

## FINDINGS OF FACT

This investigation commenced as a result of allegations of sexual assaults of minor male children by Gerald R. Sandusky ("Sandusky") over a period of years while Sandusky was a football coach with the Pennsylvania State University ("Penn State") football team and after he retired from coaching. The Thirty-Third Statewide Investigating Grand Jury issues this Presentment in furtherance of its ongoing investigation of this matter and hereby incorporates all of its previous findings from Presentments No. 12 and 13 herein as if fully set forth.

### 1998 Incident Involving Victim 6

In the spring of 1998, Sandusky was a very prominent defensive coordinator/assistant football coach at Penn State. Sandusky had garnered national acclaim for the quality of his coaching and was widely looked upon as the mastermind of defenses that led to two national championships in the 1980's. He was revered in much of the State College area not only for his coaching success, but also his work with youth through a non-profit organization he founded known as the Second Mile.

Sandusky started the Second Mile in the 1970's, principally as a foster home that would focus on assisting troubled boys. Over time, the Second Mile developed into a much broader-based regional charity that focused its efforts primarily on young boys between the ages of eight and sixteen. By 1998, Sandusky was clearly the established "name" behind the charity, utilizing his broad array of contacts both at Penn State and around the region to raise money and create highly recognized events for the charity.

On May 3, 1998, Sandusky contacted Victim 6, then eleven years old, about going to work out with him at Penn State facilities. Victim 6 met Sandusky about four weeks prior at a Second Mile youth activity. Sandusky picked the boy up around 7:00 p.m., and they went to the East Area Locker Room on campus. At the time, it contained workout facilities, showers, and football team locker room.

The "workout" session consisted of a brief wrestling episode in which Sandusky tried to pin Victim 6, followed by a short period of using exercise machines. Afterwards, Sandusky kissed Victim 6 on the head and told him he loved him. Sandusky then took the boy to a coach's locker room and suggested they shower together. Victim 6 testified that he found this odd because the workout was brief and he had not even begun sweating, and therefore he felt he did not need a shower. Despite feelings of embarrassment and discomfort, Victim 6 did enter the shower room with Sandusky.

Upon entering the showers, Victim 6 immediately went to the side of the room opposite where Sandusky was showering. Sandusky coaxed Victim 6 over to the shower next to him. Sandusky placed his hands around the boy and told him he was going to "squeeze his guts out." Victim 6 testified that this made him very uncomfortable. He then lifted Victim 6 up to "get soap out of his hair" and at that point the boy's face was right in Sandusky's chest.

Sandusky took the boy home at around 9:00 p.m. and left the area. Victim 6's mother noticed that his hair was wet and she inquired why. He informed her of the shower activity and she became quite concerned and upset. The next morning, she made a report to the University Park Police. Detective Ronald Schreffler was assigned

to the case and almost immediately began an investigation into Sandusky's contact with the boy.

Initially, Centre County Children and Youth Services (CYS) were also notified of the complaint made by Victim 6's mother. Centre County CYC referred the case, however, to the Pennsylvania Department of Public Welfare (DPW), citing a conflict of interest due to their heavy involvement in placement and foster care activities with Sandusky's Second Mile charity. Normally, the case would have been referred to a neighboring county child welfare agency but, due to Sandusky's high-profile status in the community, the case was sent directly to the state DPW in Harrisburg.

Detective Schreffler conducted the investigation over a four-week period in May and early June 1998. It included not only interviews of Victim 6 and his mother, but also of a second child, B.K., also 11, who described very similar contact with Sandusky in a shower on a different occasion. Schreffler testified that, twice in mid-May, he and University Police Detective Ralston listened in on two conversations Victim 6's mother had with Sandusky at her home. She confronted Sandusky about his conduct with her son in the shower and he admitted his private parts may have touched her son when he bear-hugged the boy. When informed that he was not to contact Victim 6 anymore, Sandusky responded, "I understand. I was wrong. I wish I could get forgiveness. I know I won't get it from you. I wish I were dead." Schreffler, Ralston, and Victim 6's mother all confirmed these conversations before the Grand Jury.

Sandusky was never interrogated about the incident or the statements made to Victim 6's mother. Then Centre County District Attorney Ray Gricar decided there would be no criminal charges. It was only after this decision was made that Schreffler

and Jerry Lauro, an investigator with DPW, interviewed Sandusky on June 1, 1998. Lauro testified that Sandusky admitted to showering with and hugging Victim 6. He acknowledged that it was wrong. Schreffler told him not to shower with children anymore and Sandusky assured Schreffler that he would not.

Tom Harmon was the Chief of Police of the University Police Department in 1998 and a thirty-year veteran of the University Police Department. Chief Harmon testified that he was concerned when the initial report regarding Sandusky came to his Department on May 4, 1998. Chief Harmon received a rather extensive briefing from Detective Schreffler regarding his interview with Victim 6. Chief Harmon then called Gary Schultz, the Senior Vice President for Business and Finance at Penn State. Schultz oversaw the University Police Department as a part of his position. Chief Harmon testified that it was not unusual for him to keep Schultz informed of the status of investigations that could prove embarrassing to, or generate public scrutiny of, Penn State. Chief Harmon spoke in detail with Schultz on the evenings of May 4 and May 5 about specifics of the investigation.

Schultz took notes during his conversations with Harmon.<sup>1</sup> Schultz not only wrote down very detailed information about Sandusky's contact with Victim 6, but he also made several observations about the import of Sandusky's conduct. At one point Schultz noted that Sandusky's behavior toward Victim 6 was "at best inappropriate @ worst sexual improprieties." He further noted that during the bear hug between Sandusky and Victim 6 there "had to be genital contact because of size difference." He also clearly understood that Victim 6 had a friend (B.K.) and "claim[ed] same thing went

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<sup>1</sup> 4 pages of notes kept by Schultz on 5/4 and 5/5/98 are Attached as Exhibit 1. It will be discussed later in this Presentment why these notes were not discovered by authorities until April of 2012.

on with him.” Schultz appeared to analyze what could ultimately be important areas for police and prosecutors when he observed “critical issue – contact w genitals?” Finally, at the conclusion of his notes, he pondered two chilling questions when he wrote, “is this opening of pandoras box? Other children?”

The investigation by police and child welfare authorities into this incident was clearly a matter of considerable interest among high-ranking Penn State administrators. Sandusky was in many ways at the pinnacle of his career, enjoying tremendous stature both for his coaching ability and his work within the Second Mile. The filing of criminal charges or other legal action against Sandusky for having sexual contact with a young boy could have proven troublesome and embarrassing for Penn State, particularly in light of the fact that the incident occurred on campus. The Grand Jury reviewed a number of electronic communications from May and June of 1998 that reflect the concern that several University officials shared over the course and direction of the investigation.<sup>2</sup> Schultz very quickly updated Athletic Director Tim Curley and University President Graham Spanier following his conversations with Chief Harmon. Curley in fact sent an e-mail on May 5, 1998 and alerted Schultz, “I have touched base with the coach. Keep us posted. Thanks.” Schultz responded to Curley on May 6 and copied the e-mail to Spanier, indicating the following: “Will do. Since we talked tonight I’ve learned that the Public Welfare people will interview the individual Thursday.”<sup>3</sup> In the first thirty-six hours after Victim 6’s mother alerted the police, Schultz obtained detailed information from the Chief of Police about virtually every aspect of police contact with

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<sup>2</sup> These electronic communications (e-mails) were not obtained by this Grand Jury until many months after the original Presentment on this matter in November of 2011, and therefore could not be considered or utilized in our evaluation at that time.

<sup>3</sup> E-mail attached as Exhibit 2

the boy, and he was in both phone and e-mail contact with the Athletic Director (while alerting the school President by, at a minimum, copying him on communications).

