

November 2011

Commonwealth v. Sandusky

Grand Jury Presentment



Bottom Line Up Front

- **The November 2011 Grand Jury Presentment (GJP) was constructed in a manner that drove public opinion against Penn State University by:**
 - **Not presenting the incidents in chronological order**
 - **Making misleading statements (e.g., CMHS acted appropriately)**
 - **Making false statements (e.g., McQueary witnessed a rape)**
 - **Ignoring the DPW and CYS failures in 1998**
 - **Including hearsay testimony (e.g., Victim 8 story)**

BOTTOM LINE:

PSU was criticized and punished for its response to the 2001 incident, while the police and the state and county child welfare organizations escaped any criticism or punishment for their failures.

The 2011 GJP As Released and Perceived

- Aaron Fisher - Abused at CMHS. School responded promptly.
 - Victim 2 - Child rape was witnessed in a PSU shower. Covered up by top PSU officials, who lied about their knowledge of the incident.
 - Victim 3
 - Victim 4
 - Victim 5
 - Victim 6
 - Victim 7
- Abused in PSU showers/facilities by Sandusky
Sandusky used PSU football to entice victims
- Victim 8 – Abuse witnessed in PSU shower by janitors. Afraid to report Sandusky for fear of being fired.

Perception

Penn State's cover up of the 2001 incident resulted in the abuse of many children. The cover up was from the top of the university all the way to the bottom.

Nov 2011 GJP presented chronologically

- Victim 7 - Abused 1997 in PSU pool.
- Victim 4 - Abused 1998-2000 in various locations.
- Victim 6 - Single shower incident 1998.
- Victim 5 - Single shower incident 1998.
- Victim 3 - Abused 2000 at Sandusky home & in shower.
- Victim 8 - Abused PSU shower 2000 – hearsay testimony.
- **Victim 2 – Abused PSU shower 2001 - witnessed by McQueary – reported by PSU officials, who reported it to Second Mile.**

} Apparent stop of abuse

- Aaron Fisher – Abused 2005-2008 at Sandusky home & CMHS.

Perceptions?

Nov 2011 GJP presented chronologically – Adding Victims 9 and 10

- Victim 7 - Abused 1997 in PSU pool.
- Victim 10 – Abused 1997-1999 in pool and Sandusky’s home
- Victim 4 - Abused 1998-2000 in various locations.
- Victim 6 - Single shower incident 1998.
- Victim 5 - Single shower incident 1998.
- Victim 3 - Abused 2000 at Sandusky home & in shower.
- Victim 8 - Abused PSU shower 2000.
- **Victim 2 – Abused PSU shower 2001 - witnessed by McQueary – reported by PSU officials, who reported it to Second Mile.**

} Apparent stop of abuse

- Aaron Fisher – Abused 2005-2008 at Sandusky’s home & CMHS.
- Victim 9 – Abused 2006-2009 at Sandusky’s home

Likely story lines?

What happened after 2001? Did the 2001 PSU intervention cause Sandusky to stop for a while? Why didn’t the police find any victims between 2001 to 2005?

THE POLICE FAILED TO DISCOVER ANY OF THE VICTIMS

Police Investigation of 2008 - 2011

- July 2009 - Discovered 1998 incident
- December 2010 – 7 of 8 victims/incidents identified
- January 2011 – Retrieved 1998 police report for PSU
- March 2011 – Victim 8 incident by Janitor
- May 2011 – Subpoenaed names of Janitors
- January 2011 -- Subpoenaed 2M Participant Records
- July 2011 – Search warrant for Sandusky's home
- Nov 2011 – Grand Jury Presentment (8 Victims)

Warrants and subpoenas are “pro forma”

How the Victims Were Identified

- Aaron Fisher – Self Reported in December 2008
- Victims 2 and 8 – Not yet identified.
- Victim 6 – Mother contacted by Sara Ganim (Fall 2010)
- Victims 3, 4, 5, and 7 – Reported by Mother of V6 (Fall 2010)
- V9 and V10 – Self-reported in December 2011

Misleading findings in the GJP - 2008

- Victim 1: Officials at CMHS acted appropriately
 - GJP: “Turchetta became aware of Victim 1’s allegations....Sandusky was barred from the school district from that day forward and the matter was reported to authorities as mandated by law.”
 - The CMHS Guidance Counselor told mother (Dawn Daniels) and son (Aaron Fisher) to go home and think about it because Sandusky “has a heart of gold.”
 - Daniels and Fisher immediately went to Clinton County CYS to report the abuse. CYS Director Gerald Rosamilia testified the complaint came from directly from the mother, not CMHS.*
 - CMHS called Clinton County CYS after Daniels told her she would be reporting Sandusky. CYS psychologist Gillum called this a “CYA” move because typically the call comes from the high school before the family is sent to CYS.**
 - Another incident occurring with Fisher and Sandusky in a suspicious activity in the wrestling room was not reported or investigated.

