

# Sandusky Investigation and Prosecution



Friday April 19, 2013

# Anchoring a False Narrative

**“...he saw a naked boy...ten years old...being subjected to anal intercourse by a naked Sandusky...”**

***--Grand Jury Presentment***

**“...remember that little old boy in the shower.”**

***--Governor Tom Corbett***

**“...the rapes of these boys occurred in the Lasch Building.”**

***-- Louis Freeh***

**“...repeatedly concealed critical facts related to Sandusky’s child abuse.”**

***-- Louis Freeh***

# The Sandusky Investigation

## *The Crimes*

# The Crimes

- **November 4, 2011 Grand Jury Presentment – 40 counts of child abuse**
- **Freeh Report – Sandusky “found guilty of 45 counts of the criminal charges”**

## REALITY – TRIAL VERDICTS

- **15 counts against four victims specific to PSU property**
  - Victim 2 – four counts
  - Victim 5 – three counts
  - Victim 6 – three counts
  - Victim 8 – five counts (possible error in admitting hearsay testimony)
- **30 counts not specific to PSU property - 24 occurred off premises**

**BOTTOM LINE: Access to CHILDREN enabled Sandusky’s crimes – NOT access to PSU facilities**

# The November 2011 Grand Jury Presentment (GJP)

- 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

PSU was aware of Sandusky's abuse from the top (Spanier) to the bottom (janitors) of the university and failed to report it. As a result, many children were victimized by Sandusky as a result of PSU's negligence.

# November 2011 GJP presented chronologically

- Victim 7 - Abused 1997 in various locations
- Victim 4 - Abused 1998-2000 in various locations.
- Victim 6 - Single shower incident at PSU 1998.
- Victim 5 - Single shower incident at PSU 1998.
- Victim 3 - Abused 1999 in various locations.
- 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.

Perception?

# Nov 2011 GJP presented chronologically adding Victims 9 and 10

- Victim 7 - Abused 1997 in various locations
- Victim 10 – Abused 1997-1999 in various locations.
- 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

PSU officials confronted Sandusky and reported the 2001 incident to Second Mile. As a result, the abuse stopped for several years.

**BIGGER STORY: The Police Did NOT Identify Any of the Victims**

# The Sandusky Investigation

***Conducted by  
Office of Attorney General  
and  
Pennsylvania State Police***



# Who Identified the Victims?

- **Aaron Fisher (V1) - Self-Reported in November 2008**
- **Victim 6 – Mother contacted by Sara Ganim in January 2011**
- **Victims 3, 4, 5, and 7 – Found through leads ID'd by Mother of Victim 6**
- **Victims 2 and 8 – Officially yet to be identified**

----- **Grand Jury Presentment – Nov 2011** -----

- **Victim 9 – Identified by Assistant Principal in November 2011**
- **Victim 10 – Self-reported in November 2011**

**Five victims Identified by the Mother of Victim 6; Three others called in to police.**

# Quotes from the investigators

“Anyone who sat through that trial knows it was a **thorough investigation**. I don’t care what it looks like. I know because I was there. There was **no holding back**.”

*--OAG Supervisory Agent,  
Randy Feathers*

“When you’re **not getting breaks**, it doesn’t mean you’re **not working**.”

*--OAG Supervisory Agent,  
Randy Feathers*

“It was kept very secretive, of course, and **people wanted to maintain that secret**.”

*-- Agent Anthony Sassano*

# “No holding back”

- Dec 2008 - Troopers Cavanaugh and Akers tell Victim 1 he is not alone ~ Sandusky had other victims (Trial testimony, June 12, 2012, page 77)
- Feb 2009 - Trooper Lear replaced Cavanaugh and Akers
- April 2009 - Centre County DA transfers case to OAG
- May 2009 - 31<sup>st</sup> Statewide Investigating Grand Jury begins
- June 2009 – Deputy AG Eschbach informed Mike Gillum that OAG was aware of **1998 Sandusky investigation** (Silent No More, page 120)
- June 2009 - Rossman replaced Lear/told Fisher about other victims (Trial testimony, June 12, 2012, page 77)
- Nov 2010 - Anonymous Tip Regarding 2001 incident
- Dec 2010 - Interview with Mother of Victim 6, who identifies five victims
- Jan 2011 - State Police obtain University Park Police Report of **1998 Sandusky Investigation** (19 months after learning about 1998)

**Who is keeping secrets?**

# Identifying Victim 3 – OAG’s Version

*Agent Anthony Sassano testified on 14 June 2012 about uncovering and following leads in the case.....*

- Found Victim 3 by talking to another potential victim who knew him.
- Victim 3 interviewed by police in July 2011 – Seven months after being identified by mother of Victim 6.
- Victim 3 had several dockets from the year 2008 in the magisterial system.

