

## **GARY SCHULTZ'S 'SECRET FILE' MAY BE REASON PSU AND FREEH ARE FIGHTING RELEASE OF FREEH REPORT DETAILS**

For three and a half years now, former Penn State officials have been awaiting their day in court. As most following this story are aware, Tim Curley, Gary Schultz and Graham Spanier have been criminally charged for their alleged roles in the Jerry Sandusky scandal.

The Freeh Report and the Pennsylvania Office of Attorney General (OAG) have convinced most of the world that:

- 1) Gary Schultz obstructed justice by hiding a 'secret file', which contained information on the 1998 & 2001 incidents involving Jerry Sandusky and young boys, that he kept hidden from authorities, and
- 2) Louis Freeh 'discovered' this 'secret file' and other emails which became the smoking gun allegedly 'proving' that Curley, Schultz, & Spanier, along with Joe Paterno were involved in an elaborate cover-up that allowed Sandusky to molest children for 14 years.

The evidence, however, seems to prove that Schultz actually made this Sandusky file known to authorities, but those authorities – Cynthia Baldwin and the OAG - are the very ones who kept the file a secret until it was safe for Freeh to 'discover' it.

### **CHARGES**

On November 4, 2011, Gary Schultz and Tim Curley were charged with Perjury and Failure to Report in connection with the Sandusky scandal. About a year later, more charges were added and Graham Spanier was also indicted. It is noted that the initial Failure to Report charge has a statute of limitations of 10 years.

Let's start with the original charges filed in November 2011-Perjury and Failure to Report. Analyzing the two charges we find that:

- 1) Perjury was based only on Curley and Schultz's testimony that they were not told of sexual abuse by McQueary;
- 2) Failure to Report would have had to occur on or after November 5, 2001 to keep within the 10 year statute of limitations.

Perjury is:

1. A false statement.
2. On a material issue.
3. *Made willfully and with knowledge that it was false.*
4. Under oath.
5. Before an authorized tribunal, officer, or person.

According to the Grand Jury Presentment, the only basis presented for perjury was that the Grand Jury found Mike McQueary's testimony to be 'extremely credible' and found 'portions of the testimony of Curley and Schultz not to be credible.' But is one witness's word against another witness's word enough evidence to file perjury charges?

[According to defense attorneys](#) for Curley and Schultz, perjury has to be 'more than a he said/she said' and cannot be just an 'oath against an oath' as stipulated under the PA statute Section 4902, Section F.

This means the OAG used McQueary's alleged 'credibility' as a front for the perjury charges, but had some other knowledge that Curley and Schultz were not giving truthful statements in their testimonies. But, knowledge of what?

(I would like to clarify that I am not claiming Schultz's notes or any emails actually prove any PSU official committed perjury or conspired to cover up Sandusky's crimes. To this day, there has been no evidence of such crimes. The courts

will rule on the charges if these cases ever go to trial. My desire is to examine the steps taken by all involved and shed light on the malfeasance of this case, in particular the apparent malfeasance of Cynthia Baldwin and the OAG.)

## **SCHULTZ'S FILE- THE CRUX OF THE MARCH 2012 PERJURY PARTICULARS**

Let's begin with the fact that a file, compiled by Schultz in 2001, containing information on Sandusky's behavior with young boys in 1998 and 2001 did exist in a drawer in his former office at PSU up until November 2011.

This file was neither 'secret' nor 'discovered' by Freeh in May 2012 because we now know copies of the file were turned over to the OAG in April 2012 by Schultz and also by his assistant Kim Belcher. However, I believe a hard copy of this file was in the hands of the OAG in January 2011 *before* the PSU officials testified.

It is important to remember that Schultz retired from PSU in June 2009. When he was subpoenaed in January 2011, he was no longer employed at the university and thus had no access to his former office.

## **HE SAID, SHE SAID**

In late 2010, PSU general counsel Cynthia Baldwin was handling subpoenas issued by the OAG for the PSU officials instructing them to turn over information relating to Sandusky and to appear in court to testify at the Grand Jury hearing.