<http://www.sungazette.com/page/content.detail/id/570961/Scandal-may-include-Keystone-Central.html?nav=5011>

**ABC News 20/20 interview, 19 October 2012

Misleading findings of the GJP - 1998

- 1998: Downplaying knowledge of suspected child abuse
 - GJP: “When Victim 6 was dropped off at home, his hair was wet and the mother immediately questioned him about this and was upset to learn the the boy had showered with Sandusky.”
 - According to Dr. Alycia Chambers, the boys hair was dry when he arrived home.
 - After discussing the workout with his mother, he stated, “We took a shower, just in case you’re wondering why my hair’s is wet.”
 - The mother recognized that as a signal that her son was bothered by showering with Sandusky.*
 - The child then took two more showers in the next 11 hours, precipitating the mother’s phone call to the psychologist.*

*Both signs of possible child sexual abuse. See http://www.stopitnow.org/warning_signs_child_behavior

Misleading findings of the GJP - 1998

- 1998: Evidence of possible child sexual abuse was known by investigators

• Wanda
 • 11 1/2 yr old son 5/4/98
 • 5:00pm
 • Miffy Gables
 • In 1998
 • Jerry pulled up son & invited
 to FBI take 1000s
 • Behavior - at least suggestive
 of sexual abuse
 • Police interview
 - typed
 - May be lying at 1000s
 - by 1000s
 - Give him other clothes
 even though he was in shorts

Gave 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 -
 snail toward squeeze
 gets out - all
 - Keep clothes - socks JVP's
 hat
 - took hand.
 Mother concerned something
 more - kid took another
 shower last night & this am

Jerry - to take a shower - undressed - ? no other Shower? 4 in here

Jerry came up behind & gave him a bear hug

Keep clothes - socks JVP's hat

Mother concerned something more - kid took another shower last night & this a.m.

Signs of possible child sexual abuse. See http://www.stopitnow.org/warning_signs_child_behavior

Misleading findings of the GJP - 1998

- 1998: No mention of DPW and CYS in the investigation
 - GJP: “After a lengthy investigation by University Police Detective Ronald Schreffler, the investigation was closed after then-Centre County District Attorney Ray Gricar decided there would be no criminal charges.”
 - Dr. Alycia Chambers reported Sandusky was exhibiting grooming behaviors typical of a pedophile and released the report to:
 - DPW (oral report through ChildLine)
 - CYS (written report)
 - University Park Police (written report)
 - DWP investigator, Jerry Lauro, ordered second evaluation of child over the objections of ADA Karen Arnold and Det. Schreffler.
 - Second evaluation, by unlicensed counselor, John Seasock, who was brought in by DPW and CYS, determined Sandusky exhibited behaviors typical of a “(male) coach.”
 - DPW did not make a finding of abuse, therefore, DA Gricar could not have successfully prosecuted the case.

Misleading findings of the GJP - 1998

- **1998: Associations with other victims are unclear**
 - The mother of Victim 6 reported that other children may have been abused at the outset of the May 1998 investigation.
 - Victims 3, 4, 5, 6, and 7, plus B.K., were all in a group of children who were frequently seen with Sandusky.
 - The GJP did not make these associations clear, nor did it mention that the investigators were told about the other children.

Victim	GJP Dates of Abuse	Actual Dates of Abuse*	GJP statement of relationship with other victims	Actual relationship with other victims
3	<u>2000</u>	1999	<u>4</u>	4,5,6,7,BK
4	1997-2000	1997-1999	<u>None</u>	3,5,6,7, BK
5	1998	<u>2001</u>	<u>6 and other boys</u>	3,4,6,7,BK
6	1998	1998	BK, 5, <u>and other boys</u>	3,4,5,7, BK
7	1996-1997	1996-1997	BK, 6, <u>and other boys</u>	3,4,5,6,BK
BK	1998	1998	<u>None</u>	3,4,5,6,7
*based on trial testimony				

Misleading findings of the GJP -1998

1998 Summary

- **Incorrect precipitating event (s).**
- **No mention of the signs of possible sexual abuse.**
- **No mention of the possibility of more than 2 victims.**
- **Didn't mention of DPW's and CYS's role in the investigation**
- **No mention of the differing evaluations of the child.**

Misleading findings of the GJP - 2001

- The GJP stated: “The records reveal that the 2002 incident was never reported to any officials, in contravention of Pennsylvania law”
 - Both Gary Schultz* and Wendell Courtney** recalled that the local child welfare organization/CYS was contacted about the 2001 incident.
 - Reports to ChildLine (DPW) typically are made by CYS
 - 55 Pa. Code § 3490.34 states that child abuse complaints that are not resolved in 60 days are determined unfounded. After 120 days, unfounded complaints are expunged from the records.
 - Given that the AG knew that there had not been a finding of child abuse against Sandusky, the fact no records exist is irrelevant.
 - The AG office investigator, Detective Sassano, asked Jerry Lauro, DPW, and Carol Smith, CYS, if they recalled a 2002 investigation of Sandusky, not a 2001 investigation. Neither could recall an investigation.
 - In 1998, Carol Smith was the Assistant Director of Centre County CYS.