As the police and child welfare investigation progressed through the month of May, there were a number of documented communications by Penn State officials regarding this matter. Curley anxiously asked Schultz for status updates on at least three occasions with phrases like "anything new in this department?" and "any further update?"<sup>4</sup> The Grand Jury notes that these electronic communications clearly establish that Curley made a materially false statement under oath before the 30<sup>th</sup> Statewide Investigating Grand Jury when he testified he had no knowledge of this investigation, or any recollection of his involvement.<sup>5</sup> Schultz responded several times to Curley, informing him of investigatory decisions to have a child psychologist meet with Victim 6 and that police and DPW caseworkers planned to meet with Sandusky to discuss his behavior. Finally, on June 9, 1998, Schultz sent Curley an e-mail on which he copied Spanier and Chief Harmon. Schultz informed Curley and Spanier of the decision not to pursue charges and to close the investigation and, at the conclusion, he noted, "I think the matter has been appropriately investigated and I hope it is now behind us."<sup>6</sup>

Chief Harmon testified he was personally relieved by the decision of the Centre County District Attorney not to pursue criminal charges against Sandusky. He also understood Gary Schultz to be relieved by this decision. Chief Harmon also indicated he kept Schultz very informed of the investigation throughout May and spoke with him by telephone on about five occasions. Chief Harmon expected, as would be consistent

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<sup>4</sup> E-mail attached as Exhibit 3 and includes communication from Curley on 5/13, 5/18 and 5/30/98.

<sup>5</sup> The Grand Jury notes these false statements are the subject of a criminal trial in the Dauphin County Court of Common Pleas in *Commonwealth v. Timothy Curley*, docketed at No. CP-22-CR-5165-2011.

<sup>6</sup> See attached Exhibit 3

with his experience when there was an investigation of significant importance to both the Athletic Department and the University as a whole, that Schultz would inform both Spanier and Curley of what was happening. Numerous witnesses who were employed at Penn State testified that Schultz was a detailed, organized individual who adhered faithfully to the chain of command and the "no surprises" rule for his immediate boss, Graham Spanier.

Detective Schreffler testified that the ninety-eight page police report was not filed under a typical criminal investigation, but was instead assigned an Administrative number. This would make the report very difficult to locate unless someone specifically knew identifiers of the case. Detective Schreffler indicated that, in his experience, it was very unusual for a criminal investigation to be labeled in this manner within the University Police department. Chief Harmon agreed this was an unusual thing to do, and testified that it was done at his direction because there was a concern the media might make inquiries if the incident were placed on their regular police log.

Victim 6 testified along with Detective Schreffler at the criminal trial of Sandusky in Centre County. Victim 6 and Schreffler testified consistently with their appearance before this Grand Jury. As a result, Sandusky was convicted of Unlawful Contact with a Minor, Corrupting the Morals of a Minor, and Endangering the Welfare of a Child.<sup>7</sup>

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<sup>7</sup> The verdict was returned on June 22, 2012, and included forty-five total convictions spanning ten separate victims. Sandusky was sentenced on October 9, 2012 and received an aggregate sentence of thirty to sixty years in prison.

### February 9, 2001 Incident

In December of 2010, Michael McQueary testified before the Grand jury about events he observed in the Lasch Building, on a Friday evening, on the Penn State campus. McQueary detailed how he observed Sandusky sexually assault a young boy in the shower at that facility.<sup>8</sup>

In February of 2001, McQueary was a graduate assistant football coach. He was working for head football coach Joseph V. Paterno, for whom McQueary had played the position of quarterback from 1993 to 1997. McQueary testified that he was sitting at home on a Friday night watching a football movie, "Rudy."<sup>9</sup> He decided to go to the Lasch Building and do some work around nine o'clock in the evening. Earlier in the day, he had purchased a pair of sneakers and decided to bring them to place in his locker.

Upon entering the locker room, McQueary heard showers running and skin-on-skin smacking sounds. He became concerned about what he might be walking in on, and he proceeded quickly over to his locker. His initial view was through a mirror into the shower. He observed Jerry Sandusky, who had been an assistant football coach when McQueary played at Penn State, standing behind a pre-pubescent boy who was propped up against the shower. The boy's hands were up against the wall and he was naked, as was Sandusky. McQueary then stepped to the right and looked directly into the showers. Sandusky had his arms wrapped around the boy's midsection and

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<sup>8</sup> Sandusky was tried and convicted for this incident of four (4) criminal counts of Indecent Assault, Unlawful Contact with a Minor, Endangering the Welfare of Children, and Corruption of Minors as a result of a jury trial and verdict on June 22, 2012. McQueary was the sole witness utilized to establish these crimes beyond a reasonable doubt.

<sup>9</sup> The original date of this incident was believed to have been in early March 2002. McQueary testified the incident happened in either 2001 or 2002. Subsequent evidence has confirmed the actual date of the incident as February 9, 2001.



was right up against the boy. There was no doubt in McQueary's mind that a sexual assault was taking place.

McQueary slammed his locker door shut and observed Sandusky and the boy separate from their original position. He was extremely shocked and alarmed. McQueary left the locker room area and went up to his office. He called his father, John McQueary, and provided him a brief description of what he had seen. His father asked him to drive over to his house, which McQueary did.

John McQueary testified that he had never seen his son as shaken and upset as he was that night. John McQueary also called a family friend, Dr. Jonathan Dranov, to come over to the house. Michael McQueary relayed some of what he had observed to his father and Dr. Dranov. They advised him to contact Coach Paterno early the next morning and report what he had seen.

Early on Saturday morning, February 10, 2001, Mike McQueary called his boss, Coach Paterno. McQueary made the phone call at approximately 7:00 a.m., and asked if he could come to meet with the coach. McQueary immediately went to Paterno's house, where he reported to Paterno what he witnessed between Sandusky and the boy the night before.

Joseph Paterno testified before a prior Grand Jury that he did in fact receive McQueary's information at his home on a Saturday morning.<sup>10</sup> Paterno recognized that McQueary was very upset and assured him he did the right thing by coming to Paterno. Paterno informed the Grand Jury that McQueary described Sandusky fondling or doing something of a sexual nature to a young boy in the Lasch Building showers. He told

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<sup>10</sup> Joe Paterno unfortunately passed away on January 22, 2012.

McQueary he would pass the information along to his superiors. Paterno decided to provide the information to Tim Curley the very next day, Sunday, February 11, 2001.

February 11, 2001, was less than three years after the 1998 police investigation. Curley and Schultz both testified before the Thirtieth Statewide Investigating Grand Jury they met with Paterno on a Sunday. It would be at least another week before they decide to speak with McQueary about what he actually witnessed in the Lasch Building showers.<sup>11</sup> It is clear that the meeting with Paterno generated a flurry of activity. Paterno testified he relayed substantially the same information McQueary told to him to Curley and Schultz. Following their meeting with Paterno, Schultz almost immediately made contact with Wendell Courtney, an attorney with the law firm of McQuaide Blasko. McQuaide Blasko provided most of the outside counsel work to Penn State in 2001, with Courtney acting as one of the primary attorneys for the firm in their relationship with the University. Testimony from a number of sources before the Grand Jury suggested Schultz and Courtney had, and to this day have, a close personal friendship.

Schultz contacted Courtney that very Sunday regarding the information that Paterno provided. There was no delay or hesitation in seeking out Courtney. In fact, billing records from McQuaide Blasko show that Schultz and Courtney discussed the issue that Sunday, February 11. Courtney billed out 2.9 hours of time for what he described at the time as "Conference with G Schultz re reporting of suspected child abuse; Legal research re same; Conference with G Schultz."<sup>12</sup> Despite efforts by this Grand Jury, no Sandusky file containing information relevant to this inquiry was ever obtained from McQuaide Blasko.

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<sup>11</sup> The exact date of the meeting between McQueary, Schultz and Curley is unknown. Based on known electronic communications, it was not any later than February 25, 2001.

<sup>12</sup> Billing record is attached as Exhibit 4.

