

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



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**Status of the Independent Special Counsel's Investigation into
Michigan State University's Handling of the Larry Nassar Matter**

On January 27, 2018, three days after MSU sports medicine physician Dr. Larry Nassar received an effective life sentence for sexually assaulting hundreds of young female patients, the Michigan Department of Attorney General announced that it had opened an investigation into "systemic issues with sexual misconduct at Michigan State University." Attorney General Schuette appointed independent special counsel William Forsyth to lead the investigation, with assistance from the Michigan State Police (MSP) and members of the Attorney General's Office.¹

To date, the investigation has uncovered evidence that led to the filing of criminal charges by the Attorney General's Office against three individuals at MSU: former gymnastics coach Kathie Klages, former Dean of the College of Osteopathic Medicine William Strampel, and former President Lou Anna K. Simon. Because those charges remain pending, the rules of professional conduct require us to exercise considerable caution in disseminating facts that risk affecting the defendants' rights. Unlike other independent investigations of this nature, such as the Freeh investigation of Penn State, our dual role as both investigator and prosecutor limits what facts we can disclose publicly while criminal charges are pending. As a result, this release is not intended to be a full accounting of our investigation, but rather an overview of our general findings. What follows is a brief summary of the steps we have taken to this point, a synopsis of facts we found, and insight into the culture of indifference and institutional protection that existed at MSU.

¹ It is important to make clear the limited scope of our investigation. We did not investigate USA Gymnastics, Twistars, or any other local gymnastics teams with which Nassar was affiliated. We also did not undertake a systemic review of MSU's compliance with Title IX of the Education Amendments Act of 1972, the federal law that prohibits public educational institutions from discriminating on the basis of sex. The federal agency that oversees Title IX, the Department of Education, is currently reviewing MSU's Title IX compliance. Nor did we investigate any allegations of sexual assault involving other MSU sports teams or colleges. Those allegations were referred to the appropriate law enforcement agency.

Larry Nassar pleads guilty to first-degree criminal sexual conduct

In the fall of 2016, Attorney General Schuette charged Nassar with three counts of first-degree criminal sexual conduct (CSC-I) for crimes perpetrated against the daughter of a family friend, Kyle Stephens. In February 2017, Nassar was charged with an additional twenty-two counts of CSC-I for sexual assaults he committed in Ingham and Eaton counties against nine of his patients. On November 22, 2017, Nassar pleaded guilty to seven of those counts in Ingham County, and a week later, he pleaded guilty to three counts in neighboring Eaton County. Nassar's sentencing hearings began on January 16, 2018, with hundreds of survivors giving statements about Nassar's abuse and the profound effect it had on their lives, capturing the nation's attention.

Amid the multitude of stirring accounts of how MSU's premier sports medicine doctor sexually abused scores of young women, the MSU Board of Trustees sent a written request to the Attorney General asking him to investigate "MSU's handling of the Nassar situation." The Board pledged that it stood "ready to fully cooperate with [the Attorney General Office's] review."

MSU stonewalls the very investigation it pledged to support

Unfortunately, the University failed to live up to this pledge by: (1) issuing misleading public statements, (2) drowning investigators in irrelevant documents, (3) waging needless battles over pertinent documents, and (4) asserting attorney-client privilege even when it did not apply. These actions warrant extended discussion because they highlight a common thread we encountered throughout the investigation into how the University handled allegations against Nassar. Both then and now, MSU has fostered a culture of indifference toward sexual assault, motivated by its desire to protect its reputation.

This began even before MSU asked the AG to investigate. Prior to publicly announcing our investigation, the Attorney General's Office asked MSU to turn over the report detailing the internal investigation MSU conducted into its handling of the Nassar matter. MSU had proclaimed publicly that the investigation, led by former United States Attorney Patrick Fitzgerald, would lead to "prompt[and] appropriate action in response to what [they] learn[ed] during the review."² In response to our request, however, MSU revealed that Fitzgerald prepared no written report of any findings. Mr. Fitzgerald, it turned out, was not hired to investigate for the purpose

² We note that while MSU hired Fitzgerald's firm within weeks of firing Nassar in September 2016, MSU's first public statement to the MSU community about Larry Nassar's sexual assaults did not come until months later, on February 3, 2017.

of presenting his findings to the public, as MSU originally implied, but to prepare and protect the institution in forthcoming litigation.