*Grand Jury Presentment, page 9

** Freeh Report, page 84

Misleading Findings of the GJP - 2001

- GJP: He saw a naked boy, Victim 2....with his hands up against the wall, being subjected to anal intercourse by a naked Sandusky.
 - The AG put its misleading statement about anal intercourse with the statement: “The grand jury finds the graduate assistant’s testimony to be extremely credible.”
 - McQueary’s handwritten statement to the police indicated he did not see insertion or penetration.
 - McQueary’s testimony at the preliminary hearing for the perjury trial of Curley and Schultz stated that he never used the words sodomy or rape when describing the incident he witnessed in he locker room.
 - McQueary’s trial testimony could not convince a jury that he had witnessed a rape. Sandusky was acquitted of Involuntary Deviate Sexual Intercourse of Victim 2.

Misleading Findings of the GJP - 2001

- GJP: The account of Victim 8 (reported by janitor, Ronald Petrosky)

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because the football team was away for its game. Petrosky, whose job it was to clean the showers, first heard water running in the assistant coaches' shower room. He then saw that two people were in the assistant coaches' shower room. He could only see two pairs of feet; the upper bodies were blocked. Petrosky waited for the two persons to exit the shower so he could clean it. He later saw Jerry Sandusky exit the locker room with a boy, who he described as being between the ages of 11 and 13. They were carrying gym bags and their hair was wet. Petrosky said good evening and was acknowledged by Sandusky and the boy. He noted that the hallway in the Lasch building at that point is long and that Sandusky took the boy's hand and the two of them walked out hand in hand. Petrosky began to clean the shower that Sandusky and the boy had vacated. As he worked, Jim approached him. Petrosky described Jim as being upset and crying. Jim reported that he had seen Sandusky, whose name was not known to him, holding the boy up against the wall and licking on him. Jim said he had "fought in the [Korean] war....seen people with their guts blown out, arms dismembered...I just witnessed something in there I'll never forget." And he described Sandusky performing oral sex on the boy. Petrosky testified that Jim was shaking and he and his fellow employees feared Jim might have a heart attack. Petrosky testified that all the employees working that night except Witherite were relatively new employees. In discussions held later that shift, the employees expressed concern that if they reported what Jim had seen, they might lose their jobs. Jim's fellow employees had him tell Jay Witherite what he had seen.

- Asst Coach's Locker Room
- Obstruction blocking upper bodies
- Petrosky cleaning shower when Calhoun approaches

Trial Testimony of Petrosky – June 2012

11 Q. Which locker room was this where you
12 were cleaning?
13 A. The staff.
14 Q. Staff. That was the staff locker room.
15 Now, how many ways in and out of that locker room
16 are there?
17 A. Just one. The one that they were in.
18 Q. When you went in, when you first went in
19 and saw people in the shower, I guess you
20 couldn't actually see them. Can you describe --
21 I think you said -- your testimony was you saw
22 legs?
23 A. Legs, yes.
24 Q. Is that because there was a curtain?
25 A. There's no curtain in there.
5 Q. Okay. Now, after that, did you see Jim
6 Calhoun?
7 A. Yes, shortly after. I finished the
8 chemicals and I grabbed my bottle and I started
9 in the door and Jim was coming out. There's

1 A. He said that he told Jay and them, he
2 said that, you know, he seen Sandusky holding

- Staff Locker Room
- No curtain/obstruction
- Calhoun in shower area during entire incident

Petrosky stated he called police after reading about the 2001 incident in the CDT, but testified before it was printed

Conclusions

- The AG's November 2011 GJP is a misleading account of the crimes, timeframes, and each organizations' responses to the crimes of Jerry Sandusky.
 - The police failed to identify/find any victims during their nearly three year investigation of Sandusky.
 - CMHS, DPW, CYS, and the police all failed to respond properly in response to Sandusky's crimes, yet their improper responses were not highlighted.
 - PSU's intervention into the alleged abuse appeared to be more effective than any of the other organizations, yet PSU was criticized and punished for its response.

BOTTOM LINE

The grand jury presentment framed a completely false narrative of the circumstances surrounding Sandusky's crimes. That narrative was constructed to cover for the failures of DPW, CYS, the OAG investigators and the Pennsylvania State Police and place the blame on Penn State University officials.