What exactly was discussed between Baldwin and the PSU officials is not known, but on November 1, 2012, Schultz filed a [pre-trial motion](#) claiming, among others things, that he informed Baldwin in early January 2011, in response to the aforementioned subpoenas, that he 'thought there might be a file relating to Sandusky in the office of the senior vice president' (his former office to which he no longer had access) and that 'reviewing such notes and documents would help his memory and allow him to testify more accurately.' In her legal opinion, he said, she told him not to look for or review any documents or discuss the case with anyone.

Ironically, on October 26, 2012, just days before this very motion was filed, Baldwin [testified under oath](#) that she was never informed by Schultz of the existence of any file. On page 20, OAG prosecutor Frank Fina said that 'we also know that Mr. Schultz had a file regarding Jerry Sandusky in his office' and that 'there were handwritten notes and emails pertaining to the 1998 and 2001 crimes of Mr. Sandusky. Did he (Schultz) ever reveal to you the existence of that Sandusky file or any of its contents?' Baldwin answered, 'Never. He told me he didn't have anything.'

Within days of each other, Baldwin and Schultz gave the court two opposing accounts regarding Schultz's disclosure of the Sandusky file back in early 2011. Only one account can be true. The other is a lie. Given the information we have to date, we can vet both accounts and reasonably conclude which account passes the litmus test.

## **PROCESS OF ELIMINATION**

### **Vetting Baldwin**

Let's assume Baldwin is telling the truth. That means Schultz never mentioned the file to her in early January 2011 when Baldwin alleges she went to Schultz, Curley, and Paterno with Subpoena 1179 asking for any and all information regarding Jerry Sandusky, as well as with a subpoena for each man to testify before the Grand Jury. If Schultz and the others were in fact covering up for Sandusky, as alleged by Freeh and the OAG, then at this point in time, they would have been on heightened alert to deny any knowledge of Sandusky's crimes and to make sure any evidence that could be used against them was suppressed. Assuming there was a cover-up, it makes perfect sense that Schultz would never have informed Baldwin of this file in January 2011.

It makes sense except for one pesky little fact.

As I mentioned earlier, in June 2009, Schultz retired as senior VP of Finance and Business after almost 40 years of service at PSU. However, in September 2011 he was temporarily rehired and named interim senior VP for Finance and Business while the University conducted a national search to fill the position.

So, eight months after Schultz was subpoenaed for information and testified at the Grand Jury hearing, he was back in his office at PSU: the very office that contained the Sandusky file.

Again, assuming Baldwin is telling the truth and Schultz never mentioned the file-for 'obvious' reasons, this would have been the most fortuitous break in the entire cover-up. Schultz now had access to the 'secret' Sandusky file with the means and motive to destroy all incriminating evidence that could be used against him and the other PSU officials.

The only problem is that during those two months back at PSU, with complete access to the 'secret' file, Schultz didn't remove it and he didn't destroy it.

We know this because his assistant [Kim Belcher testified](#) at the July 2013 hearing that Schultz had called her in November 2011, after he had been charged, and asked her to get his 'transitory file' from his office. She retrieved that file for him and on her own found the Sandusky file. She made a copy of the Sandusky file, accidentally gave the original to Schultz and kept the other copy for herself. They both turned over their files to the OAG in April 2012.

Belcher's testimony, of course, blows holes in Freeh's claim that his team 'discovered' Schultz's Sandusky file. Freeh said, "He (Schultz) actively sought to conceal those records. We found them in conjunction with the attorney general. They're very critical notes, very critical records ... it was an active case of trying to conceal evidence, you know. You don't do that. It's a dumb thing to do."

At this point, it is clear, that Freeh did not 'discover' anything; the OAG (or Penn State) gave Freeh a copy of the file that Schultz turned over. And, the PSU IT department found and turned over the emails to the OAG who then handed them over to Freeh. The fact that Schultz had the opportunity to alter, remove, and/or destroy his Sandusky file when he was rehired in the fall of 2011 but didn't, suggests very strongly that he was not protecting a 'secret' file, was not concerned about his grand jury testimony, and was not part of some elaborate cover-up.

Based on Schultz's actions from January-November 2011, there is no evidence that he concealed or wanted to conceal the Sandusky file, just the opposite actually. And therefore, there is no reason why he wouldn't have mentioned it to Baldwin.

Let's dig deeper.

### **Vetting Schultz**

Now let's assume Schultz is telling the truth about the file.