Similarly superficial was MSU's public insistence that all its employees fully cooperate with our investigation. In stark contrast to its public statements, MSU privately insisted that its own attorneys attend interviews with MSU employees. At some of those interviews, MSU's legal team—attorneys hired to represent the interests of *the University*, not the individual witness—prohibited witnesses from answering investigators' questions because it would divulge information they believed was protected by MSU's attorney-client privilege. Investigators perceived this tactic as a veiled attempt by the University to blunt the candor of witnesses and otherwise prevent them from sharing certain details regarding MSU's knowledge and handling of the Nassar matter.

This protectionist tactic continued throughout the investigation. When we requested MSU produce documents relating to Nassar and the University's handling of sexual assault reports, MSU drowned our investigators in irrelevant documents. The University has boasted of producing tens of thousands of pages of electronic documents, but the size of its production should not be confused with its level of cooperation. Unresponsive documents such as the University's Bed Bug Management-Infection Control policy, various restaurant coupons, and the seemingly endless (and duplicative) supply of emails from news-clipping services containing publicly available articles, offered absolutely no assistance in determining who at the University knew of Nassar's abuse and when they knew it.

In addition, the University withheld or redacted thousands of documents under a claim of "attorney-client privilege." Attorney-client privilege generally permits a client, like MSU, to refuse to disclose confidential communications they had with their attorney. But a client can always decide to "waive" the privilege and allow the disclosure of such communications. MSU's decision to invoke this privilege and protect certain documents, while legally permissible, nonetheless reflects a decision to place financial and legal considerations over and above the survivors' and the public's interest in learning how Larry Nassar was able to prey on so many young women at the state's largest public university.

The University's response and the prospect of an investigation based solely on information that it unilaterally and selectively decided to produce was, of course, unacceptable and inconsistent with its public pledge of openness and cooperation. As a result, we requested MSU to provide all information being withheld under the claim of privilege. In response, the University effectively asked us to trust its assertion of privilege while disparaging us for having the audacity to question such assertions, some of which were obviously improper.

Our skepticism of MSU's assertion of privilege was not unfounded. From just the emails that MSU voluntarily disclosed, investigators caught a glimpse into MSU's culture of anti-transparency. For example, Vice President for Communications and Brand Strategy, Heather Swain, directed Trustee Brian Breslin to copy University legal counsel Robert Noto on an email to other Trustees in order to "maintain privilege," despite the fact that the email was not seeking any type of legal advice from Noto.

The protectionist mindset is also evident in an email sent by Secretary of the Board Bill Beekman to President Lou Anna K. Simon. In December 2017, Beekman sent a lengthy email to Simon in which he summarized numerous meetings and conversations from the preceding day. The email ended with Beekman stating, "I will delete this email after sending it." Thus, not only has the University applied a very liberal interpretation of the scope of the privilege to emails that do exist, there is a distinct possibility, if not probability, that relevant, non-privileged emails were destroyed prior to our investigation. Regardless, this reflects a mindset among University leadership that is geared more toward secrecy and protecting its reputation than it is openness and transparency.

As a result of MSU's unwillingness to turn over documents, we had reason to believe were relevant to our investigation, we requested MSU's legal department to reconsider its invocation of privilege. When our request was denied, we next asked the MSU Board of Trustees to waive the privilege to make good on its pledge of cooperation and truth-seeking. The Board, on the advice of counsel, also denied our request. Having failed in our attempts to have MSU waive its privilege, we then asked that MSU turn over the disputed documents to a neutral third-party for review. Once again, we were rebuffed.

