

Reconsidering Sandusky

by

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Joseph R. Stains is pastor of Mount Hope United Methodist Church and a member of The Tribune-Democrat's Reader Advisory Committee.

Joseph R. Stains | Reconsidering Sandusky Part 1: Early influences as argument against culpability

By Joseph R. Stains

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In this Dec. 13, 2011 file photo, Jerry Sandusky, the former Penn State assistant football coach charged with sexually abusing boys, leaves the Centre County Courthouse in Bellefonte, Pa. (AP Photo/Matt Rourke, File)

Associated Press

First of five parts.

Many media outlets recently released their Top 10 news stories of the past decade, and the Jerry Sandusky scandal has been named the top news event in Pennsylvania.

In eight years since the 2011 indictment, with its now-infamous account of a 10-year-old boy being brutally raped in a shower, the entire state – and to some degree, the world – has sustained a tone of outrage and malice toward anything associated with the name Sandusky.

Three Penn State administrators were indicted and an iconic coach fired for alleged cover-up of evidence. The NCAA rewrote its protocol for procedures for an athletic officer when told of sexual allegations.

A profile for “good guy” pedophiles has been mustered, and Sandusky has served seven years of a veritable life sentence. The public felt vindicated in putting away a vicious, cunning molester who had “fooled us all.”

While public outrage has faded somewhat, the name Sandusky remains toxic.

Yet a growing number of researchers with no vested interest in Sandusky personally or the institutions deeply invested in the guilt narrative are reaching troubling conclusions about the truth of the accusations and the moral panic that clouds otherwise level-headed efforts to find the truth.

In 2017, acclaimed science writer Mark Pendergrast published “The Most Hated Man in America,” a thoroughly documented review of the Sandusky case, from early investigations through the trial and appeal. His work uncovers stark inconsistencies between initial statements to police in early interviews and final testimonies in court; legal irregularities in the police interview procedures; and palpable signs that debunked repressed-memories therapy techniques were applied to at least two accusers.

The bulk of information in this five-day column series is based on Pendergrast’s research.

The Wall Street Journal cited Pendergrast and research journalist John Ziegler in a September review of best-selling author Malcolm Gladwell’s recent work, “Talking to Strangers,” criticizing Gladwell’s reticence to finish the logical conclusion of innocence based on the evidence he provides in his chapter on Sandusky. This is the first mainstream print media to assert doubt regarding the guilt narrative of the Sandusky case.

Is Jerry Sandusky the template for villainous figures such as Larry Nassar and Jack Barto? Or is he one more innocent rush-to-judgment victim, like the Central Park Five and Richard Jewell?

This writing will explore reasons to revisit the Sandusky case, with an eye toward the innocent-until-proven-guilty issues that should have been raised from the early stages of investigation. It will make the case for plausible innocence, in the hopes that a future fair trial in federal court may finally establish the truth of the matter – guilty or not guilty.

Every accused citizen deserves this. We all can learn much from doing it right.

A brief biography

Jerry Sandusky was born in 1944 in Washington, Pennsylvania, during the latter stages of World War II. He grew up in that triumphalist generation, during the post-war decades when genders were segregated for physical activity, boundaries between youth and their adult mentors were nonexistent, high schools required gym classes and group showers before returning to class – and when YMCAs were strictly for males and whose pool facilities were for nude swimming only.

This ethos prevailed in much of post-war America until the Sexual Revolution redefined our sensitivities since the early 1970s.

Sandusky was the only child of devout Christian parents who saw their lives driven in a mission to help disadvantaged youth. They taught the young Sandusky the classic moralistic values of the day: abstinence from tobacco, alcohol, drugs and premarital sex – values he was known for living and preaching to youth through his career.

Brownson House, the city recreation center, became their home as well as their life project for local boys; and so the life he knew involved family use of the open shower room with whatever groups might have just finished their gym sessions.