The similarities between the 1998 and 2001 incidents are rather striking. Both involve Sandusky showering naked alone with pre-pubescent boys and having close physical contact with the children (although the nature of the 2001 contact is more severe and extreme with regard to the sexual contact). Both incidents occurred in the showers at Penn State. Chief Harmon testified that he received a call from Gary Schultz on February 12, 2001, inquiring into the status of the paperwork from the 1998 investigation and whether it was available as a record. Chief Harmon responded by e-mail during the late afternoon of Monday, February 12, and stated, "Regarding the incident in 1998 involving the former coach, I checked and the incident is documented in our imaged archives."<sup>13</sup> At no point did Schultz inform Harmon, the Chief of Police at the University and a subordinate of Schultz, that there had been another report of shockingly similar behavior by Sandusky on campus. Schultz merely appeared to be concerned about the current existence of the 1998 investigatory files.

By the afternoon of Monday, February 12, 2001, Schultz and Curley formulate a plan (that was also communicated that afternoon to Graham Spanier) reflected in the handwritten notes of Gary Schultz.<sup>14</sup> Schultz dated the note 2/12/01 with the header "Confidential." He indicated that he had "talked with TMC [Curley]" and that the following steps were to take place or have taken place, "reviewed 1998 history—agreed TMC will discuss with JVP [Paterno] and advise we think TMC should meet w JS [Sandusky] on Friday—unless he "confesses" to having a problem, TMC will indicate we need to have DPW review the matter as an independent agency concerned w Child Welfare – TMC will keep me posted." The plan, formulated many days before Curley

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<sup>13</sup> E-mail attached as Exhibit 5.

<sup>14</sup> The handwritten note is attached as Exhibit 6.

and Schultz would even speak to the actual eyewitness, involved using their legal requirement to report this information as a bargaining chip with Sandusky to get him to "confess" his problem. Thus, if Sandusky agreed to a particular course of action, they would not notify the proper authorities, including apparently the police department Schultz himself supervised.

Schultz and Curley scheduled a meeting with McQueary at the Bryce Jordan Center, approximately seven to ten days after receiving the report from Paterno. McQueary indicated that the meeting lasted approximately fifteen minutes. Schultz and Curley asked no questions. McQueary described the extremely sexual nature of the incident and they told him they would get back to him.

After speaking to McQueary directly about the incident, Schultz sent an email to Curley on Monday, February 26, 2001. There appears to have been a change from the February 12<sup>th</sup> plan regarding contacting an outside child welfare agency. The email reads as follows: "Tim, I'm assuming that you've got the ball to 1) talk with the subject ASAP regarding the future appropriate use of the University facility; 2) contacting the chair of the Charitable Organization; and 3) contacting the Dept of Welfare. As you know I'm out of the office for the next two weeks, but if you need anything from me, please let me know."<sup>15</sup> Schultz asked for confirmation from Curley about contacting DPW.

Curley responded on February 27, 2001, just after 8:00 p.m. Curley included Spanier on this communication.<sup>16</sup> It reads as follows:

I had scheduled a meeting with you this afternoon about the subject we discussed on Sunday. After giving it more

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<sup>15</sup> Email attached as Exhibit 7.

<sup>16</sup> Email attached as Exhibit 8.

thought and talking it over with Joe yesterday—I am uncomfortable with what we agreed were the next steps. I am having trouble with going to everyone, but the person involved. I think I would be more comfortable meeting with the person and tell him about the information we received. I would plan to tell him we are aware of the first situation. I would indicate we feel there is a problem and we want to assist the individual to get professional help. Also, we feel a responsibility at some point soon to inform his organization and maybe the other one about the situation. If he is cooperative we would work with him to handle informing the organization. If not, we do not have a choice and will inform the two groups. Additionally, I will let him know that his guests are not permitted to use our facilities.

I need some help on this one. What do you think about this approach?

Curley used coded words to try to mask the true nature of this topic. He referred to Sandusky as the “individual” or “person”. He referred to the Second Mile as the “organization”. In addition, he referred to the 1998 investigation as the “first situation”. He then discussed a similar type of deal that had been discussed on February 12. This deal would keep Sandusky from being reported to outside authorities if he was “cooperative” and followed the suggestions Curley put forth. Curley also indicated that he would inform Sandusky that his “guests” are not permitted to use Penn State facilities. These “guests” were actually the young boys that Sandusky would routinely bring onto the Penn State campus, often at odd hours when very few people were around to witness his actions with the children. Curley was undoubtedly seeking the blessing of his boss, Spanier, when he indicated, “I need some help on this one.”

Spanier responded a couple of hours later as follows:

Tim: This approach is acceptable to me. It requires you to go a step further and means that your conversation will be all the more difficult, but I admire your willingness to do that and I am supportive. The only downside for us is if the message

isn't 'heard' and acted upon, and we then become vulnerable for not having reported it. But that can be assessed down the road. The approach you outline is humane and a reasonable way to proceed.

Spanier did not question the existence of the "first situation" or inquire as to what Curley was referring to. He instead endorsed the plan of action that involved circumventing any outside agency. He did recognize the potential consequences for their failure to report by suggesting they will be "vulnerable" if "the message isn't 'heard' and acted upon."

Schultz also endorsed this plan by responding the following day:

Tim and Graham, this is a more humane and upfront way to handle this. I can support this approach, with the understanding that we will inform his organization, with or without his cooperation (I think that's what Tim proposed). We can play it by ear to decide about the other organization.

The Grand Jury would note that evidence was presented showing that no report of what Michael McQueary witnessed was ever made to a children and youth agency, DPW, or any police agency. The Grand Jury notes that the above electronic communications and other evidence clearly establish that Schultz made a materially false statement under oath before the Thirtieth Statewide Investigating Grand Jury when he testified numerous times that the McQueary incident had been turned over to DPW or other child welfare entities.<sup>17</sup>

Curley did in fact implement part of the plan that he, Spanier, and Schultz agreed to follow. Curley met with Sandusky in early March and instructed him not to bring children on campus. This ban was completely unenforceable. In fact, since only Schultz and Spanier also knew of this plan, no other individuals at Penn State or entities

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<sup>17</sup> The Grand Jury notes these false statements are the subject of a criminal trial in the Dauphin County Court of Common Pleas in *Commonwealth v. Gary Schultz*, docketed at CP-22-CR-5164-2011.

such as the police department would even be aware of the ban to try and enforce it. He also met with Dr. Jack Raykovitz, the Executive Director of the Second Mile, to advise him that Sandusky was prohibited from bringing youth onto the Penn State campus. Raykovitz testified before the Grand Jury he did not ask who the boy was in the shower or whether he was a Second Mile kid. He said Curley described the incident as mere horseplay that made someone uncomfortable.

There is no evidence that Curley, Spanier, or Schultz ever sought to get Sandusky the "professional help" to which Curley referred in the email. The only thing asked of Sandusky was that he not bring children on the campus anymore. This, of course, not only did not happen but evidence presented before this grand jury indicates Sandusky continued to have kids on campus with him with some regularity.

Curley did talk with McQueary several weeks after their initial meeting. McQueary was told that Sandusky's keys to the locker room had been taken away and the incident was reported to the Second Mile. No law enforcement investigators were notified to speak with McQueary about his observations until November of 2010.

John McQueary confronted Gary Schultz about what was being done regarding his son Mike's report. This took place several weeks later at the office building where McQueary worked. Dr. Dranov was also present during this meeting. Schultz assured McQueary he would look into the matter and that it was being investigated. McQueary, like his son Mike, was well aware of the fact that Schultz oversaw the police department. John McQueary never heard anything further from Gary Schultz about the matter.

## **Grand Jury Investigation and Attempts to Gather Evidence 2010-2012**

After the disclosures by Michael McQueary to the Grand Jury, the investigation sought to: identify and encourage victims of abuse at the hands of Sandusky to reveal their ordeal to the Grand Jury; find events that supported and corroborated the testimony of Michael McQueary; reexamine the actions of Sandusky in May of 1998, and the investigation thereof, in light of the new evidence of Sandusky's criminal activities; search for evidence of Sandusky's known activities, and those potentially yet unknown, that may be in the possession of Penn State; and, determine whether or not any employees or officials at Penn State assisted Sandusky in his activities or sought to conceal or obscure these activities from the authorities and the public. Unfortunately, the Investigative Grand Jury's efforts to acquire pertinent and valuable evidence from Penn State were significantly thwarted and frustrated from 2010 to 2012.