Faced with MSU's repeated denials, we obtained a judicially authorized search warrant directing MSU to turn over to a judge all emails, text messages, and documents pertaining to Nassar that MSU previously identified as privileged. In keeping with its ongoing lack of cooperation, MSU objected and asked the judge that they not be required to comply. In documents filed with the court, the University admitted for the first time that it had actually withheld or redacted 7,651 documents. Prior to this admission, attorneys for the University had led us to believe that they had withheld or redacted approximately 1,500 documents.

As we expected, the judge ordered MSU to turn over the contested documents for review. Before doing so, however, MSU "voluntarily" provided the Department with almost a thousand documents it had previously redacted or withheld on the basis of privilege. After review, the judge ordered the University to produce 177 more documents. Unfortunately, MSU continues to challenge the judge's decision, which means that, as of this date, MSU has still not disclosed all information that is potentially relevant to our investigation.

We recount these exchanges to show that, rather than “ready cooperation,” as the Board promised, the University has largely circled the wagons. An institution truly interested in the truth would not have acted as MSU has. MSU’s initial decision to hire a private law firm to conduct its internal investigation, its subsequent refusal to release the results of that investigation and waive attorney-client privilege, along with its insistence on having its attorneys attend witness interviews have made it virtually impossible to know exactly what happened at MSU during the Nassar years. For as long as MSU frustrates the search for the truth, we will never be fully confident that we have it.

Overview of the investigative process

The core mission of our investigation concerned whether anyone at MSU knew or should have known about Nassar’s abuse and could have put a stop to it earlier. Our team performed a comprehensive review of the circumstances surrounding the abuse perpetrated by Nassar, including which MSU employees knew, what they knew, when they knew it, and what did they did—or didn’t do—with that knowledge.

The investigation has spanned nearly a year and involved a substantial amount of time and resources from the Attorney General’s Office and the Michigan State Police. Fifteen law enforcement officers contributed to the investigation, with Michigan State Police assigning eight investigators and the Attorney General’s Office contributing seven.³ Another twelve members of the Attorney General’s Office, from attorneys to support staff, assisted in the investigation.

At the outset of the investigation, we took several immediate steps, including requesting all relevant documents and evidence from MSU, as discussed above. We hosted several informational meetings with survivors in an effort to keep them and the public updated on the status of the investigation. We also set up a tip line for members of the public to provide helpful information in a confidential manner. We received over 100 tips through the tip line, many of which related to the core mission of the investigation. Again, for those tips that related to other alleged criminal wrongdoing at MSU, investigators referred those matters to the appropriate law enforcement agency.

³ The Michigan State Police and the Attorney General Investigators deserve credit for their dedication and professionalism. In particular, Detective-First Lieutenant Ryan Pennell of the Michigan State Police and Special Agent David Dwyre of the Attorney General’s Office coordinated the investigative resources for this large-scale endeavor. Their tireless efforts should give every survivor confidence that our investigation was thorough and relentless.

The bulk of the investigative process involved reviewing documents produced by MSU and interviewing every potentially relevant witness at MSU. In all, we contacted almost 550 people, including interviews of over 280 survivors.⁴ Any information suggesting the survivors had told someone at MSU about concerns with Nassar's treatment led to interviews with the named employee and other relevant personnel at MSU. We interviewed 105 of those individuals, including everyone from secretarial staff, sports trainers, and other physicians in the College of Osteopathic Medicine, to current and former provosts, the entire Board of Trustees, and former university president, Lou Anna K. Simon. For every interview, investigators prepared a written report, which was reviewed by at least three attorneys to determine whether follow-up was appropriate and whether it suggested any criminal activity. In addition, a team of attorneys reviewed approximately 105,000 documents, consisting of almost 500,000 pages.