Innocent or guilty in adulthood, Sandusky knew this open same-sex bathing model as normative life throughout his youth – as was typical of his generation. He became known as an upbeat, exuberant prankster in the gym, a demeanor that would invite horseplay among the bolder of his peers, and intimidation among the more reserved.

Sandusky was a student-athlete at Penn State, where he graduated and soon married his hometown sweetheart in 1966. Their shared vision involved coaching football, establishing a troubled-youth mission like that of his parents, and raising a family. He acquired a coaching position early in the Joe Paterno era, and founded the Second Mile in 1977, winning presidential recognition in the 1990s for its work.

The first great disappointment of his life was he and his wife's inability to produce children. Medical tests revealed that he had underdeveloped genitalia, low testosterone and low sperm count.

The only family they could have was by adoption – they raised five children, most to responsible adulthood. (The medical condition was a private matter most of his life, and was not revealed publicly until very recently, despite the help it might have given his defense in the 2012 trial.)

Despite a stark difference in personality and coaching styles from Paterno, Sandusky established distinction nationally as a defensive coordinator, and was seen publicly as Paterno's heir-apparent. Instead, his second great disappointment came in 1998, when Paterno informed him that he was too distracted with the Second Mile to be an effective head coach. A crushed Sandusky arranged for early retirement after the 1999 season.

Sandusky's failure to adapt to boundary standards in youth work placed him at risk in 1998, when he was reported by the mother of one of his youth clients for bear-hugging the lad from behind during a post-workout shower.

After a classified investigation by two police agencies and two social agencies – including insistence from the youth that there was nothing close to sexual assault involved – Sandusky was cleared, with a warning that private showering with youth should not be continued.

This seemed to be the end of the matter. It was the only pre-2000 complaint ever filed against Sandusky. Though the mother remained guarded, she and her son sustained an amicable relationship with Sandusky for the next decade.

But of course, a darker profile awaited him in the 21st century.

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Joseph R. Stains | Reconsidering Sandusky Part 2: Call sparks investigation leading to a case

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Second of five parts.

Most of the 2000s seemed to have been rewarding for Jerry Sandusky.

The Penn State University football program went into a major slump after his 1999 retirement. And as the “Joe Must Go” movement of the early 2000s demanded head coach Joe Paterno’s retirement, Sandusky’s stock in the public eye only rose, along with hopes that he might find vindication in supplanting Paterno for the head coaching job after all.

While that did not happen, Sandusky became highly admired nationally as an activist for good in his Second Mile work with troubled youth.

There was no hint of scandal on the public radar deep into 2008. Assistant coach Mike McQueary, who testified to seeing what he thought may have been sexual behavior in a shower involving Sandusky around 2001, volunteered more than once to join with him in Second Mile charity events.

No air of suspicion or distancing was displayed during those years.

But that changed, as acclaimed science writer Mark Pendergrast shows in 2017's "The Most Hated Man in America," a review of the Sandusky case. The bulk of information in this five-day column series is based on Pendergrast's research.

The fuse that lit the Sandusky case came in a phone call in November 2008 to a Clinton County high school office by a mother who was worried that Sandusky might have molested her 15-year-old son.

When Aaron Fisher (Victim 1, who went public with a book after the trial) reported to the office, he didn't know why he was called there, and would not speak. His mother voiced her suspicions, and Children and Youth Services was contacted.

Fisher had been in the Second Mile from age 11, and at first enjoyed the program.

After entering his teens, he took other interests, and regarded Sandusky's attention as an embarrassing nuisance.

He had never mentioned abuse to his mother – years later, she said he never mentioned any specific acts to her – but he did ask one day to see the list of local abusers she often reviewed by internet, and asked if Sandusky was on the list.

Thus was the basis of her call to the school.

CYS assigned Fisher to counselor Mike Gillum, who was told that Fisher was an uncooperative sexual abuse victim, and who took to heart from the beginning that Sandusky had surely abused Fisher, and that Gillum's mission was to elicit specific descriptions of the abuse.