Typical of this experience was Grand Jury Subpoena 1179. Subpoena 1179 was issued in December of 2010 yet would remain unfulfilled until April of 2012. This subpoena, authorized and signed by the Supervising Judge of the Investigating Grand Jury, required Penn State University to acquire and disclose to the Grand Jury: "Any and all records pertaining to Jerry Sandusky and incidents reported to have occurred on or about March 2002 and any other information concerning Jerry Sandusky in inappropriate contact with underage males on and off University property. Response shall include any and all correspondence directed to or regarding Jerry Sandusky." The University's response to this subpoena was due on January 10, 2011.



Upon service of this subpoena in December of 2010, Penn State's Legal Counsel, Cynthia Baldwin, immediately informed Spanier of the subpoena and the University's obligation to respond. At the same time, Curley, Schultz and Paterno had also been subpoenaed to appear before the Grand Jury scheduled in January of 2011. She informed Spanier about those subpoenas as well. Spanier told her that he would notify Curley and Schultz and that she was to contact Paterno. Soon thereafter, Legal Counsel Baldwin met with Spanier and with Athletic Director Tim Curley. At this meeting, Spanier directed, without discussion, that Baldwin would go with Curley and Shultz to their grand jury appearances. During this meeting, and at a number of other meetings, Baldwin sought to determine if any of the information required by Subpoena 1179 was known to Athletic Director Curley, Vice President Schultz, and President Spanier. Each personally and directly assured her that they knew of no information or documents involving alleged misconduct or inappropriate contact by Jerry Sandusky. They also assured her that they would look and see if they could find any such information or documentation. In the several weeks after the receipt of Subpoena 1179, all three individuals—Spanier, Shultz and Curley—assured Baldwin that they had investigated and determined that they possessed no information or documents that would be responsive to Subpoena 1179. She was specifically assured that they had searched through their emails and physical documents for any Sandusky-related materials. In addition, Athletic Director Curley informed Baldwin that the Athletic Department did not possess any applicable responsive materials.

The investigation also found that, contrary to what Schultz had told legal counsel Baldwin, Schultz had a file kept in his Penn State office containing notes and

documents directly related to the 1998 and 2001 sexual assault by Sandusky. These documents included hand-written notes prepared by Schultz from conversations he had with Penn State University Police Chief Thomas Harmon in 1998. Chief Harmon testified that, during the investigation of Sandusky from May and through part of June 1998, he provided frequent and detailed updates to Schultz. As part of this investigation, Chief Harmon reviewed the notes prepared by Schultz and identified them as reflective of their conversations at the time. Chief Harmon also detailed that the 1998 investigation of Sandusky was a "big deal" and clearly recognized as such. It was clear to Chief Harmon, from his extensive conversations with Schultz, that the University's hierarchy was extremely interested and concerned about this investigation. There was no question that it was recognized that this investigation had the potential to significantly damage and embarrass Penn State.

Also included in the notes kept in Schultz's office were notes that Schultz wrote regarding at least one conversation he had with Athletic Director Tim Curley about the McQueary observations in February of 2001. One note, recited above, written by Schultz and dated February 12, 2001, clearly stated that Schultz and Curley had "reviewed 1998 history" before discussing how to handle the latest allegations about Sandusky. In an email on that same date, February 12, 2001, Schultz was told by Chief Harmon that the 1998 investigative file still exists and "is documented in our imaged archives." Chief Harmon testified before the Grand Jury that he provided this response as a result of Schultz questioning him about whether the 1998 investigative file still existed. Chief Harmon stated that at no time during his contact with Schultz on this matter did Schultz reveal anything about a new allegation against Sandusky. Schultz,

despite being informed of McQueary's allegations within 48 hours of their occurrence on the night of February 9, 2001, and despite his having contact with the University Chief of Police about the 1998 investigation, never reported then, or at any other time, the new allegations of Sandusky assaults on a minor boy in a Penn State shower.

In January of 2011, only a handful of documents were provided in response to the subpoena. None of the documents provided were material or pertinent to the misconduct and crimes of Sandusky. Subsequent investigation into whether the University fully complied with the subpoena determined that no effort was made to search the Athletic Department, where Sandusky had been employed for over 30 years, or to search any of the electronically stored data at the University or emails or other documents pertinent to their responses to this subpoena.

It is also noteworthy that Penn State had in place a well-defined historical practice and procedure for responding to subpoenas. Subpoenas that might encompass electronically stored data (such as emails and documents stored on a computer or network drive) would routinely be sent to the specialized unit called the "SOS." These information technology professionals were trained and dedicated to assembling responsive electronically stored data in response to litigation needs or other legal process. None of the SOS professionals were ever shown subpoena 1179, nor were they directed to seek any of the information requested by subpoena 1179 before the arrests of Sandusky, Schultz and Curley. Likewise, investigators contacted the information technology employees of Penn State, who were not members of the SOS unit but had access to the electronically stored data likely to be searched to fulfill the requirements of subpoena 1179. These information technology employees likewise

stated that they were never requested to fulfill any requests for Sandusky related information. In addition, no independent efforts were made to search the paper files of the Athletic Director, Tim Curley, the Vice President of Finance and Business, Gary Schultz, or the President of the University, Graham Spanier.

The notes and documents concerning Sandusky's 1998 and 2001 crimes were in Schultz's Penn State office on November 5, 2011. The administrative assistant at the time, Kimberly Belcher, upon learning that Schultz was to be arrested and would not be returning to the office, removed these documents from a file drawer in Schultz's office and delivered them to his home.<sup>18</sup> Joan Coble, who served as Schultz's administrative assistant until her retirement in 2005, testified that she was instructed by Schultz to never "look in" the "Sandusky" file he kept in his bookcase file drawer. She said it was a very unusual request and was made in a "tone of voice" she had never heard him use before.

It should be noted that, throughout the Grand Jury's investigation, Spanier continuously wanted to know about the actions of the Grand Jury and law enforcement investigators. He required specific updates and regularly checked with Baldwin for any new information about the investigation. Legal Counsel Baldwin relayed all known information directly to Spanier. She fully informed him of all Grand Jury subpoenas and investigative requests.<sup>19</sup> Spanier also pressed Baldwin for information about Paterno's contacts with investigators and the Grand Jury: When she informed Spanier that

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<sup>18</sup> Before giving the original documents to Schultz, Belcher made a copy for herself. Belcher then lied about the existence and whereabouts of these documents whenever she was subsequently questioned by University representatives.

<sup>19</sup> Legal Counsel Baldwin testified that it was not only her duty to inform the University President of such things, but that Spanier also specifically requested that she keep him informed of everything regarding this investigation. Spanier has repeatedly misrepresented the level of his knowledge about the investigation. He told Board members and others that he was ignorant of the investigation into the 1998 and 2001 crimes. Even after his termination as President, he sent a letter to the Board on July 23, 2012, reiterating these false claims.

Paterno had acquired his own lawyer, who was not affiliated with the University, Spanier seemed disturbed and questioned aloud why Paterno would not use the University's legal counsel. He also questioned Baldwin, on a number of occasions, about what she knew or could discover regarding the information Paterno was providing to authorities.