In January 2011, Baldwin's primary directive, ordered by the OAG, was to make sure the PSU officials turned over anything and everything related to Sandusky.

Schultz claims he told Baldwin there may be a file relating to Sandusky in his former office. According to Schultz, she told him not to look for it. But, it was her legal obligation to the courts to turn over any evidence disclosed to her. As an officer of the court (and a former PA Supreme Court Justice) it is hard to imagine that she would shirk her legal duties and not check out every lead the PSU officials told her. Therefore, it is highly likely that she did indeed check for a Sandusky file in Schultz's former PSU office, then occupied by Al Horvath. If she did, she would have found it, because we now know it was there.

A few days later on January 12, 2011, after meeting with Baldwin, Schultz testified under oath at the Grand Jury hearing. He was asked: 'Do you believe that you may be in the possession of any notes regarding the 2002 incident that you may have written memorializing what occurred?' Schultz answered: 'I have none in my possession. I believe that there were probably notes taken at the time. Given my retirement in 2009, if I even had them at the time, something that old would have probably been destroyed. I had quite a number of files that I considered confidential matters that go back years that didn't any longer seem pertinent. I wouldn't be surprised, in fact, I would guess if there were any notes, they were destroyed on or before 2009.'

In essence, he is saying that notes were probably taken and that he did keep confidential files, but by this point in time, in conjunction with his retirement, they probably were destroyed.

That sounds very similar to what he claims he told Baldwin just days earlier: that there might be a file relating to Sandusky in his former office.

In addition, the following email shows that on January 10, 2011, Baldwin called Wendell Courtney, PSU legal counsel in 2001, after she first spoke with Schultz regarding the subpoena. Courtney tells Schultz that Baldwin asked 'what I remembered about JS issue I spoke with you and Tim about circa 8 years ago.' It appears not only did Baldwin know to call Courtney but presumably knew for a fact that he spoke with Schultz back in 2001 regarding Sandusky. In other words, Baldwin didn't call Courtney asking if he 'knew anything about 2001,' but asked precisely what 'he remembered' about the 2001 Sandusky discussion.

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**From:** Schultz, Gary C.  
**Sent:** Monday, January 10, 2011 8:34 PM  
**To:** First Administrative Group/cn=Recipients/cn=WVCOURTNEY; GCS2@psu.edu  
**Subject:** Re: JSRece

Thanks for letting me know.

Gary

*Sent via DROID on Verizon Wireless*

-----Original message-----

**From:** Wendell Courtney <[WVCourtney@mqblaw.com](mailto:WVCourtney@mqblaw.com)>  
**To:** "Schultz, Gary C." <[GCS2@psu.edu](mailto:GCS2@psu.edu)>  
**Sent:** Mon, Jan 10, 2011 23:59:28 GMT+00:00  
**Subject:** JS

Gary-Cynthia Baldwin called me today to ask what I remembered about JS issue I spoke with you and Tim about circa 8 years ago. I told her what I remembered. She did not offer why she was asking, nor did I ask her. Nor did I disclose that you and I chatted about this.

Wendell V. Courtney, Esquire  
McQuaide Blasko Law Offices

The email also reveals that Schultz and Courtney had recently 'chatted about this' 2001 issue. That makes sense because Courtney was PSU legal counsel in 2001 and Schultz had conferred with him at that time. After being subpoenaed, it is understandable that Schultz would call him regarding the 2001 incident.

It certainly wouldn't be out of the ordinary for Baldwin to call the former legal counsel from 2001 to ask him what he might have known. But, the wording in the email comes across as if Baldwin knew for a fact that Schultz spoke with Courtney back in 2001 and she was calling him specifically to ask 'what he remembered.'

This would suggest that when Schultz spoke with Baldwin and mentioned the possibility of a Sandusky file, that he also mentioned the 2001 discussion he had had with Courtney, especially since Schultz had just recently spoke to Courtney as per the email.

In any event, this email confirms that Baldwin was actively gathering information regarding Sandusky, either on her own or by following up on a lead that Schultz most likely disclosed to her. She also retrieved the 1998 police report around this same time period. If she retrieved the police report and made a call to Courtney, wouldn't it be logical, as her duty to the court, to follow up on the Sandusky file lead as well?