Dr. Lossing debunks Nassar's false assertion of medical legitimacy

Because Nassar used the guise of "medical treatment" in an attempt to legitimize his abuse, we sought the assistance of a renowned expert in osteopathic manipulative medicine, Dr. Kenneth Lossing. Dr. Lossing, the past president of the American Academy of Osteopathy, provided us with expertise regarding legitimate osteopathic manipulative techniques in the pelvic area, including the "sacrospinous ligament release," which Nassar often used as a cover for his sexual assaults. Nassar's assertion of medical legitimacy was contradicted by Dr. Lossing's analysis. Of note, and contrary to Nassar's practice, Dr. Lossing advised that intravaginal treatment should typically be utilized only if a patient presents with a trauma-induced history of infertility, irregular menstruation, incontinence, or pelvic pain, and only after external treatment is ineffective.

When performing such a sensitive procedure, he said, clear and informed consent is paramount. If the patient is not of legal age, informed consent from the patient's parent or legal guardian is required. And when conducting intravaginal treatment on a patient of the opposite sex, a chaperone is standard procedure. Finally, Dr. Lossing stated that the specific parameters of the treatment, including whether an internal approach was used, should be fully documented in the patient's medical records. The accounts from survivors reveal that Nassar showed no regard for these basic medical protocols.

In light of Dr. Lossing's expert insight and concerns raised by numerous survivors that Nassar's medical colleagues could have or should have noticed his abusive methods from the medical documentation, investigators also reviewed a

⁴ Because a number of the survivors were minors, investigators in some cases interviewed a parent instead of the survivor.

significant number of medical records. Two attorneys at the Attorney General's Office who are also medical doctors confidentially reviewed every medical record that the Department obtained during Nassar's criminal prosecution to look for possible warning signals missed by peer reviewers. They found no evidence that a peer reviewer without the benefit of post-publicity and post-conviction hindsight would have faulted the documentation or questioned the treatments rendered. But in those cases where a survivor had reported abuse to MSU, the survivor's medical records did not correlate with their police statement; specifically, the documentation did not match the police statements as to intensity, duration, and invasiveness of the treatments. A peer reviewer would have or should have questioned the treatments and procedures employed by Nassar if the treatment sessions had been completely documented as to duration and method. In short, it appears that Nassar disguised the "treatments" he performed by not documenting the conduct that would have raised red flags.

Nassar remains defiant and unrepentant

For a variety of reasons, Nassar was among the first people interviewed by our investigators. He offered no helpful information. In fact, it immediately became clear that his statements of remorse in the courtroom were a farce. Among other things, he stated that he did nothing wrong in regard to Amanda Thomashow—the survivor at the center of MSU's 2014 Title IX investigation into Nassar. He also felt that the criminal case against him "should have been handled as a medical malpractice case." Nassar claimed that he only pleaded guilty because he lost support from the medical community and his patients after the police discovered reams of child pornography in his possession. Finally, and contrary to his sworn statement at the time he pleaded guilty, he was adamant that all of his "treatment" was done for a medical purpose, not for his own pleasure.

Investigative interviews reveal eleven MSU employees failed to report Nassar's abuse

A major component of our investigation involved interviewing the survivors to determine whether they told anyone at MSU about the abuse. Of the 280 survivors we interviewed, thirteen stated that they reported Nassar's abuse to an identified MSU employee at or near the time it was happening.⁵ Their reports date as far back as 1997 and as recently as 2015. Those thirteen women and a summary of their allegations are as follows:

⁵ Other survivors stated that they reported to someone at MSU but were unable to recall the person's name and we were unable to independently identify those employees.