Legal counsel Baldwin testified before the Grand Jury that, by January of 2011, Spanier was well aware that the Grand Jury was investigating the May 1998 allegations against Sandusky and the McQueary allegations against Sandusky. In March of 2011, law enforcement investigators requested an interview with Spanier. Spanier agreed and directed Baldwin to accompany him to the interview. Baldwin testified that, before this interview, Spanier was well versed and prepared for questions about the May 1998 allegations, the McQueary allegations, and the allegations of a high school student in Clinton County. Baldwin specifically discussed all of these matters with Spanier before that interview. Baldwin also testified that it was absolutely clear from her discussion with Spanier that he had extensively discussed the substance of Curley and Schultz's grand jury testimonies from January 2011 with each of those individuals. Spanier was also knowledgeable on likely investigative topics due to the fact that Legal Counsel had been keeping him informed of all the information subpoenaed by the Grand Jury from the University.

On March 22, 2011, Spanier was interviewed by law enforcement authorities. Spanier was questioned extensively about his knowledge of, and involvement with, the May 1998 investigation of Sandusky and about his knowledge of the Michael McQueary allegations from early in the 2000's. Spanier stated that he was not aware of the 1998 incident involving Sandusky and allegations of inappropriate behavior, nor was he

aware of any police report involving that matter. Spanier repeatedly detailed that he was rarely informed of any Penn State University Police involvements or investigations. Spanier stated that sexual assault allegations would not be reported to him and that he only reviewed statistical summaries of the Penn State Police Department that did not contain case details. Spanier did say that, sometime between 2000 and 2002, although he was unsure of the date, he was informed that a staff member saw an incident involving Sandusky with a child in a Penn State shower. He stated that he was informed of this by Gary Shultz and Tim Curley, and then he was told that the staff member observed Sandusky "horse playing around" with a child in a Penn State locker room shower. He further explained that he was told the staff member only observed this from a distance and was not sure of what he saw and that the staff member may have misconstrued or misinterpreted what he observed. Spanier stated that he had never been told the name of the staff member and only learned it was McQueary a few weeks before Spanier's interview by law enforcement authorities. Spanier further stated that he told Curley that, if there were no other details of what was observed in the shower, then Curley should contact Sandusky and inform him that he should no longer bring children into the Penn State facilities. Spanier further stated that he, Schultz, and Curley also decided that the Second Mile should be contacted and told about the incident and Penn State's restriction. Spanier specifically stated that his only meeting with Curley and Schultz lasted five to fifteen minutes. Spanier also specifically stated that he never heard anything further about the matter or any other allegations of misconduct against Sandusky. Later in the interview, Spanier stated that he believed

Curley did inform him that he had successfully spoken with Sandusky and the Second Mile about the University's restrictions.

The Board of Trustees was never informed in 1998 or 2001 about the conduct of Jerry Sandusky. Likewise, Spanier failed to inform anyone on the Board of Trustees about: the Grand Jury investigation; the Grand Jury subpoenas issued to the University; or, the testimony before the Grand Jury of Curley, Schultz, Paterno, and other Penn State employees, until April of 2011. At that time, he was forced to address the matter when several members of the Board of Trustees contacted Spanier and the then-Chairman of the Board of Trustees, Steve Garban, in response to a news story about the Grand Jury investigation. When Garban and other members of the Board attempted to discuss the matter with Spanier, Spanier told them he could reveal very little because of the Grand Jury secrecy rules. Spanier would employ this excuse repeatedly to mask details of the investigation and the extent of his past involvement from the Board of Trustees. Legal counsel Baldwin testified that she repeatedly instructed Spanier that he was free to discuss the investigation and the substance of his testimony before the Grand Jury. Baldwin specifically related this to Spanier in April of 2011, in writing, when the Board requested information about the investigation.<sup>20</sup> Chairman of the Board Garban advised Spanier that he would need to advise the Board of Trustees, at least in executive session, about the newspaper story revealing a Grand Jury investigation of Sandusky. The next board meeting scheduled was in May 2011. Spanier directed Baldwin to speak to the Board in executive session about the structure, work, and

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<sup>20</sup> When Spanier testified before the Investigating Grand Jury on April 13<sup>th</sup> of 2011, he was never instructed by the Grand Jury Judge that his testimony was secret or that he was prohibited from publically disclosing that testimony. In fact, he was specifically advised by the Supervising Judge of the Grand Jury that he was free to disclose his testimony.

procedures of an investigating grand jury. She believed, from her discussions with Spanier leading up to the May board meeting, that Spanier would inform the Board that the Grand Jury investigation not only involved allegations of sexual assault of a minor in Clinton County but also included the 1998 and 2001 incidents that had occurred in Penn State's facilities. Baldwin also believed that Spanier would inform the Board about the various Grand Jury subpoenas that had been issued to the University seeking testimony and evidence regarding Sandusky's acts of misconduct. Baldwin testified that Spanier was absolutely obligated to inform the Board of these matters and that he clearly understood this obligation.

At the executive session of the Board in May 2011, Legal Counsel Baldwin provided her report about Grand Jury practice and process to members of the Board. After she finished her presentation, she was stunned when Spanier immediately directed her to leave the room. In fact, she was so taken aback that, in gathering her papers and possessions to leave, she left her purse in the board room. She later had to ask someone to retrieve her personal possessions from the Board meeting. It was her understanding that Spanier was to address the Board members regarding the substance, known at that time, of the criminal investigation into Sandusky's activities. Members of the Board of Trustees who were in attendance at the executive session have all stated that Spanier never informed them of any connection between the Grand Jury investigation of Sandusky and Penn State. Quite to the contrary, Spanier specifically informed the Board that the investigation had nothing to do with Penn State and that the investigation was regarding a child in Clinton County without affiliation with Penn State. Spanier also told the Board that he could say little more about the matter



because of secrecy that had been imposed upon him by the Grand Jury. After the May 2011 executive session with the Board, Spanier provided no other information regarding the investigation, his involvement with 1998 and 2001 incidents, or Penn State's duties and responses to Grand Jury process. Spanier made no further mention of the matter to the Board until forced to address the issue when Sandusky, Curley, and Schultz were arrested in November 2011.

Numerous Board members testified that, when informed of the arrests, they were completely surprised and stunned. At a series of hastily called board meetings on Saturday and Sunday, November 5th & 6th, 2011, Spanier was still attempting to hide behind claims of grand jury secrecy when questioned about his knowledge of the investigation and his failure to disclose that knowledge to the Board.

The press release issued by Spanier on Saturday, November 5, 2011, read as follows:

**STATEMENT FROM PRESIDENT SPANIER:**

The allegations about a former coach are troubling, and it is appropriate that they be investigated thoroughly. Protecting children requires the utmost vigilance.

With regard to the other presentments, I wish to say that Tim Curley and Gary Schultz have my unconditional support. I have known and work daily with Tim and Gary for more than 16 years. I have complete confidence in how they have handled the allegations about a former university employee.

Tim Curley and Gary Schultz operate at the highest levels of honesty, integrity, and compassion. I am confident the record will show that these charges are groundless and that they conducted themselves professionally and appropriately.

GRAHAM SPANIER

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Penn State has heard from the attorneys representing both Tim Curley and Gary Schultz, they have released the following statements:

ATTORNEY TOM FARRELL:

"Gary Schultz is innocent of all charges. We believe in the legal system, and we believe that it will vindicate him. We will fight these charges in court, and Gary Schultz will be proven innocent of all of them."

ATTORNEY CAROLINE ROBERTO:

"Tim Curley is innocent of all charges against him. We will vigorously challenge the charges in court and we are confident he will be exonerated."

By Sunday, most members of the Board had copies of the Grand Jury Presentment. Members were completely stunned by the extent of Sandusky's crimes and the extent to which these crimes involved Penn State and its facilities. Many Board members were completely dismayed at Spanier's attempt to downplay the charges and vouch for the innocence of Gary Schultz and Tim Curley. On Sunday, in what was described as often contentious and angry exchanges, Spanier was directed—without qualification—to issue a press release on behalf of the University that specifically did not comment on the nature or veracity of the charges and that focused on concern for the victims and provided assurances that the University would fully cooperate and take whatever measures necessary to prevent this from ever happening again. The Secretary of the Board of Trustees, Paula Ammerman, also corroborated the Board members regarding the explicit directions related to Spanier about the press release.

