

Freeh Report Faults PSU Leaders in Abuse Case

Former Penn State head football coach Joe Paterno, along with three of the university's top administrators, knew about abuse allegations against the football program's longtime defensive coordinator, Jerry Sandusky, as far back as 1998, but "repeatedly concealed critical facts" from police, the public and the university's board as Sandusky continued to molest children, a Penn State internal investigation has found.

When Sandusky retired in 1999, the investigation's report found, the administrators allowed him to do so "not as a suspected child predator" but rather as a "valued member of the Penn State football legacy."

Two years later, in 2001, when a graduate assistant reported he saw Sandusky sodomize a boy in a Penn State locker room, Paterno, former university president Graham Spanier, former athletic director Tim Curley, and former vice president of business and finance Gary Schultz all let the allegations stop at their desks.

The findings come from a nearly eight-month investigation the university hired former FBI Director Louis B. Freeh to conduct, along with his law firm, Freeh Sporkin & Sullivan. The report comes after the ousters of Paterno, Spanier, Schultz and Curley, a 45-count conviction against Sandusky and a media firestorm that has directed unrelenting scrutiny on the university in response to the scandal. Schultz and Curley face charges on failure to report child abuse and perjury. Paterno died in January and was never charged with any wrongdoing.

While not directly culpable in the concealment, Freeh said the university's board of trustees was not above reproach.

Freeh Report Highlights; Serious Governance Lapses at Penn State

"In this matter, the board — despite its duties of care and oversight of the university and its officers — failed to create an environment which held the university's most senior leaders accountable to it," Freeh said. However, even after Sandusky was arrested in November, the report notes that Spanier kept information from the board in an effort to protect grand jury secrecy. In a press conference Thursday afternoon, Ken Frazier, chairman of the board's special investigation task force, said the board "failed in our obligation to provide proper oversight" of the university's operations. "We are accountable," he said.

Frazier also noted top leadership failed, saying, "At the moment of truth, people who were in the position to protect children and confront a predator ... specifically Graham Spanier, Joe Paterno, Tim Curley and Gary Schultz, did not put the welfare of children first." Emails between and personal notes from the administrators included in Freeh's 267-page report suggest high-ranking officials knew the severity of the allegations against Sandusky but held off from alerting authorities in favor of a more "humane" approach. "Our most saddening and sobering finding is the total disregard for the safety and welfare of Sandusky's child victims by the most senior leaders at Penn State," Freeh said in a statement released with the report. "The most powerful men at Penn State failed to take any steps for 14 years to protect the children who Sandusky victimized. Messrs.

Spanier, Schultz, Paterno and Curley never demonstrated, through actions or words, any concern for the safety and well-being of Sandusky's victims until after Sandusky's arrest." A spokesperson for Schultz and Curley declined comment, saying on Thursday afternoon it would be inappropriate since the administrators' lawyers were still working through the report. Spanier's attorneys, Timothy K. Lewis and Elizabeth Ainslie of Schnader Harrison Segal & Lewis and Peter Vaira of Vaira & Riley, issued a statement denouncing the report's findings about their client.

"Unfortunately, Judge Freeh's conclusion, repeated often during his press conference this morning, that Dr. Spanier was engaged in a course of 'active concealment,' is simply not supported by the facts or by the report itself," they said in the statement. "Not only did Dr. Spanier never conceal anything from law enforcement authorities, but prior to 2011 he was never contacted by law enforcement officials, or any other officials, about any criminal activities now attributed to Sandusky. And as he told Judge Freeh himself last Friday and has steadfastly maintained, at no time in his 16 years as president of Penn State was Dr. Spanier told of any incident involving Jerry Sandusky that described child abuse, sexual misconduct, or criminality of any nature."

Sandusky, convicted last month of 45 of 48 counts of child sex abuse, retained unlimited access to Penn State's football facilities until November of last year, when the Office of the Attorney General brought a host of sex-abuse charges against the longtime defensive coordinator. He faces an effective life sentence in prison. 1998 Allegations; The allegations date back to May 1998, when the account of a young man identified more than a decade later as "Victim 6" was brought to the administrators' attention. According to the report, Schultz kept a secret file on the allegations, labeling them in personal notes as: "Behavior — at best inappropriate @ worst sexual improprieties." Also in the notes were the statements: "Is this opening of pandora's box?" and "Other children?" According to the report, Schultz notified Curley and Spanier in May 1998 that he had "touched base" with Paterno. Ultimately, authorities — including the police, the Department of Public Welfare, and the Centre County District Attorney's Office — investigated the incident and decided not to press charges. The assistant district attorney who led that investigation in 1998 declined to be interviewed by Freeh or his investigators, Freeh said Thursday.