1. **Kyle Stephens**, the daughter of a family friend of Nassar, was sexually abused by Nassar beginning in 1998. Her abuse exceeded Nassar's typical sexual abuse under the guise of medical treatment and included being forced to watch Nassar masturbate and Nassar rubbing his penis against her feet. Stephens reported her abuse to MSU professor and psychologist Dr. Gary Stollak, who counselled her, her parents, and Nassar together about the allegation. After Dr. Stollak's counselling, Stephens falsely recanted her story.
- 2 & 3. **Larissa Boyce** and a **second youth gymnast** were digitally penetrated by Nassar during treatment sessions in the late 1990s. We allege that after talking with each other about the treatment both girls raised concerns about it with MSU gymnastics coach, Kathie Klages. We have charged Klages with lying to a police officer for her alleged misrepresentations to police surrounding this incident, and as a result we are unable to provide further details about this incident. We reiterate here that Klages is presumed innocent until proven guilty.
4. **Tiffany Thomas Lopez** reported being digitally penetrated by Nassar during several of her appointments in 1999. She initially told athletic trainer Heena Shah Trivedi, who did not relay Lopez's complaint to the proper authorities but who apparently did inform Nassar. Lopez later reported Nassar's conduct to trainer Lianna Hadden, even demonstrating what he did. In response, Hadden began to cry and later told Lopez she would report the matter to her supervisor, Destiny Teachnor-Hauk. There is no evidence that Hadden informed Teachnor-Hauk. Lopez later raised the issue directly with Teachnor-Hauk, who assured Lopez that Nassar's treatments were legitimate and cautioned her that filing a complaint would place a burden on Tiffany, Tiffany's family, and MSU.
5. **Christie Achenbach** received treatment from Nassar in 1999 for hamstring problems. During one appointment, he digitally penetrated her vagina without warning or gloves. Several days later, Achenbach told assistant MSU track coach, Kelli Bert, who brushed off Christie's concerns, saying that Nassar was a doctor and knew what he was doing.
6. **Jennifer Bedford** was sexually assaulted by Nassar in 2000 or 2001, and after one of her appointments she reported to athletic trainer Lianna Hadden that she was not comfortable with Nassar's treatment. Hadden told her that there was no option of filing a confidential complaint and that the only way to voice her concerns would be to file a report, which could prompt a criminal investigation.

7. **Jill Berg** saw Nassar in 2002 for a sports injury. She was sexually assaulted several times, including once in which Nassar cupped her breast and digitally penetrated her vagina. Berg later had a discussion about the treatments with her teammates, which was overheard by athletic trainer Tony Robles. According to Berg, Robles seemed concerned about the incident, but she assured Robles everything was fine.
8. **Kassie Castle**, a youth gymnast at Twistars, was assaulted by Nassar between 2004 and 2010. Nassar's assaults included penetrating her anus and vagina with his fingers, sometimes when he had an erection. Castle's mother initially confronted Nassar about his treatments, but he assured her it was medically appropriate. Later, in 2007, Castle reported to Dr. Brooke Lemmen that she was uncomfortable with Nassar's treatments because it was causing her to bleed.
9. **Shannon Dunn** was abused by Nassar during one treatment session in 2010 in which he digitally penetrated her vagina. Dunn reported the incident to MSU sports psychiatrist Dr. Lionel Rosen, who expressed no concern, telling Shannon that Nassar was only doing what was best for her.
10. **Catryina Brown** was a paid "simulated patient" for the MSU College of Osteopathic Medicine in 2009 or 2010 when Nassar massaged her clitoris under the auspices of instructing students how to perform a pap smear. Brown reported the incident to her supervisor, Rebecca Cass.
11. **One young girl** received treatment from Nassar in 2012. According to her mother, who was present in the room, Nassar used a "medical technique" that made her and her daughter uncomfortable. After that visit, they switched physicians to Nassar's colleague, Dr. Brooke Lemmen. During her daughter's first visit with Dr. Lemmen, the mother told her that Nassar's treatment made them feel uncomfortable. Dr. Lemmen replied, "[W]e get that a lot."
12. **Amanda Thomashow** received treatment from Nassar in 2014 for hip pain. During the appointment, Nassar massaged her breast and rubbed her vagina despite her protestations that it hurt. Thomashow reported the incident to Dr. Jeffrey Kovan, who called the MSU Title IX Office to report her complaint.
13. **Kelle Sajdak** reported being "groped" by Nassar to her boyfriend and MSU athletic trainer David Jager in 2015. According to Sajdak, Jager responded with indifference, saying that Nassar was "the best in the world." According to Jager, he recalled Sajdak's complaint and told her to make a report if she felt uncomfortable.