The OAG investigators did not promptly follow up on the lead for Victim 3 provided by the mother of Victim 6.

**“Not getting breaks?”**

# Victim 7 – OAG's Version

*Agent Anthony Sassano testified on 14 June 2012.....*

- Search warrant executed on PSU office on **April 12, 2011**
- List of Second Mile campers from 1995 found as part of an effort to identify minors who had contact with Sandusky.
- Victim 7's name was marked with asterisk.
- Victim 7 testified before the grand jury on **April 11, 2011** – one day before Sassano executed the warrant for Sandusky's office.
- Victim 7 was interviewed by troopers Rossman and Leiter in February 2011.

**The discovery of the list was not relevant to identifying Victim 7.**

Media (including the CDT) did not catch this.

# Victim 9 – OAG's Version

*Agent Anthony Sassano testified on 14 June 2012.....*

- Search warrant executed on Sandusky's home in June 2011
- List of Second Mile participants found as part of an effort to identify minors who had contact with Sandusky.
- Victim 9's name marked with a dash, Mother's name written next to his, and their phone number listed there (ref. 14 June 2012 trial testimony at 157, 158)
- Mother had criminal docket from 2008 in magisterial system which contained her address.

**Despite all this information, Victim 9 was not identified by police.  
He was reported by the Assistant Principal in November 2011.**

Media (including the CDT) did not catch this.

# Victim 10 – OAG's Version

*Agent Anthony Sassano testified on 14 June 2012.....*

- Search warrant executed on PSU office on **April 12, 2011**
- List of Second Mile campers from 1998 found as part of an effort to identify minors who had contact with Sandusky.
- Victim 10's name marked with asterisk.
- Victim 10 had criminal docket from 2007 in magisterial system.
- Victim 10 had been incarcerated for 23 months at SCI-Albion for robbery and was released in July 2009.

**Despite all this information, Victim 10 was not identified by police.  
He came forward on his own in November 2011.**

Media (including the CDT) did not catch this.

# Timeline for Police Contact with Victims

- **Victim 6 – January 2011 (one month after identification by his mother)**
  - **Victim 7 – February 2011 (two months after identification by MV6)**
  - **Victim 4 – April 2011 (four months after identification by MV6)**
    - **Had several traffic dockets in magisterial system**
  - **Victim 5 – unknown**
    - **Had traffic docket in magisterial system**
  - **Victim 3 – July 1, 2011 (seven months after identification by MV6)**
    - **Had several traffic dockets in magisterial system**
- 
- **Victim 9 – November 2011 (reported by Asst Principal)**
    - **Name discovered on list in June 2011**
    - **Mother had criminal docket in magisterial system**
  - **Victim 10 – November 2011 (self-reported)**
    - **Name discovered on list in April 2011**
    - **Had criminal docket in magisterial system**

Media (including the CDT) has never reported these facts about the failure to follow up on leads.



# In June 2012, OAG sets date of 2001 incident

*Agent Anthony Sassano testified on 14 June 2012.....*

- **McQueary believed incident occurred the night before Spring Break 2002. McQueary also remembered Paterno mentioning job openings on the staff.**
- **Sassano allegedly purchased 20 copies of TV Guide spanning February and March of 2001 and 2002 to nail down the date McQueary was watching *Rudy* on TV**
  - *Spring Break occurs in March. Why purchase February TV Guides?*
  - *McQueary hired for coaching job in 2004, yet Sassano did not purchase any TV Guides from 2004.*
- **Freeh found e-mails and Schultz's notes in March 2012 and immediately turned them over to the OAG.**

***Schultz's notes were likely used to set the date, not TV Guides.***

Media (including the CDT) did not question Sassano's story.