At this point it appears the truth is in favor of Schultz. But there is one more analysis I believe shows beyond all doubt that Schultz did indeed inform Baldwin of the file.

### GRAND JURY ANALYSIS

When you analyze the questions the OAG asked Paterno, Curley and Schultz, it seems to be clear that Schultz's file was in the hands of the OAG, and they were using it as a guide (perjury trap) during questioning. If the OAG did indeed have this file, it can only mean that Baldwin followed up on Schultz's lead and retrieved the Sandusky file in his former office, made a copy for the OAG, and returned the original file back to the drawer.

#### OAG'S KNOWLEDGE AS OF 1-12-11

We need to go back in time and recount exactly what the OAG knew regarding the 2001 Sandusky incident at the time of the Grand Jury hearings of Paterno, Curley and Schultz on January 12, 2011.

At this point in time they had:

- The 1998 Police Report regarding an investigation of Sandusky with boy(s) in a shower,
- Mike McQueary's testimony of the 2001 incident and what he allegedly told Paterno, Curley and Schultz, and
- Police Interviews with each man.

It is vital to remember that the OAG supposedly does NOT have Schultz's Sandusky file of notes/emails.

The following chart shows specific OAG questions asked or not asked of each man during the [GJ hearing](#).

GJ QUESTIONS	PATERNO	CURLEY	SCHULTZ
RE: Notes, Memorialization	NONE	NONE	<p><b>Q</b> Do you believe that you may be in possession of any notes regarding the 2002 incident that you may have written memorializing what occurred?</p> <p><b>A</b> I have none of those in my possession. I believe that there were probably notes taken at the time. Given my retirement in 2009, if I even had them at that time, something that old would have probably been destroyed. I had quite a number of files that I considered confidential matters that go back years that didn't any longer seem pertinent. I wouldn't be surprised. In fact, I would guess if there were any notes, they were destroyed on or before 2009.</p> <p><b>Q</b> Are you aware of any memorandums or any written documents, <b>other than your own notes</b>, that existed either at the time of this incident or after this incident about the 2002 events?</p> <p><b>A</b> No.</p>

			<p><b>Q</b> Would that be standard? Would that be the way the university operates when an allegation is made against a current employee or a very famous prior employee, that nothing be put in writing?</p> <p><b>A</b> The allegations came across as not that serious. It didn't appear at that time, based on what was reported, to be that serious, that a crime had occurred. We had no indication a crime had occurred.</p>
	(Paterno)	(Curley)	(Schultz)
RE: Knowledge of any other Sandusky incidents/1998 incident	<p><b>Q</b> Other than the incident that Mike McQueary reported to you, do you know in any way, through rumor, direct knowledge or any other fashion, of any other inappropriate sexual conduct by Jerry Sandusky with young boys?</p> <p><b>A</b> I do not know of anything else that Jerry would be involved in of that nature, no. I do not know of it. You did mention -- I think you said something about a rumor. It may have been discussed in my presence, something else about somebody. I don't know. I don't remember, and I could not honestly say I heard a rumor.</p>	<p><b>Q</b> At the time of the incident in 2002, were you aware of any other incidents involving alleged sexually inappropriate misconduct by Mr. Sandusky anywhere, on university property or otherwise?</p> <p><b>A</b> No, ma'am.</p> <p><b>Q</b> Since this has come to light, have you become aware of other allegations of inappropriate sexual conduct by Jerry Sandusky on university property or elsewhere?</p> <p><b>A</b> Other than what was mentioned this morning.</p> <p><b>Q</b> Specifically a 1998 report, did you know anything about that in 2002?</p> <p><b>A</b> No, ma'am.</p> <p><b>Q</b> But the 1998 incident was never brought to your attention?</p> <p><b>A</b> No, ma'am, not that I recall.</p> <p><b>Q</b> Have you ever heard -- anything other than what you heard from Mike McQueary, have you ever heard anything at all regarding inappropriate conduct between Jerry Sandusky and young men either on or off campus?</p> <p><b>A</b> No.</p>	<p><b>Q</b> You knew the university police were involved in the 1998 investigation, right?</p> <p><b>A</b> Yes.</p> <p><b>Q</b> What did you understand the 1998 incident, in a general way, to allege?</p> <p><b>A</b> Again, I thought that it had some basis of inappropriate behavior, but without any specifics at all.</p> <p>Schultz was asked many other questions regarding the 1998 incident.</p>
	(Paterno)	(Curley)	(Schultz)
RE: Dept. Public Welfare/Law Enforcement	NONE	<p><b>Q</b> Was there a specific conversation about whether or not to go to law enforcement authorities about this?</p> <p><b>A</b> At the time I don't recall that because, again, I didn't feel -- at least I didn't feel personally that any criminal activity had occurred. So my thought was that because a young person was there, that I needed to take it to the Second Mile.</p>	<p>Many questions were asked whether or not PSU involved law enforcement in 2002(2001) and Schultz had indicated each time that he thought Child &amp; Youth Services (CYS) was involved in 2001.</p>