A culture of indifference toward the health and safety of MSU students and faculty

After interviewing each of the above survivors, we also interviewed every employee mentioned above. Nearly every employee either claimed that they could not recall receiving a report of abuse or explicitly denied ever being told. Although there is no evidence that these MSU employees consciously conspired with each other or with Nassar to cover up his abuse, the real explanation of why Nassar was able to perpetrate his crimes for so long is little better.

In some sense, the MSU employees around Nassar were misled much like the survivors were. All of Nassar's colleagues stated that they never witnessed Nassar digitally penetrate a patient, though the ones most familiar with Nassar's specialty emphasized that vaginal penetration could be medically appropriate in certain, rare circumstances—an opinion shared by Dr. Lossing. It is evident that Nassar was able to use his associates' familiarity with a legitimate medical technique to conduct treatment that resembled that technique, but which constituted sexual assault, done for his own personal sexual gratification.

Nevertheless, the fact remains that, according to nearly every survivor interviewed above, the MSU employees who allegedly received reports of Nassar's sexual assault or improper medical treatment (with the exception of Dr. Kovan) downplayed its seriousness or affirmatively discouraged the survivors from proceeding with their allegation. That so many survivors independently disclosed to so many different MSU employees over so many years, each time with no success, reveals a problem that cannot be explained as mere isolated, individual failures; it is evidence of a larger cultural problem at the MSU Sports Medicine Clinic and MSU more broadly.

For as varied as the details of the survivors' accounts are, there is a common thread through each: the tendency of MSU employees to give the benefit of the doubt to Nassar, not the young women who came forward. When faced with accusations of digital penetration during routine medical treatments—serious allegations that amount to criminal wrongdoing—the MSU employees discounted the young woman's story and deferred to Nassar, the world-renowned sports medicine doctor.

MSU's Title IX Office failed to properly investigate 2014 allegations against Nassar

One of the lessons the evidence in this matter teaches is that automatic deference to authority creates presumptions that work against those without authority. That deference produced catastrophic results not only for the young women whose reports were ignored, but for every other young woman who was

victimized by Nassar up until the investigation of Amanda Thomashow's 2014 complaint.

Unfortunately, the same is also true for Ms. Thomashow—the one survivor whose complaint was properly reported—as well as the young women who were sexually assaulted by Nassar after the conclusion of the Title IX investigation. In April 2014, Ms. Thomashow reported to Dr. Jeffrey Kovan that Nassar rubbed her breast and vagina during a medical appointment to treat her hip pain. Dr. Kovan relayed the complaint to MSU's Title IX Office, which, in conjunction with the MSU Police Department, investigated Ms. Thomashow's allegation. Sadly, the MSU Title IX investigation process, aided in part by mistakes by those tasked with carrying out the investigation, failed Ms. Thomashow. And again, the deficiencies were borne of a deference to authority figures.

The MSU official charged with investigating Thomashow's complaint was Kristine Moore of MSU's Title IX Office. There is no evidence that she conducted the investigation in bad faith or consciously arrived at a predetermined result. But there were multiple shortcomings in the investigation that, even without the benefit of hindsight, substantially influenced MSU's conclusion that Nassar did not violate its sexual misconduct policy.

The first significant failure of the Title IX investigation centered on Moore's failure to consult neutral and objective medical experts with no ties to Nassar or the MSU College of Osteopathic Medicine. Moore recognized early on that resolving Ms. Thomashow's complaint would turn, in part, on whether Nassar's treatment was medically legitimate, which required consultation with experts in his field. Highlighting the deficiency of this process, the experts she consulted were Nassar's colleagues at the College of Osteopathic Medicine, Drs. Brooke Lemmen, Lisa DeStefano, and Jennifer Gilmore. All three either studied, worked, or taught with Nassar. During her investigation, Moore either downplayed the witnesses' connection with Nassar or failed to consider how their personal opinions of Nassar as a man of character affected their professional judgment.