Before the grand jury in 2011, Schultz admitted to recalling "a mother with a young boy who reported some inappropriate behavior of Jerry Sandusky." Curley, when asked in the grand jury if an incident involving allegations of criminal conduct by a coach was brought to his attention, said he thought so, but was not sure. Asked specifically about the 1998 incident, he said he did not recall anything. Beyond a rumor that may have been discussed in his presence, Paterno denied knowing anything about the 1998 investigation to the grand jury. Spanier claimed to the grand jury that his first knowledge of the 1998 investigation came when the grand jury asked him about it in 2011.

None of the officials admitted to knowing about anything sexually explicit involving the ex-coach, be it related to the 1998 investigation or the 2001 allegations coming from former graduate assistant Mike McQueary. While there had been some speculation about Sandusky's retirement after the 1999 season, according to the report, investigators found no evidence that his retirement was connected to the allegations. Paterno had informed Sandusky in February 1998 that he wouldn't be the next head football coach, the report said, and efforts were made to get him to retire.

2001 incident McQueary's account has, for many, provided the defining event of the scandal. Freeh's report shows that, after the administrators discussed McQueary's allegations internally, Curley relayed their conclusion to the executive director of Sandusky's charity, The Second Mile, in March of 2001. The director at the time, Jack Raykovitz, shared that information with leadership at the charity, which subsequently concluded the matter was a "non-incident." Prosecutors have long alleged Sandusky used the charity as a means to meet and groom his victims.

The discussions came after McQueary first reported to Paterno, and then Schultz and Curley, that he saw Sandusky sodomize a boy in a Penn State locker room. Emails and other findings included in Freeh's report between the administrators reveal the following approach to McQueary's account: Rather than using names, the emails identify Sandusky as "the subject," The Second Mile as "his organization" and his then-purported victims as "guests." The report reveals that in late February of 2001, after McQueary reported the assault, Spanier, Curley and Schultz all met in person to devise a course of action. It was reflected in Schultz's handwritten notes and a follow-up email from Schultz to Curley.

The administrators, according to Schultz's notes, would tell the chair of The Second Mile's board about McQueary's report, share the information with the Department of Public Welfare and tell Sandusky to avoid bringing children alone into the Lasch Building, home to the locker room where McQueary witnessed the assault. But then, as shown in an email from Curley to his fellow officials that was included in Freeh's report, the plan changed. Curley wrote: "After giving it more thought and talking it over with Joe [Paterno] yesterday — I am uncomfortable with what we agreed were the next steps. I am having trouble with going to everyone, but the person involved." Curley went on to write that he would tell Sandusky "we are aware of the first situation," ostensibly referring to his colleagues' knowledge of the 1998 allegations. Curley acknowledged a "problem" and added he would tell Sandusky to get "professional help."

If Sandusky obliged, his superiors would work with him to handle informing The Second Mile, the email said. Curley added: "Additionally, I will let him know that his guests are not permitted to use our facilities." Spanier agreed. In a reply to Curley and Schultz, Spanier wrote: "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." He continued: "The only downside for us is if the message isn't 'heard' or 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."

Schultz also replied, saying that Curley's plan was a "more humane and upfront way to handle this," but added the caveat that The Second Mile would be informed, with or without the cooperation of Sandusky. Ostensibly referring to the Department of Public Welfare, Schultz wrote: "We can play it by ear to decide about the other organization." In March 2001, Curley met with Raykovitz and told him that an unidentified person (McQueary) saw Sandusky in a locker room with a young boy and was "uncomfortable" with the situation. According to the report, counsel for The Second Mile said Curley told Raykovitz that he met with Sandusky and determined nothing inappropriate had happened. Leadership at The Second Mile then concluded the report to be a "non-incident," according to the report.

Counsel for The Second Mile, the report said, told Freeh's investigators that Curley told Raykovitz that Sandusky would not be allowed to bring children onto the campus "to avoid publicity issues." Archer & Greiner's Lynne Abraham, who represents The Second Mile's board, said she couldn't comment, given the grand jury investigation is "apparently in full swing." Civil ramifications; In what promises to be an array of civil lawsuits stemming from the scandal, it is Penn State and The Second Mile that are expected as defendants. According to civil attorneys, the report's findings will be a starting point for what could be even more wide-ranging discovery into the university's conduct should it not settle the claims out of court. "This is a punch in a stomach, a sharp left and a knockout punch," said Philadelphia plaintiffs attorney Slade McLaughlin, who represents Victim 1.

Tom Kline of Kline & Specter represents Victim 5. He said after Freeh's press conference that the report comes with the imprimatur of a former judge. Kline said Freeh essentially did Kline's preliminary discovery for the civil litigation. Kline said Penn State sought legal counsel, but the highest levels of the university were morally and legally wrong. It would be a problem, he said, if the legal counsel was the advice they followed ...