On Sunday evening, November 6, 2011, Spanier called together Penn State press officers and other senior members of his staff. They met in his office, whereupon he provided them with a draft press release that he had prepared. The primary focus of this press release was upon the proclaimed innocence of Tim Curley and Gary Schultz and the University's pledge to support them through this process. There was no mention of the victims or the criminal activities of Sandusky. When it was suggested that he put in at least one line about the victims, Spanier acquiesced and added a

sentence. Some of those staff members present, including Paula Ammerman, knew what the Board had directed Spanier to do in this press release. They were surprised by Spanier's vehemence in supporting Curley and Schultz and his willingness to directly ignore the directives of the Board of Trustees. However, there were no protests or attempts to remind Spanier of his duty and obligation to the Board of Trustees.<sup>21</sup>

In the early hours of November 7, 2011, Spanier released a statement that again reiterated his support for Curley and Schultz. The statement largely ignored the nature of the charges and the harm to the victims.

Reaction from members of the Board of Trustees began almost immediately after publication of this press release. Members were astonished and infuriated. The contents of this press release not only largely contradicted the Board's instruction to Spanier, but it continued to demonstrate an affiliation by Spanier and the University, not only with Schultz and Curley, but with their criminal defense.

Several more meetings would occur between Spanier and Board members over the next two days. Again, Spanier never disclosed to the Board, or of any of its members, despite continuous conversations about the crimes charged, that he was knowledgeable about and had been involved in both the 1998 and 2001 episodes. Legal counsel Baldwin testified that Spanier repeatedly informed her and others that he knew nothing about the 1998 activities of Sandusky or the University police investigation of Sandusky. However, as time went on, she observed that Spanier's discussions about the 1998 episode seemed increasingly detailed and knowledgeable. She

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<sup>21</sup> When asked why they remained silent, these senior staff members and Penn State officials all provided similar responses. They said that Graham Spanier was a controlling President who did not easily brook contrary advice or anything he might view as disloyalty.

eventually came to believe that Spanier not only had known of the 1998 episode but clearly recollected he had been involved with that matter.

On November 9, 2011, the Board of Trustees of Penn State terminated Graham Spanier as the President of the University. The Board of Trustees also directed that University personnel were to cooperate with the law enforcement investigation of Jerry Sandusky and Penn State. Almost immediately following those two events, actual compliance with the Grand Jury subpoenas (past and present) and cooperation with the investigation began to be realized. Law enforcement investigators, working in conjunction with Penn State IT staff, were able to access massive amounts of electronically stored data and began a lengthy process of review and analysis. For the first four months of 2012, large amounts of evidence and data—much of which had been sought and subpoenaed for more than a year prior—was uncovered and provided to investigators. This evidence included significant emails from 1998 reflecting knowledge of, and involvement with, the investigation into Sandusky's showering with two young boys in May of 1998. In addition, significant emails were discovered, reflecting direct evidence of involvement by Graham Spanier, Gary Schultz, and Tim Curley in the failure of Penn State to report to child welfare or law enforcement authorities the crimes reported by Michael McQueary in February of 2001. Additionally, searches conducted—*for the first time*—of the athletic facilities where Sandusky had had offices, revealed approximately 22 boxes of Sandusky documents, photographs, and other materials. Much of the evidence found in these stored boxes proved to be highly valuable and were utilized in the subsequent criminal trial of Sandusky. This evidence included copies of letters that Sandusky sent to a number of his victims, lists

of the children who attended the Second Mile camps with Sandusky's notations next to their names, and photographs of a number of Sandusky's victims.

### **Endangering the Welfare of Children**

Graham Spanier, Tim Curley, and Gary Schultz engaged in a repeated pattern of behavior that evidenced a willful disregard for the safety and well-being of minor children on the Penn State campus. Jerry Sandusky utilized his unfettered access to Penn State facilities, both before his retirement in 1999 and after, to sexually abuse young boys. Spanier, Curley, and Schultz were all well aware of the extent to which Sandusky would use the campus in his connection with the Second Mile. This included Second Mile camps and other activities, as well as Sandusky's use of Penn State for his workout and shower sessions with young boys. The police investigation involving Victim 6 certainly provided an indication of the issues involved with Sandusky bringing children onto campus to use the facilities. When McQueary reported the assault in February of 2001, the first response should have been an immediate report to law enforcement and a child protective services agency. Instead, there was a frightening lack of concern for the yet to be identified child (Victim 2), and an interest in shielding a man who Curley recognized needed "professional help"<sup>22</sup> and who Schultz indicated should "confess to having a problem".<sup>23</sup> The plan of action undertaken by these three administrators, who formed the very apex of decision making and power at Penn State,

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<sup>22</sup> See February 27, 2001 email marked as Exhibit 8.

<sup>23</sup> See handwritten notes of Schultz marked as Exhibit 6.

was created out of a desire to shield Sandusky from the criminal process and, perhaps most importantly, to spare the University tremendous negative publicity and embarrassment.

Chief Harmon testified that all Gary Schultz (or, for that matter, Tim Curley or Graham Spanier) need have done was to let him know an eyewitness observed Sandusky and a young boy in a shower together on campus and that there was observed physical contact (let alone the actual sexual assault McQueary described to them during the meeting). Chief Harmon pointed out in his testimony that the need to report should have been readily apparent given this was now the second episode, and he observed that it would have likely led to a reexamination of the 1998 incident.<sup>24</sup> Tragically, this did not happen. The conduct of the three administrators focused on only two things: not reporting this to any outside agency and taking steps (unenforceable as they may be) to limit Sandusky from bringing children onto the Penn State campus.

The Grand Jury concludes that Graham Spanier, Tim Curley and Gary Schultz endangered the welfare of children by failing to report the incident witnessed by Michael McQueary to any law enforcement or child welfare agency. There was never any effort made to locate, identify, or otherwise protect Victim 2 from foreseeable future harm. In fact, by notifying Sandusky they were aware of the incident and not informing the police or a child welfare agency, Spanier, Curley and Schultz placed Victim 2 in even greater danger. Sandusky was placed on notice that others had been informed of his abuse of Victim 2.

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<sup>24</sup> This is in fact precisely what happened a decade later. Sandusky was convicted as a result of a fresh examination of the evidence in this case.

The continued cover up of this incident and the ongoing failure to report placed every minor male child who would come into contact with Sandusky in the future in grave jeopardy of being abused. The actual harm realized by this wanton failure is staggering. For example, a jury has convicted Sandusky of various sexual offenses for the following victims:

- Victim 1, between the years 2005 and 2008.
- Victim 2, for the 2001 assault witnessed by McQueary.
- Victim 3, who was abused between 1999 and December of 2001 (during the same time frame as the Victim 2 assault).
- Victim 5, who was abused in the Lasch Building in August of 2001, several months after Curley had supposedly "banned" Sandusky from bringing children on campus.
- Victim 9, between the years 2005 and 2008.

The depth of abuse and number of victims may never be fully realized. The Grand Jury witnessed firsthand the devastating effects of Sandusky's abuse on his victims. We find that Spanier, Curley, and Schultz had an ongoing duty to report this behavior and the overall supervisory responsibility for minor children they knew to frequent the campus with Sandusky. Their failure to report Sandusky to authorities from 2001 through 2011 directly endangered Victims 1, 2, 3, 5 and 9 and allowed Sandusky to abuse them between 2001 and 2008.

### Spanier Perjury

Graham Spanier testified before this Grand Jury regarding his oversight of one of the largest and most complex universities in the United States. He testified that Curley and Schultz came to him around 2002 to report an incident in which a staff member of Curley's had witnessed Sandusky horsing around in the shower with a younger child. He stated the staff member was apparently a little uncomfortable with the activity, so he brought it to Curley's attention. Spanier stated Schultz and Curley never identified who made the report and Spanier still did not know who it was as of the date of his testimony. He testified that he told Schultz and Curley that, since that kind of behavior could be misconstrued, his advice would be they tell Sandusky not to bring kids into Penn State facilities and that they notify the Second Mile of the incident. Spanier testified this all occurred in a ten- to fifteen-minute meeting.

