin is attached as pages 7 – 10.

On June 20, I spoke with Liz Dessel. (412-967-2475) Liz also confirmed that she is usually responsible for scheduling the bins to be picked. No one directed her to do so this time. As was normal, when the bin in the business office area was close to full, Liz would contact Justin to schedule a pick-up. She typically calls him. This happens about every 6 weeks. The bin is usually financial documents. No one logs or documents what goes into the bin. There is another bin that is kept elsewhere in the administrative offices. Those bins are usually taken at the same time. After the pick-up is scheduled, Liz notifies certain staff by email of the scheduled date. I asked Liz to provide me with a copy of the email sent on this occasion. Her email is page 11 and the Document Destruction Order evidencing pick-up of the bins is page 12. The email documents that by the morning of June 12th Liz had made arrangements for the pick-up. Liz told me that she receives a certificate of destruction. The certification is not received until weeks later.

I also spoke Cathy Wagner, a confidential secretary who primarily works with Dr. McCommons, and Kathleen Anuszek, board secretary and Dr. Freeman’s assistant. Both confirmed that Liz has been responsible for calling to arrange pick up. Neither knows of any log or list kept of documents placed in the bins. Cathy also, volunteered that she was present when the bins were picked up this time. Bins at O’Hara Elementary were to be picked up but because of the time of day (close to 4:00 p.m.) the bin(s) there were not being picked up.

On June 20, I sent another email to Dr. Cook again asking for information. Although by that time the decision had been made to retain independent counsel, I hoped to be able to provide counsel with the names of other potential witnesses. Dr. Cook has not responded. That email is pages 13 – 14.