## ANALYSIS

**NOTES:** From the chart you can see that the OAG only asked Schultz if he was in ‘possession of any notes memorializing the 2002 incident.’ Schultz said that he was not currently in possession of any notes, that he may have taken some, and if he did they were probably destroyed at this point. Later, they asked him again, ‘Are you aware of any memorandums or any written documents, **other than your own notes**, that existed either at the time of this incident or after this incident about the 2002 events?’ Schultz said, ‘No.’ They then asked, ‘Would this be standard, not to put something in writing?’

As you can see, only Schultz was asked about notes and he was asked several times. Paterno nor Curley were asked if they had taken notes or memorialized the incident. That would suggest they had the ‘secret’ file with Schultz’s notes in hand, otherwise they would have asked the other two PSU officials the same standard question about notes.

It is interesting to point out in the second instance, they phrased it, ‘other than your own notes....’ That seems to confirm they indeed were aware of his notes. Prior to that, Schultz had only stated that he ‘probably’ took notes and ‘if he did’ they were most likely destroyed. Also, what ‘other documents’ were they asking about? It must have been the emails that were also in the file in which they appeared to have had.

**KNOWLEDGE OF OTHER/1998 INCIDENT:** Each man was asked if he was aware of any other incident (besides 2001) that would have involved inappropriate sexual misconduct of Sandusky with young boys. Remember, the OAG does have the 1998 police report detailing the 1998 investigation, but none of the PSU men are mentioned in the report so the OAG would not know whether these men knew about 1998 or not. Schultz acknowledged he knew about 1998 but not the specifics. Paterno said he was not aware but maybe heard a rumor but could not say for sure. The OAG did not question Paterno any further on that.

However, when Curley was asked whether he was ‘aware of any other incidents,’ he said, ‘No.’ He was again asked, ‘Since this has come to light, have you become aware of other incidents?’ Curley seemed confused and they further asked, ‘Specifically, a 1998 report. Did you know anything about that?’ Curley again answered, ‘No.’ Again, he was asked, ‘But the 1998 incident was never brought to your attention?’ he said, ‘No.’ And yet again, he was asked, ‘Have you ever heard anything, other than from Mike McQueary, about inappropriate conduct between Sandusky and young men?’ he answered, ‘No.’

The comparison of questions re the 1998 incident between Paterno and Curley is eye-opening. Paterno was asked once, says he was not aware of anything else, and they moved on. Curley was grilled over and over five times regarding this prior Sandusky incident. The only information they supposedly had at the time would not lead them to believe Paterno or Curley were aware of 1998, so why was Curley grilled? [Schultz’s notes](#) indicate that Schultz reviewed the ‘1998 history’ with Curley on 2-12-01. This is the only piece of information at the time that would indicate Curley possibly knew of the 1998 incident. Again, this line of questioning suggests the OAG had Schultz’s notes during the January 12, 2011 hearing.

**LAW ENFORCEMENT:** From the chart you can see that Paterno was not asked about involvement of any law enforcement regarding the 2001 incident. Schultz was asked many times and answered each time that he thought CYS/DPW was involved.

Curley was asked, ‘Was there a specific conversation about whether or not to go to law enforcement authorities about this?’ He said that he ‘did not recall a conversation.’ This may be a standard question to ask, but why wasn’t Paterno asked? Schultz’s notes/emails indicated that ONLY Schultz and Curley developed a plan to 1) Tell the Chair of the Second Mile, 2) Report to Dept. of Welfare (DPW), 3) Tell Sandusky to avoid bringing children into Lasch Building. Therefore, if the OAG had these notes, then they knew that Paterno was not necessarily privy to this plan and hence no



questions were asked. The fact that only Curley and Schultz were asked about law enforcement strongly suggests they indeed had Schultz's notes (i.e. the 'secret' file).