Dr. Lemmen's bias in favor of Nassar was particularly troubling. Evidence shows that she maintained a close personal relationship with Nassar outside the workplace—so close that she was aware of Thomashow's allegations *before* Moore formally interviewed Thomashow on May 29, 2014.⁶ Three days before that, on May 26, 2014, Nassar emailed Lemmen about the allegations, providing Lemmen background on his treatment technique and how he had previously and without

⁶ Dr. Lemmen's connection with Nassar makes it all the more troubling that her MSU email account was deleted before our investigation began.

objection performed techniques similar to the allegations he claimed Thomashow was making.

In an apparent attempt to taint Lemmen's perception of the case, Nassar misrepresented Thomashow's complaint, writing, "[Thomashow] never said that I was making her uncomfortable, she never said that she [*sic*, I] did not explain what I was doing well enough to her. That is what is killing me. I have been called the 'Body Whisperer'. How could I miss her signals that she was so uncomfortable?"

Nassar also implied that Thomashow was motivated to falsely accuse him:

"What I do know is that Dr. Kovan said that it was after I 'Liked' a picture on Instagram of her sister, who is a gymnast, which made her decide to call Dr. Kovan. The patient was in the picture too. I think she may have felt like I was 'stalking' her at that point or being too invasive into her personal life. That would explain why I did not perceive any of the 'vibes' that one would pick up if the patient was feeling violated. Maybe that is why the patient did not say anything to me and actually told me that the treatment was helping her and she felt better afterward. That would make some sense."

Moore was unaware that Nassar was communicating with Lemmen during the investigation, and she has since acknowledged that interactions like this would prejudice the investigation. But she has also continued to defend her decision to consult only MSU- and Nassar-affiliated experts, contending that their credibility was not an issue because everyone agreed (with Nassar) that the treatment he says he performed was medically legitimate.⁷ That reasoning, however, ignores the very real probability that their conclusion was influenced by their bias in favor of Nassar. It also is predicated on the assumption that Nassar was, in fact, performing the technique that he claimed he was performing, as opposed to the highly irregular actions that Ms. Thomashow described.

That leads to the second significant failure of the Title IX investigation: Moore's failure to accurately convey Ms. Thomashow's allegation to Drs. Lemmen, DeStefano, and Gilmore.

⁷ Detective Val O'Brien, the MSU Police Department investigator assigned to Thomashow's case, also failed to consult additional experts, despite being asked to do so by Ingham County Assistant Prosecutor Debra Rousseau. There is no evidence Detective O'Brien ever consulted an outside expert, or even conducted an independent criminal investigation. Detective O'Brien has not explained her investigative decisions, as she was unwilling to be interviewed by our investigators.

During her interview with Moore, Ms. Thomashow alleged, in part, that Nassar placed three fingers on top of her vagina and rubbed in a circular motion. Following Ms. Thomashow's interview, Moore and Detective O'Brien each interviewed Nassar and confronted him with Ms. Thomashow's allegations. Throughout both interviews, Nassar minimized the seriousness of Ms. Thomashow's allegation in an attempt to bring it in line with the legitimate forms of his medical technique. He also implied that Ms. Thomashow had ulterior motives in making an allegation against him, suggesting that she only came forward because he "Liked" a picture of her on social media. He also claimed that she had a "psych history" and questioned whether she had been sexually abused in the past: "Did I open Pandora's Box for her? What other issues does she have whether it be physical space or mental space[?]" By the end, Nassar had reduced Ms. Thomashow's allegation into a close description of his medical procedure. "Yes I'm there and yes it's medical," Nassar said, adding, "What she described matches what I would do."

Nassar's efforts to manipulate the investigation appears to have had a significant effect. Following her interview with Nassar, Moore focused her attention on the legitimacy of the technique that Nassar claimed he performed. As Moore would write in an email a day later about the state of the investigation: "At this point, there is not much discrepancy in terms of the two stories about what occurred." Unfortunately, Moore failed to pursue whether there was a material disconnect between Ms. Thomashow's specific allegations and proper medical procedure.