Spanier acknowledged there was no discussion about trying to locate the child. He also told the Grand Jury there was no discussion about reporting the matter to police or a child welfare agency. He also said he had no knowledge of the 1998 incident involving Victim 6 prior to 2011. He claimed the 1998 matter was never discussed between himself, Curley, and Schultz in deciding how to handle the incident reported by McQueary. Spanier denied he was ever given any indication the 2001 incident could have been sexual in nature.

The Grand Jury finds that Graham Spanier made materially false statements under oath in an official proceeding on April 13, 2011. Spanier claimed on multiple



occasions that he had no knowledge of the 1998 incident when it occurred, during the decision making process in 2001, or at any point up until 2011. We find this claim was made to mislead the Grand Jury. This claim conflicts with all of the evidence we received regarding how important matters were dealt with at Penn State. Gary Schultz would routinely keep Spanier apprised of significant police matters, particularly ones that involved the football team and generated media scrutiny. Spanier was obviously kept in the loop on this matter as Schultz copied him on emails that discussed the status and conclusion of the investigation. One need only look to the 2001 incident to see how Schultz would immediately seek out Spanier on an issue of importance. In 1998, Sandusky was arguably the most high profile individual on campus other than Joe Paterno. Sandusky was also a current employee being investigated by the police department for unlawful sexual contact with a minor in the football building. Schultz would have been negligent in his duties to not notify the Athletic Department and the President.

Spanier made a materially false statement when he denied that he, Curley, and Schultz ever discussed turning the 2001 incident over to a child protection agency. This was the course of action that was considered, at one point even suggested by Schultz, and ultimately rejected in an email exchange where Spanier extols the "humane" nature of an approach that did not include reporting Sandusky to outside authorities.

Spanier made a materially false statement when he described that he was only told by Curley and Schultz that the 2001 incident was horseplay and made someone uncomfortable. The previously discussed electronic communications between the three make clear they are discussing an event that involves the abuse of a child.

### Obstruction of Justice and Criminal Conspiracy

Graham Spanier, Tim Curley, and Gary Schultz conspired among each other and did in fact engage in many acts to obstruct justice between 2001 and the present. The acts of obstruction and conspiracy include, but are not limited to the following:

- The actions taken by Spanier, Curley, and Schultz after the initial report is made by Joe Paterno on February 11, 2001, including plans to not tell DPW if Sandusky "confesses" to having a problem.
- The review and knowledge of the 1998 allegations.
- Schultz contacted Chief Harmon to determine the availability of the 1998 police report but never disclosed the information received by Paterno.
- The failure to report McQueary's eyewitness account of a sexual assault.
- Schultz informing John McQueary the matter was being investigated and looked into when it was not.
- The willful failure to alert anyone about Sandusky from February of 2001 through the course of this investigation.
- The numerous lies told by Spanier, Schultz, and Curley to this grand jury.
- The total lack of compliance with the Grand Jury's requests for information, such as Subpoena 1179.
- Schultz hid the existence of pertinent files and notes.

- Curley failed to conduct a search for pertinent documents and materials involving Sandusky.
- Spanier hid the existence of emails and other forms of communication.
- Spanier failed to disclose his role in the 2001 incident to the Board of Trustees.
- Spanier withheld key information from his senior staff charged with managing the Sandusky situation throughout 2011.<sup>25</sup>

### **Spanier's Failure to Report**

The sexual assault of Victim 2 should have been reported to the Pennsylvania Department of Public Welfare and/or a law enforcement agency. Graham Spanier, by virtue of his position within the University, had a legal obligation and responsibility to report or to cause a report to be made within forty-eight hours to a child services agency.

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<sup>25</sup> It should be noted that Spanier continues to mislead with numerous public statements that contain demonstrably false statements.

# EXHIBIT 1

Witness

5/4/98  
5:00PM

11 1/2 yr old son

Nitro Gun

Trapped in 2nd floor

They picked up son & worked

HFB back now

Behavior - at best inappropriate

Constant sexual harassment

Police interviewed

- typed

- May be doing at home

- by themselves, undisturbed

Give him other clothes

Even though he was in shorts

- worked out on treadmill etc
- Jerry - to take a shower -  
undressed - ? no other  
shower? 4 in here.

Shampoo

- Jerry came up behind &  
gave him a bear hug -  
squeezed towards squeeze  
got out - etc.

- keep clothes - such as JUP's  
hat

- took hand.

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After concerned another  
morning - Kel took another  
shower last night & this a.m.

-3-  
Mother - asked how dad  
to give him

had to be a gentle contact  
because of eye difference  
but when asked of boy  
he gently said NO

- Friend Brandon, age 10,  
also @ N. Hwy Center -  
claims saw thing went  
on with him

- Mother also asked Brandon  
- Children's Youth has been  
notified & willing to  
talk to Brandon - tonight

- 4 -

Walter over meeting - 110

generally concerning

Admin. Peer Judgment

Critical issue - critical  
w/ genitals?

Assuming some exploring  
w/ Bender? not assumed



Tom Harman

5/5

Last evening

- re interview 11 1/2 yr old
- only change: added what happened in shower demonstrated on chair how Jerry hugged from back

hands around abdomen  
& down to thighs - picked  
him up & held him at  
shower head - rinse

soap out of ears

observed by BU FB &

- psychologist
- probably emotional problems but articulate & believable
- Mother to psychologist & said she would call child abuse hot line & will generate an incident no - with Dept of Public Welfare
- Other boy - interviewed last night
- Similar act

wrestling  
kissed on head

-3-

Hogging from behind  
Shower

No allegation beyond that

Kids drew diagrams of  
shower rooms.

He initially went down to  
shower 3 yds stuck  
away & Gary told  
him to come down  
to shower next to his.

- Local child abuse people  
Met at FOC today to  
decide what to do.

-4-

Either way, case worker  
felt they would interview  
Jerry

box? " " "  
Other children?

# EXHIBIT 2

**OAG**

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**From:** Gary C. Schultz <gcs2@psu.edu>  
**Sent:** Wednesday, May 06, 1998 2:06 PM  
**To:** Tim Curley  
**Cc:** Spanier-Graham (GBS)  
**Subject:** Re: Joe Paterno

Will do. Since we talked tonight I've learned that the Public Welfare people will interview the individual Thursday.

At 05:24 PM 5/5/98 -0400, Tim Curley wrote:  
>I have touched base with the coach. Keep us posted. Thanks.

>  
-----  
>Tim Curley  
>[Tmc3@psu.edu](mailto:Tmc3@psu.edu)  
>  
>  
>

# EXHIBIT 3

**OAG**

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**From:** Gary C. Schultz <gcs2@psu.edu>  
**Sent:** Tuesday, June 09, 1998 2:09 AM  
**To:** Curley-Tim (TMC)  
**Cc:** Spanier-Graham (GBS); Harmon-Thomas (TRH)  
**Subject:** Re: Jerry

They met with Jerry on Monday and concluded that there was no criminal behavior and the matter was closed as an investigation. He was a little emotional and expressed concern as to how this might have adversely affected the child. I think the matter has been appropriately investigated and I hope it is now behind us.

>Date: Mon, 08 Jun 1998 21:59:42 -0400  
>To: Tim Curley <tmc3@psu.edu>  
>From: "Gary C. Schultz" <gcs2@psu.edu>  
>Subject: Re: Jerry

>  
>Tim, I don't have an update at this point. Just before I left for vac, Tom told me that the DPW and Univ Police services were planning to meet with him. I'll see if this has happened and get back to you.

>  
>At 10:27 AM 5/30/98 -0400, Tim Curley wrote:  
>>Any further update?

>>  
>>  
>>  
>>

>>At 09:46 AM 5/19/98 -0400, you wrote:  
>>>No, but I don't expect we'll hear anything prior to the end of this week.