## PERJURY CHARGES

However, what seems to be even more evidence that the OAG had this file (from Baldwin) in January 2011, came on March 30, 2012. The Commonwealth (OAG) issued [Statements of Perjury](#) which outlined what they believed were perjurious statements by Curley and Schultz from their Grand Jury testimonies.

## CURLEY PERJURY CHARGES

From the above chart, regarding the question to Curley re 'Law Enforcement', the OAG declared Curley's answer to be perjurious.

23	10-12	Q	Was there a specific conversation about whether or not to go to law enforcement authorities about this?
23	13-16	A	At the time I don't recall that because, again, I didn't feel – at least I didn't feel personally that any criminal activity had occurred.

Remember, Schultz's file was not turned over to the OAG (by Schultz and Belcher) until **April 2012**, so how could this statement be determined perjurious on **March 30, 2012**? There was absolutely no other corroborating evidence that supported Curley knowing of a 'specific conversation about going to law enforcement or not' other than what was found in Schultz's notes which was part 2) Report to Dept. of Welfare. (This is considering DPW to be 'law enforcement.')

The OAG by this time (3-30-12) did have the 1998 and 2001 emails from the IT department. But, the only email from 2001 (from IT dept.) that mentions the steps taken regarding Sandusky was the following 2-28-01 email:

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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

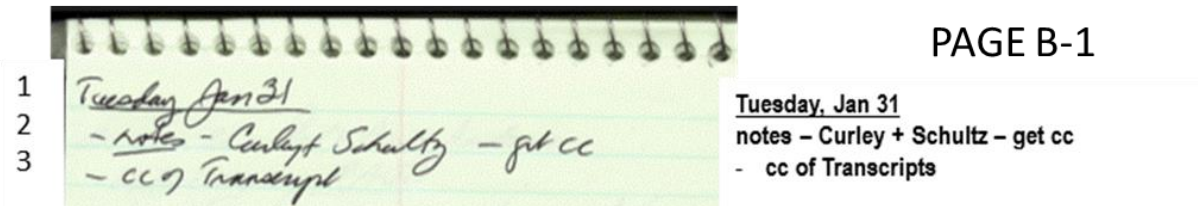
<html>  
Tim and Graham, this is a more humane and upfront way to handle this.&nbsp;I can support this approach, with the understanding that we will inform his organization, with or without his cooperation (I think that's what Tim proposed).&nbsp;We can play it by ear to decide about the other organization.&nbsp;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



Notice there is no mention of the Department of Public Welfare (DPW) or Children & Youth Services (CYS). There are references to 'the other one', 'the two groups', and 'the other organization.' However, without the benefit of Schultz's notes, these references have no specific meaning and, even so, do not corroborate 'law enforcement.'

There actually is NO EVIDENCE for a perjury charge for not recalling a discussion about law enforcement – unless the OAG considers DPW to be 'law enforcement' and that evidence would have had to come from Schultz's notes, which proves Baldwin gave the OAG a copy.

However, what is more telling comes from Ray Blehar's disclosure of [Rodney Erickson's notes](#) from January 31, 2012 in which then PSU President Erickson discussed getting copies of 'notes- Curley + Schultz.'



Clearly, this January 31, 2012 entry proves Schultz's notes were known well before they were turned over by Belcher and Schultz in April 2012. The only other person with knowledge of such notes would have been Baldwin, who most likely, as proven now, gave a copy to the OAG and Penn State.

This perjury charge re Law Enforcement is a strong indication that Law Enforcement was actually part of the discussion/evidence between Curley and Schultz that we have not seen. Was this charge based on another email or note from Curley or Schultz that has been suppressed? If Baldwin did remove the file in January 2011, she could have excluded pieces of the file that was put back in the drawer -- but gave that evidence to OAG/Freeh.

And, if such an email or note exists, it means that going to law enforcement was actually discussed since they charged Curley with perjury on this question. If so, it is likely the email/note mentioned that Schultz or Curley reported the incident to Tom Harmon, Director of University Police, i.e. law enforcement.