Gillum also was a believer in repressed memory therapy, which is based on the notion that traumatic memories are forced into the subconscious and forgotten without therapy. The theory was first proposed and later dismissed by Sigmund Freud. Memory scientists have debunked the popular notion with research, finding quite the contrary: that traumatic memories are the most vividly recalled, as a defense against future risk.

Gillum claimed that his belief in the therapy had nothing to do with his counseling approach with Fisher.

Pendergrast, however, found the practice's basic text prominently displayed in Gillum's office, and language and techniques of the practice evident in his reports on Fisher.

After months of near-daily sessions, Gillum finally evoked some specific descriptions from Fisher. The state police (who also were told from the start that abuse by Sandusky was confirmed) were notified, and testimony before a state grand jury was scheduled. The 2009 session's testimony was riddled with conflicting content, and the grand jury ruled that there were no grounds for indictment. After six months more of counseling, a second grand jury session was scheduled, with the same dismissing outcome.

There were grounds for doubt. For instance, Fisher testified at one point to several occasions of sex acts at Sandusky's hands, and at another point testified that such acts did not occur. Mixed signals also lingered in the 2012 trial, when Fisher offered four differing time frames for the seasons of abuse, one of which included episodes in 2009 – after Sandusky had been removed from contact with Fisher – and an episode in the Sandusky basement in the same time frame that Victim 9 had claimed to be isolated there and abused.

In early 2010, the police and assistant Attorney General Jonelle Eshbach engaged a concerted search for additional victims to strengthen their case against Sandusky. Hundreds of interviews with more than 100 Second Mile alumni produced nothing except accolades for Sandusky's influence in their lives.

Finally, in November 2010, they received the tip that revived their mission.

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Joseph R. Stains | Reconsidering Sandusky Part 3: The nightmare in the shower

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Former Penn State assistant football coach Mike McQueary arrives at the Centre County Courthouse in Bellefonte in this July 2012, file photo.

The Associated Press

Third of five parts.

Responding to an anonymous tip in 2010, police contacted Penn State assistant coach Mike McQueary for a statement regarding something he had reportedly seen a decade before. This contact eventually spawned the report, leaked to the press a year later, of McQueary having seen Sandusky raping a 10-year-old boy in a campus shower.

The news galvanized the country with shock and outrage, and the Sandusky scandal became an irreversible train with a nearly inevitable outcome.

This was tragic, particularly given that the factuality of the version leaked to the press did not match McQueary's initial statements to the police, nor to the grand jury. This became clear to researchers who were able to find and publish counter-narratives after the trial was over.

Science writer Mark Pendergrast provides a thorough review of the Sandusky case in his 2017 work "The Most Hated Man in America." His research provides the bulk of information in this five-day column series.

Pendergrast cites an uncovered email string between McQueary and assistant Attorney General Jonelle Eshbach, shortly after the 2011 press release, in which McQueary protests that he never testified to have seen rape. Eshbach replied, "I know that a lot of this stuff is incorrect and it is hard not to respond. But you can't."

McQueary testified that he called his father immediately after the episode, and that, together with mandated reporter and family friend Dr. Jonathan Dranov, they unpacked what had happened. After thorough questioning, Dranov concluded that there were no grounds to assume sexual abuse. Dranov testified as much to authorities and was never indicted for failure to report. In 2012, NCIS agent John Snedden investigated the incident in the context of reviewing former Penn State President Graham Spanier's security clearance for international work.

In his 100-page report, Snedden concluded that McQueary's testimony was not reliable enough to presume molestation, and that there was nothing to cover up. Spanier's clearance was renewed. His conviction was later thrown out by a federal judge.

According to reports, what appears to have occurred is this: McQueary entered the locker room on a quiet Friday night during a school break. He heard loud slapping sounds from the adjacent shower room, which he immediately interpreted to be sexual. He glanced for one or two seconds into a mirror that gave a partial view of the shower and saw there a calm lad at least 10 years old.

He then saw an arm reach out and pull the lad back.

Shortly after, he saw Sandusky walk out of the shower.