# Conclusions about Sandusky investigation

- **Investigators failed to promptly follow up on leads.**
  - Could have been charged by August 2009
  - Seven victims and 27 counts for V1, V3, V4, V5, V6, V7, and BK
- **Investigators did not use basic investigative procedures**
  - Second Mile organization helps “at risk” youth
  - Background and records checks should have been performed
- **Testimony for setting 2001 date using TV Guides is improbable based on available evidence.**
- **Media did not critically analyze testimony of investigator Sassano**

**Full analysis (Report 3) of Sandusky investigation will be released in May**

# The Sandusky Prosecution

## *Prosecutorial Strategy and Questionable Testimony*

# Prosecutor McGettigan's Opening

## Descriptions of the Victims

**“Understand them (the victims) as the children they were.”**

**“Jerry Sandusky was seen with little boys all the time.”**

**Victims were “weak,” “little boys,” and “unaware of the nature of contact.”**

**Narrative: Sandusky abused little boys on PSU's campus. McGettigan characterized the victims as “little boys” who were forced or coerced into sexual acts with Sandusky.**

# Victim 4 – First Victim To Testify

*Victim 4 – aged 13-16 when abused*

**McGettigan: “You were 13?”** (page 58, 6-11-12)

**Victim 4: “I’m a little kid.”** (page 58, 6-11-12)

**McGettigan: “How high up on the defendant did you go?”** *McGettigan puts his hand at his waist* (page 133, 6-11-12)

**Victim 4: “A little above the belly button.”** (page 133, 6-11-12)

**Photographs shows V4 to have been 5’ 6” tall at age 15.**

**Normal height for a 15 year old.**

**Above belly button height was 4’ 0” on Sandusky.**

**Victim 4 would have grown 18” in two years.**

# Prosecutor McGettigan's Opening

## Organizations

No mention of **CYS or DPW** in his discussion of the 1998 investigation.

**CMHS** briefly mentioned – wrestling coach Miller given a pass. No mention of Karen Probst's role in discouraging reporting Sandusky.

“Now is it possible abuse were observed and heard by persons involved in the **Second Mile** occurred (sic)? **No.**”

“Were the **Pennsylvania State University** heard? I don't know. Is it possible those signs could have been responded to in a different benefaction? **Indeed.**”

# Victim 4 – First Victim To Testify

- **Testified that practically all abuse took place in the PSU showers and at hotels**
- **Considerable testimony about events surrounding attendance at PSU football games**
- **Evidence exhibits were predominantly PSU football related**
  - **8 photos of V4 with players (Lavar, Brandon Short, etc).**
  - **3 stills of V4 in linebacker video**
  - **3 photos of locker room facilities**
  - **1 photo of gifts given to him by Sandusky**

# Ages of the Victims and the Crimes

Multiple Incidents								Locations
	10	11	12	13	14	15	16	
Victim 1	K	K	G/T	T/OS	T/OS	T/OS		Off PSU Property
Victim 3			G/T	G/T	G/T			Mostly off PSU Property
Victim 4			K	G/T	T/OS	T/OS	T/OS	Various On/Off PSU Property
Victim 7		G	G	G				Mostly Off PSU Property
Victim 9		K	T	OS/R	OS/R	OS/R		Off PSU Property
Victim 10		T/OS						Mostly Off PSU Property
Single Incident								
Victim 5		K	K	G				On PSU Property
Victim 6			G					On PSU Property

**Trial verdicts show that most serious crimes were committed against predominantly teenagers, ages 13 to 15, not little children.**

**Only known incidents of anal rape occurred at Sandusky's home.**

**After the verdicts, media reported Sandusky raped children on PSU's campus.**



# Conclusions about Sandusky Prosecution

- **Prosecutor McGettigan successfully “anchored” the ideas:**
  - Little children were abused
  - The crimes were tied to Penn State and PSU Football
- **Jurors and the media were convinced of both.**

# Freeh and the Media

## *Lack of Critical Analysis in the Victim 8 Case*

# Victim 8 – Janitor Incident

- **Significance:** Janitor's failure to report proved that PSU had a culture problem from top (Spanier) to bottom (janitors)
- **Crime:** Janitor Calhoun witnessed Sandusky pinning a boy against a wall and performing oral sex on him.
- **Eyewitness:** James Calhoun (incompetent to testify)
  - Doctor evaluated Calhoun on 6-11-12 – first day of the trial.
  - Prosecution stipulated to his mental illness on 6-18-12
  - No statement from doctor – no medical records
- **Hearsay Witness 1:** Ronald Petrosky
- **Hearsay Witness 2:** Jay Witherite