Remember, Harmon had emailed Schultz the day after Paterno reported the 2001 incident to Curley and Schultz.

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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)

Obviously, Schultz had contacted Harmon within a day of talking to Paterno and asked about the 1998 incident/file. Was the recent 2001 incident discussed with Harmon as well?

From another [blog post](#) of Blehar regarding missing documents, he noted an end note from the Freeh Report:

**End Note 304: Schultz confidential file note (5-1-12).** This is a reference from the report: "On February 12, 2001, Schultz also asked Penn State Police Chief Tom Harmon if a police file still existed for the 1998 event."

If this request was simply for the 1998 file, why wasn't it included in the Freeh Report like the email above from Harmon? What other information did it contain? Perhaps Schultz did inform Harmon of the 2001 situation before asking about 1998. That would be entirely logical - and would actually have resulted in a perjury charge for Harmon.

**SCHULTZ PERJURY CHARGES**

Also in that filing of Perjury Particulars on March 30, 2012, were Schultz’s alleged statements of perjury from the OAG.

13	13-14	Q	What did you understand the 1998 incident, in a general way, to allege?
13	15-17	A	Again, I thought that it had some basis of inappropriate behavior, but without any specifics at all.

In this specific citation, the OAG is alleging that Schultz lied about ‘knowing specifics’ of the 1998 incident. The only corroborating documents that detailed Schultz’s specific knowledge of the case were in his Sandusky file. They were his handwritten notes that detailed the 1998 incident. No other evidence they had at the time would support this perjury charge except for his notes-that supposedly weren’t turned over until April 2012.

(Again, the information from Schultz’s file does not necessarily support perjury, these men testified 10 years after the incident without any review or discussion to refresh their memory.)

The following statement of Schultz is also alleged to be perjurious:

27 28	25 1-3	Q	Are you aware of any memorandums or any written documents other than your own notes that existed either at the time of this incident or after this incident about the 2002 events?
28	4	A	No.
28	5-9	Q	Would that be standard? Would that be the way the university operates when an allegation is made against a current employee or a very famous prior employee, that nothing be put in writing?
28	10-14	A	The allegations came across as not that serious. It didn't appear at that time, based on what was reported, to be that serious, that a crime had occurred. We had no indication a crime had occurred.

Apparently, they are claiming Schultz lied about having any memorandums or written documents other than his ‘own notes.’ This perjury charge had to be based on the emails found in his file that again, supposedly didn’t come to light until April 2012.

**REVIEW OF REPRESENTATION**

Remember, Baldwin is the same lawyer who represented Schultz, Curley, and Spanier at their Grand Jury hearings. She now claims she was only representing PSU and not the individual PSU officials. However, according to a legal expert, her claims of only representing PSU don’t actually matter.

Jason Pelt, defense attorney and former Marine JAG prosecutor, told me, “When it comes to representation, it does not matter who *Baldwin believed* she was representing, it only matters if the *individuals believed* she was representing them.”

It is clear that Curley, Schultz and Spanier believed she was representing them. We know this because only their attorney can be present during testimony and she was indeed present. In addition, each man verbally identified 'Cynthia Baldwin' to the court when the judge asked, 'Are you represented by counsel?'

Although she now contends she was only representing PSU and not the individuals during their respective hearings, why wasn't she representing PSU during Paterno's testimony, when Paterno had his own legal counsel? Simple answer: she was not allowed to be present with Paterno because only the witness's attorney is allowed to be present during questioning.

Why the back peddling from Baldwin? Perhaps because of her blatant conflict of interest and possible malpractice before the court regarding Schultz's file.

Regardless of her legal spin, she was indeed representing Schultz, Curley, and Spanier, as evidenced by her actions with them before the hearings, her court appearance with them during the hearings, and their verbal identification of her as their attorney which she did not object to or correct.

### **MOST PROBABLE SCENARIO**

After vetting the statements of Baldwin and Schultz, it appears the most likely scenario is that Schultz did indeed tell Baldwin of a possible Sandusky file and that she retrieved it and gave a copy to the OAG.

So what does this mean?