McQueary's description morphed several times between 2010 and November 2011, but never reached the claim of witnessing rape. Sandusky eventually was acquitted of the rape charge. In any case, the possibility of rape between a 6-foot-2, 56-year-old adult and a 10-year-old, both standing on the floor and with a calm expression on the lad's face, is truly hard to configure.

In late 2011, a 23-year-old Marine and Second Mile alumnus presented himself to the police and wrote in the local press, self-identifying as the boy in the shower.

He could describe the setting with accuracy, except for the 2002 date and the exact configuration of the locker room to the shower. His account corroborated Sandusky's independent description of the episode from prison. Both said that no abuse had occurred, and that during the shower time they engaged in horseplay that included slap-boxing. Shortly before the 2012 trial, the Marine "flipped," asserting that he had experienced abuse on other unspecified occasions, and he became useless as a witness for either side.

Further doubt is raised by conflicting claims about the date of the episode. McQueary said definitively to police and to the grand jury that it happened on March 1, 2002.

Between the indictment and the 2012 trial, someone realized that McQueary's conversation with Paterno, and later with administrators Tim Curley and Gary Schultz, were clearly documented in February 2001. The date in trial testimony was quietly changed to Feb. 9, 2001.

But further research by Pendergrast has since shown that the campus was far from quiet on Feb. 9, as McQueary had testified, and that the football he had mentioned watching before his trip to the locker room would not have been on TV. The most plausible date was Dec. 29, 2000. The quiet campus and TV schedule all fit that date; and the notes of Dranov, Curley and Schultz about time frames line up with that date as well.

In any case, this shows that McQueary's memory was not so sharp about the episode on the whole as one would hope.

It also means, incidentally, that McQueary may not have visited Paterno for another five weeks, which would blunt his sense of urgency about it after debriefing with Dranov.

In November 2010, though, the account police sought and got from McQueary seemed to be a major break in the case, especially for trial-weary investigators who had assumed guilt from the start, and spent nearly two years with only failed testimony from a single victim.

Soon afterward, police were provided with a published photo of Sandusky with a small group of Second Mile boys, and the hunt for victims resumed afresh.

Every identified victim in the grand jury report, except for Fisher, was solicited from that photo.

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Joseph R. Stains | Reconsidering Sandusky Part 4: A roster of victims but little evidence

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In this Aug. 12, 2016 file photo, former Penn State University assistant football coach Jerry Sandusky arrives at the Courthouse in Bellefonte, Pa.

THE ASSOCIATED PRESS

Fourth of five parts.

The Jerry Sandusky prosecution team was in urgent need of a confirming corps of victims to strengthen its case.

After a seemingly exhaustive, fruitless campaign in 2010 that only weakened the prosecutors' hopes, they received a photo of Sandusky surrounded by nine boys, including the boy from a 1998 episode and three of his friends.

Those nine boys became the objects of a revived effort to broaden the base of witnesses to substantiate Sandusky's guilt. By late 2011, five more young men had been added to the roster of those willing to name their mentor an abuser.

Acclaimed science writer Mark Pendergrast's 2017 work "The Most Hated Man in America" provides a thorough review of the Sandusky case, and the bulk of information in this five-day column series is based on Pendergrast's research and published works.

We can observe some truths about the group as a whole, along with specific, individual notes as gleaned from reviews of the case:

Of those five, four initially asserted that Sandusky had never abused them. More than one expressed hope that he would be exonerated soon.

Some were mutual friends who collaborated during the year about their impressions of police interviews, and the possibilities of alternative testimonies.

All five came from troubled pasts before they entered The Second Mile programs and later met Sandusky. Victim 4 (and earlier, Victim 1 had gained reputations among their peers as less than honest.

All five were adults who had no history of complaining about Sandusky as a potential abuser before being solicited by police in 2011.

None had initiated contact with police, or had known claims among family or friends about Sandusky at any point in their lives.

All had substantial conflicts of fact between their initial interviews and their trial testimonies.

Some had retained tort lawyers before their first interviews with police. All had done so before trial, in anticipation of substantial remuneration if a conviction were delivered.