**Crime scene changed.**

**Timelines don't fit.**

**Circumstances of crime changed.**

**Few noticed.**

# Crime Scenes

- **Lasch – Asst Coaches Locker Room– Lasch Building (Grand Jury)**
- **East Area Locker Building – Freeh Report, page 63**
- **Lasch – Asst Coaches Locker Room – Freeh Report, page 65**
- **Lasch – Staff Locker Room – Trial testimony of Petrosky**

**Most likely location: East Area Locker Room (EALR)**

**-- Subpoena for janitors names who worked in EALR**

**-- EALR had curtain where only feet would be seen beneath it**

# Time Frame of Crime

- **Fall 2000 (Grand Jury)**
- **Thursday or Friday night of an away football game.**
- **Between November 20 and 27, 2000 (Comm Bill of Particulars)**
- **Away game at Ohio State (Petrosky Trial Testimony)**

**2000 Season Ended on November 18.  
Last game played at home on the 18th.  
Team finished 5-7 – no bowl game practices.  
Thursday and Friday was Thanksgiving Break.  
Ohio State game was September 23<sup>rd</sup>.**

# Circumstances of crime

## Grand Jury Version

- **Assistant Coaches Locker Room**
- Petrosky attempts to clean shower but sees two sets of feet. **Upper bodies are blocked by an obstruction.**
- Leaves shower room. Sandusky and boy exit.
- Petrosky cleans showers and is wrapping up his hose.
- **Calhoun approaches him** and tells him that he saw that man licking on the boys privates.
- Calhoun trembling and shaking. Calms down and informs senior janitor Jay Witherite. **Confirmed by Witherite.**
- Calhoun declines to report incident for fear of being fired.

## Trial Version

- Calhoun already inside **Staff Locker Room** cleaning urinals and toilet.
- Petrosky enters and hooks up hose under sink. Walks toward shower and sees legs of Sandusky and boy, however Petrosky stated there was **no obstruction in this shower.**
- Petrosky leaves locker room and waits for Sandusky and boy to exit.
- **Re-enters and finds Calhoun** trembling and crying.
- Calhoun stated he witnessed Sandusky performing oral sex on the boy and it was the worst thing he ever saw.
- **Witherite does not testify at the trial.**
- Calhoun declines to report incident for fear of being fired.

# Reports of Petrosky Testimony

## Center Daily Times (6/13/2012)

- **One of the locker rooms at the Lasch Building**
- Petrosky attempts to clean shower but sees two sets of feet. **Upper bodies are blocked by a curtain.**
- Leaves shower room. Sandusky and boy exit.
- **Calhoun approaches Petrosky** and tells him that he saw that man licking on the boys privates.
- Calhoun told other janitors and was upset.
- Petrosky said he called authorities after seeing a story published in the CDT about Sandusky.

## Freeh Report (p 65)

- **Multiple witnesses testified.**
- **Assistant Coaches Locker Room**
- Petrosky attempts to clean shower but sees two sets of feet. **Upper bodies are blocked by an obstruction.**
- **Calhoun approached him** and told him that he saw Sandusky performing oral sex on the boy.
- **Calhoun related story of fighting in the Korean War.**
- Calhoun trembling and shaking. Calms down and informed senior janitor Jay Witherite.
- Calhoun declines to report incident for fear of being fired.

**Most details are from grand jury version – not the trial version.  
No article in CDT prior to Petrosky calling police in March 2011.**

# Conclusions the Janitor Incident

- **Freeh and the media reported what they assumed would be testified to at trial**
- **Freeh and the media not critically analyze facts and evidence**
- **Too many inconsistencies and errors in testimony**
- **Judge Cleland stated his admission of hearsay testimony may have been in error**
  - **No testimony from Witherite (as state incorrectly argued in appeal)**
- **Incident should re-investigated by Kane**



# Breaking the Anchor Chain

- **Incontrovertible evidence needs to be revealed that proves the current narrative is indeed false.**
- **A different narrative must replace the former narrative.**
- **Kathleen Kane's investigation will accomplish this because they have access to the same evidence I do (and more).**
- **Report 3 will provide a preview of what some of Kane's investigation should reveal.**

**Thank You**

**My Investigation Continues**