First of all, if true, it means that Baldwin not only had an obvious conflict of interest regarding client-attorney privilege, but also has a liability issue. Pelt explained that, "Baldwin would be liable if Schultz's position was made worse or if the information was used against him toward his detriment." He said, if true, she is facing ethical issues and possible disbarment from the Pennsylvania Bar Association.

Secondly, if true, it means Baldwin committed perjury at her Grand Jury hearing on October 26, 2012.

Finally, if the OAG knew she was lying and allowed the perjured testimony, then more ethical issues come into question and produce major legal problems for the OAG and Baldwin. Pelt added, "If the OAG used Baldwin to get information on her clients to be used against them, then that evidence could be suppressed at trial."

### **CHARGES REVISITED**

Remember, the initial charges filed in November 2011 were Perjury and Failure to Report, wherein:

- 1) Perjury was based only on Curley and Schultz's testimony that they were not told of sexual abuse by McQueary;
- 2) Failure to Report would have had to occur on or after November 5, 2001 to keep within the 10 year statute of limitations.

Based on the above analysis, it is likely that the initial perjury charges were not based on McQueary's 'credibility' but rather on the notes and emails found in Schultz's file.

Regarding the Failure to Report, if the OAG had Schultz's Sandusky file in January 2011 then they clearly knew the McQueary incident happened in February 2001 and NOT March 2002. That would mean that the 10 year statute of limitations for Failure to Report (FTR) had expired in February 2011. By November 2011, this charge was no longer enforceable.

It appears the OAG used the date of March 2002 as a ruse in order to keep FTR within the 10 year time frame in order to charge the men in November 2011, along with Sandusky. After all, charging the PSU officials the same day as charging Sandusky helped give birth to the false narrative that Penn State was to blame for Sandusky's crimes.

In essence, the ONLY way for the OAG to charge Curley and Schultz with perjury would have been with the benefit of Schultz's notes and the ONLY way to charge them with Failure to Report in 2011 was to PRETEND they did not have his notes and then choose the 2002 date (over the correct 2001 date) provided by Mike McQueary.

### **PSU/BALDWIN/OAG/FREEH WIN, FOR NOW....**

Imagine if Baldwin did indeed hand over Schultz's Sandusky file to the OAG in January 2011. Imagine all the legal malpractice taking place at the hands of those entrusted to uphold the law. How could they possibly get away with it and cover it up? Answer: Hire a man to 'discover the secret file,' write a scathing report of a cover up, and hope that one or both men plead guilty or that one man flips on the other. Under that scenario, NO EVIDENCE is really needed because the case is decided on testimony alone.

Welcome to the Freeh Report.

The Freeh Report has been the gift that keeps on giving and appears to have protected everyone with an agenda.

- 1) The PSU Board of Trustees (BOT) paid Louis Freeh to write an 'independent investigative report' that justified their firing of Joe Paterno and Graham Spanier. (PSU scores.)
- 2) Freeh received \$8 million for writing this 'report' that was spoon fed to him from the OAG. (Freeh scores.)
- 3) The PSU BOT in conjunction with the OAG, I believe, used Freeh to 'discover' Schultz's 'secret file' to protect the OAG, Cynthia Baldwin, and Penn State from legal malpractice. (PSU, Baldwin, & OAG score.)
- 4) Freeh returns favor to OAG and convicts Curley, Schultz, and Spanier in the court of public opinion. (OAG scores.)

Yes, these entities may be winning for now, but it is only a matter of time before the celebration ends. And that time is drawing near.

### **BUT, THE FINAL VICTORY WILL BE OURS**

Just recently, on July 20, 2015, the judge ordered the [release of the Freeh documents](#). Finally, the light will be shed on the truth. This is a great victory for the Paternos, the alumni trustees, and the entire Penn State community.

I truly believe the Schultz file is one major reason why PSU and Freeh have been relentless in fighting the Paternos and the alumni trustees for the release of the Freeh documents. I believe the truth about Schultz's file will reveal the malpractice and total lack of integrity of Cynthia Baldwin, the OAG, Freeh, and Penn State's own Board of Trustees—The, not so, Fab Four.

It's hard to agree with anything Freeh has ever said, but in this case I think his own words will soon benefit him and his Fab Four cohorts: "It was an active case of trying to conceal evidence, you know. You don't do that. It's a dumb thing to do."

Eileen Morgan  
July 23, 2015