>>>  
>>>At 09:37 PM 5/18/98 -0400, Tim Curley wrote:  
>>>>Any update?

>>>>  
>>>>

>>>>At 04:11 AM 5/14/98 -0400, you wrote:  
>>>>>Tim, I understand that a DPW person was here last week; don't know  
>>>>>for sure if they talked with Jerry. They decided to have a child  
>>>>>psychologist talk to the boys sometime over the next week. We won't know anything before then.

>>>>>  
>>>>>At 02:21 PM 5/13/98 -0400, Tim Curley wrote:  
>>>>>>Anything new in this department? Coach is anxious to know where it stands.

>>>>>>

>>>>>>Tim Curley  
>>>>>>tmc3@psu.edu

>>>>>>>  
>>>>>>>  
>>>>>>>

>>>>>>>Gary C. Schultz  
>>>>>>>Sr. V.P. for Finance and Business/Treasurer  
>>>>>>>208 Old Main  
>>>>>>>Phone: 865-6574  
>>>>>>>Fax: 863-8685

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>>>>>>>>  
>>>>>>>>



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>>>>Tim Curley

>>>>Tmc3@psu.edu

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>>>Gary C. Schultz

>>>Sr. V.P. for Finance and Business/Treasurer

>>>208 Old Main

>>>Phone: 865-6574

>>>Fax: 863-8685

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>>Tim Curley

>>Tmc3@psu.edu

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# EXHIBIT 4

Working Attorney(s): Select 9

Matter I.D.	Description	Task: Activity	Hours	
02-08-01				
4000-465063	PSU - Labor - Human Resources PS010		0.60	
	Conference with J Purdum re holiday pay issue; Conference with R Maney re same			
4000-490106	PSU - Personnel - Continuing & Distance Educat		0.50	
	Conference with J Elliott re J Marshall; Conference with G Schultz			
4000-490143	PSU - Personnel - Mont Alto Campus		2.20	
	Conference with J Leathers re D Goldenberg; Preparation of correspondence to G Spanier; Review of files; Preparation of correspondence to G Spanier et al; Conference with J Leathers			
4000-481582	PSU - Students - Student Affairs		2.90	
	Interoffice conference re camping policy; Legal research re same			
4000-481582	PSU - Students - Student Affairs		1.70	
	Study/analyze documents re LGB tenant; Interoffice conference re same; Legal research; Preparation of correspondence to G Spanier et al re same			
4000-490163	PSU - Personnel - Human Resources		0.30	
	Conference with R Maney re R Khalliq			
4000-465026	PSU - Labor - COM - General		1.50	
	Preparation of documents re HMC parking			
** Total for 2/8/2001 **			9.70	0.00
02-09-01				
4000-490143	PSU - Personnel - Mont Alto Campus		1.60	
	Review of documents re D Goldenberg; Preparation of correspondence to G Spanier; Preparation of correspondence to J Leathers; Legal research			
4000-451558	PSU - Gifts & Grants - Develop and Alumni Rela		0.20	
	Review of files re Hagan estate			
4000-490117	PSU - Personnel - College of Liberal Arts		1.10	
	Conference with J Battista re R Echemendia; Interoffice conference			
4000-425562	RSU - Contracts - Hershey Medical Center		0.80	
	Review of documents re Purchase of Services Agreement; Interoffice conference re same			
4000-465026	PSU - Labor - COM - General		2.60	
	Conference with L Kushner re HMC parking fees; Preparation of correspondence to L Kushner re same; Preparation of documents; Legal research			
4000-465063	PSU - Labor - Human Resources PS010		0.70	
	Review Schaeffer brief			
** Total for 2/9/2001 **			7.00	0.00
02-11-01				
4000-450061	PSU - General - Finance/Business - Central		2.90	
	Conference with G Schultz re reporting of suspected child abuse; Legal research re same; Conference with G Schultz			
02-12-01				

# EXHIBIT 5

**OAG**

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**From:** Thomas R. Harmon <HARMON@SAFETY-1.SAFETY.PSU.EDU>  
**Sent:** Monday, February 12, 2001 4:57 PM  
**To:** gcs2@psu.edu  
**Subject:** Incident in 1998

Regarding the incident in 1998 involving the former coach, I checked and the incident is documented in our imaged archives.

Thomas R. Harmon  
Director, University Police  
The Pennsylvania State University  
30-B Eisenhower Parking Deck  
University Park, PA 16802  
(814) 865-1864  
[harmon@police.psu.edu](mailto:harmon@police.psu.edu)

# EXHIBIT 6

PENNSSTATE

Confidential



Date: 2/12/01

From: Gary C. Schultz

To:

Talked w TMC

reviewed 1998 history

- agreed TMC will discuss w JUP &

advise we think TMC should meet  
w JUP on Friday.

- unless he expresses to having a problem,

TMC will indicate we need to  
have DPW review the matter

as an independent agency concerned  
w. Child Welfare.

- TMC will keep me posted.

Senior Vice President for Finance and Business/Treasurer

The Pennsylvania State University  
208 Old Main  
University Park, PA 16802-1503  
(814) 865-6574  
Fax: (814) 863-7188

# EXHIBIT 7



**OAG**

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**From:** Gary C. Schultz <gcs2@psu.edu>  
**Sent:** Monday, February 26, 2001 1:57 PM  
**To:** TMC3@psu.edu  
**Cc:** Coble-Joan (JLC)  
**Subject:** Confidential

Tim, I'm assuming that you've got the ball to 1) talk with the subject ASAP regarding the future appropriate use of the University facility; 2) contacting the chair of the Charitable Organization; and 3) contacting the Dept of Welfare. As you know I'm out of the office for the next two weeks, but if you need anything from me, please let me know.

# EXHIBIT 8

## OAG

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**From:** Gary C. Schultz <gcs2@psu.edu>  
**Sent:** Wednesday, February 28, 2001 2:13 PM  
**To:** Graham Spanier; Tim Curley  
**Subject:** Re: Meeting

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Tim and Graham, this is a more humane and upfront way to handle this.&nbsp; I can support this approach, with the understanding that we will inform his organization, with or without his cooperation (I think that's what Tim proposed).&nbsp; We can play it by ear to decide about the other organization.&nbsp; <br> <br> At 10:18 PM 2/27/01 - 0500, Graham Spanier wrote:<br> <blockquote type=cite cite>Tim:&nbsp; This approach is acceptable to me.&nbsp; It requires you to go a step further and means that your conversation will be all the more difficult, but I admire your willingness to do that and I am supportive.&nbsp; The only downside for us is if the message isn't &quot;heard&quot; and acted upon, and we then become vulnerable for not having reported it.&nbsp; But that can be assessed down the road.&nbsp; The approach you outline is humane and a reasonable way to proceed.<br> <br> At 08:10 PM 2/27/01 -0500, Tim Curley wrote:<br> <blockquote type=cite cite>I had scheduled a meeting with you this afternoon about the subject we discussed on Sunday. After giving it more thought and talking it over with Joe yesterday-- I am uncomfortable with what we agreed were the next steps.&nbsp; I am having trouble with going to everyone, but the person involved. I think I would be more comfortable meeting with the person and tell him about the information we received. I would plan to tell him we are aware of the first situation. I would indicate we feel there is a problem and we want to assist the individual to get professional help. Also, we feel a responsibility at some point soon to inform his organization and and maybe the other one about the situation. If he is cooperative we would work with him to handle informing the organization. If not, we do not have a choice and will inform the two groups. Additionally, I will let him know that his guests are not permitted to use our facilities.<br> <br> I need some help on this one. What do you think about this approach?</blockquote><br> -----<br> -----<br>

Graham B. Spanier<br> President<br> The Pennsylvania State University<br> 201 Old Main<br> University Park, Pennsylvania&nbsp; 16802<br> <br> Phone:&nbsp; 814-865-7611<br> email:&nbsp; gspanier@psu.edu<br> </blockquote></html>