Victim 7 openly acknowledged that repressed memory therapy had induced the core of his testimony.

The youth in the 1998 episode became Victim 6. His claim at trial was that the non-molesting behaviors of 1998 were actually grooming maneuvers. His claim helped bring a conviction.

Victim 5 was the only one to assert molestation from the start of his interview with police. He claimed one episode, but at different stages of testimony shifted the year from 1998 (childhood) to 2002 (teen years) .

Victim 4 gave no useful testimony for a full hour of police interview. While he was on a break, the interviewers decided to tell him that up to nine others had already declared Sandusky guilty of molestation, in order to give him incentive to testify likewise. To that point, they had statements from only three, one of whom was Victim 6.

The claim to nine others was not true. This breach of interview protocol, called “co-witness contamination,” was inadvertently recorded on the interview tape, and should have nullified the interview altogether.

But it got the desired result: Victim 4 quickly told sordid tales of repeated sexual indulgence that won him the role of leadoff witness in the trial. He claimed 50 or more incidents of sexual molestation, mostly around 1998. He claimed Sandusky set him up with tobacco and marijuana, and that Sandusky groomed him with three-hour sessions of one-on-one gym games every Friday afternoon of the last half of 1997.

This despite Sandusky's lifetime commitment to abstinence from tobacco and drugs, and his every-Friday presence with the football team as a coach until late 1999.

Then comes the case of Victim 8, allegedly seen by a Penn State janitor being molested at the hands of Sandusky. The witness at trial was a friend of the eyewitness, who had told him of the disturbing episode, and then became too incapacitated to testify for himself. The hearsay janitor was "sure" the culprit was Sandusky.

Since the trial, a recorded police interview with the eyewitness in May 2011 has surfaced, in which the eyewitness clearly stated that the perpetrator was someone else.

The recording was "lost" in a huge trove of discovery material delivered shortly before the trial. Despite this, and the hearsay status of the trial witness, prosecutors aggressively pursued charges based on the unidentified Victim 8.

Victims 9 and 10 responded to a hotline appeal by the attorney general after the indictments. Victim 9 initially claimed never to have been abused. At trial he claimed to be locked in Sandusky's basement virtually every weekend across three calendar years, from late childhood into adolescence, as a virtual sex slave.

This despite the one-hour distance from his hometown to Sandusky's, the necessary decision to assume that role voluntarily across three years without anyone questioning his whereabouts through the period, the frequent use of the basement for family and charity hosting during those years, and the consistent word from all who lived there that the lock was on the basement side of the door.

Victim 10 was a convicted felon who claimed to have been driven in a silver convertible by Sandusky to a place where Sandusky exposed himself and demanded a sex act. His testimony won conviction, despite no one recalling Sandusky's owning, renting or being seen in a convertible – or even liking convertibles. Victim 10 was the only one that the Sandusky family could not place from anywhere.

After the trial, more than 30 claimants to abuse by Sandusky netted more than \$100 million from Penn State's insurance company, without the requirement that their claims be vetted or cross-examined.

Former Penn State trustees chair Ira Lubert, who oversaw the disbursement of money to the 30 claimants, said in an interview, "They're not all victims. There's some that were on the gravy train."

The news media told the public that "court documents" revealed claims of victims as far back as the 1970s.

Only two specific accounts were actually released for review. Both "John Doe" stories begged credibility.

In one, the victim was assaulted by Sandusky in a group shower at Penn State's 1976 summer football camp, his shouts of protests ignored by others in the shower and by camp staff, and his direct appeal to Paterno met with indifference.

The cogent factual problem is that those camps sent participants back to their dorm rooms for showers.

In the other case, the claimant alleged to have been picked up as a hitchhiker in 1971 by Sandusky, who "lubricated him up" with liquor and marijuana before raping him in a public facility at Penn State.

The "court document" in these widely-circulated stories turned out to be a formal appeal to the court by Penn State's then insurance company to be released from responsibility for frivolously-conceived suits.

The John Doe episodes from the '70s were cited by the company as extreme examples. They nonetheless were widely published as proof that Sandusky had been prowling about Penn State's environs unchecked for 40 years.

Confronted with this array of accusers, how would one rank them for credibility – individually or in tandem?

Given the many hundreds of episodes claimed, in overlapping time frames and narrow windows of opportunity, what full-time sex trafficker could coordinate such a heavy schedule of sexual encounters, let alone a less-than-micromanaging full-time coach in an exhausting schedule of field time, out-of-town recruiting, family life and a national charity to manage with fundraisers and road engagements?

And all this coupled with a now-known medical condition that compromised his masculinity in his prime, let alone his mid-50s and 60s, when all the episodes alleged in the trial were to have occurred.

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Joseph R. Stains | Reconsidering Sandusky Part 5: One trial down, another one wanting

By Joseph R. Stains
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Fifth of five parts.

As science writer Mark Pendergrast notes, Jerry Sandusky naively thought the case built against him was trivial, and expected full exoneration right up to the moment the verdicts were read.

He hired for his defense a local lawyer with no experience in child abuse cases, who essentially swooned in the face of the numerous, impassioned claims against his client, and the accompanying worldwide publicity.

The lawyer accepted a jury member who said on the stand that he did not know how he would face his wife if he found Sandusky innocent.

His cross-examination of witnesses given numerous conflicts of substance seemed remarkably rare and passive to observers. He abruptly yielded to pressure late in the trial to remove Sandusky from the schedule of defense witnesses. His opening and closing statements to the jury seemed at times to be taken from the prosecutors' outline.

Pendergrast provides a review of the Sandusky case in his 2017 work "The Most Hated Man in America," which provides the bulk of information in this five-day column series.

Pendergrast shows that – in contrasts to the defense – the prosecution team's approach was excessively aggressive, and at times seemed to cross ethical lines to create a public impression of guilt.

The team chose to actively pursue the Victim 8 accusations, despite having no victim or eyewitness testimony, and despite knowing about the police interview in which the eyewitness clearly said the molester was someone else.

The team did not make the exonerating tape easy for the defense to find; and the defense team seemed unaware of it throughout the trial.

Someone doctored shower witness Mike McQueary's grand jury testimony to claim anal rape, and illegally leaked it to the press before the indictment. The team simultaneously indicted administrators who might have had testimony useful to the defense, thereby disqualifying them as witnesses.

On the day of the verdict, Attorney General Linda Kelly triumphantly declared the case a referendum on the court's willingness to believe children, knowing full well that every witness called, except Aaron Fisher, was an adult with no claim against Sandusky until solicited in 2011.

Prosecutor Joseph McGettigan asserted in a post-trial YouTube interview that Sandusky's home and computer were searched for pornography, and "We found images!" – knowing full well that no pornographic images had ever been found in Sandusky's possession.

Pendergrast and others make a strong argument that this is a case completely devoid of physical evidence, dependent entirely on often-contradictory testimony. Maybe Sandusky truly is guilty of some of the accusations against him. But he appears incapable of responsibility for many, and could be innocent of all.

Reasonable doubt pervades the case as a whole.

Any new trial must happen in a broader circle than our home state. Every major institution in Pennsylvania, from Paterno defenders to the Penn State trustees to the machineries of our justice system and news media, are heavily invested in the narrative of his guilt.

And perceived guilt is very difficult for the mind to reverse, as the Wall Street Journal recently asserted – especially when the crimes alleged are so heinous, and the players so regionally intimate.

Knowing what we now know, a thorough review and pursuit of a new trial are owed to Sandusky and to the general public.

The future integrity of all the institutions invested here, and the constituencies that want so much to trust them, will be enhanced when we practice getting our principles right, with prudence, fair play and justice for all.

If we truly believe in the principle of innocent until proven guilty, and that punishing the innocent is as grave a wrong as releasing the guilty, this endeavor is crucial to our system's credibility in the pivotal times to come.

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