According to Moore's handwritten notes from her interviews with Drs. Lemmen, DeStefano, and Gilmore, it does not appear that Moore ever recited Ms. Thomashow's specific allegation regarding his pelvic treatment. Moore's notes reveal that she conveyed discrete aspects of Ms. Thomashow's complaint, like the fact that Nassar did not immediately stop when she complained of pain, but there is no evidence she specifically told the doctors that Nassar placed three fingers on top of the patient's vagina and rubbed in a circular motion.

All three doctors have since confirmed with investigators that they were never told the specifics of Ms. Thomashow's complaint. Rather than present the experts with the facts presented in the complaint, Moore focused her questions on the legitimacy of the technique Nassar claimed he was performing. Naturally, all of the doctors told Moore that it was a legitimate medical procedure. As Dr. DeStefano put it to investigators: "[I]t wasn't a matter of trusting Amanda Thomashow, it was questioning the technique." According to Dr. DeStefano, she thought she knew the technique he was using, and her role was to defend the technique.

After subsequently learning the details of Nassar's misconduct, each doctor has since retreated from her original opinion. For example, Dr. Gilmore told investigators that vaginal penetration is not an accepted part of the technique Nassar claimed he was performing. And Dr. Lemmen stated that Ms. Thomashow's

allegation of rubbing the top of the vagina in a circular motion would have raised red flags for her. Lemmen said, “Knowing what I know now, . . . I think the information from Amanda was filtered in a way that did not give me the ability to understand what had truly happened to her.”

In sum, had Moore consulted experts with no ties to Nassar or the MSU Sports Medicine Clinic, or accurately conveyed Ms. Thomashow’s key allegation, it appears likely that the result of the 2014 investigation would have been different.

Criminal charges we have filed

Other facts we have uncovered are consistent with MSU’s culture of indifference and its efforts to protect its reputation. But because we have initiated criminal charges against three individuals in the MSU hierarchy—the former MSU gymnastics coach, the former Dean of the College of Osteopathic Medicine, and the former President of the University—we are obliged by the Michigan Rules of Professional Conduct to abstain from disseminating facts that might affect a jury’s view of the “character, credibility, [or] reputation” of defendants and witnesses that may appear in court. M.R.P.C. 3.6(a)(1). Moreover, there are facts that may well color a jury’s view of a particular defendant that would be inadmissible at a trial. M.R.P.C. 3.6(a)(5). At this stage, these individuals are only alleged to have committed criminal acts and they are all presumed innocent. Because of our ethical duties, we merely outline the nature of the crimes for which the defendants have been charged.

William Strampel is charged with misconduct in office, fourth-degree criminal sexual conduct, and two counts of willful neglect of duty. The willful-neglect charges involve Strampel’s alleged failure to properly supervise Nassar by allowing him to return to work during the 2014 Title IX Thomashow Investigation and his alleged failure to enforce protocols for examinations and procedures conducted by Nassar that had been put in place after the Title IX investigation was completed. Strampel’s remaining charges pertain to his own personal, unrelated criminal conduct uncovered during our investigation. The facts underlying those charges have been set out in the affidavit in support of criminal charges in Ingham County.

Kathie Klages was charged with two counts of lying to a peace officer. These charges involve allegations that Klages falsely denied to investigators that two survivors reported to her that they were assaulted by Nassar.

Lou Anna K. Simon was charged with four counts of lying to a peace officer, also arising out of statements she gave to police officers regarding material facts of this investigation. Specifically, Simon is alleged to have given false or misleading statements when she (1) denied that she was aware of the nature of the complaint that generated the 2014 Title IX Thomashow Investigation and (2) told investigators that she was aware that there was a “sports medicine doc who was subject to review”

in 2014 even though she allegedly knew that it was Nassar who was the subject of the 2014 Title IX investigation.

In addition to these criminal charges brought by the Department of Attorney General, the Department of Licensing and Regulatory Affairs has taken administrative action against Strampel's and Stollak's professional licenses. The allegations in the administrative proceedings against Strampel arise, in part, from his alleged failure to properly supervise Nassar. In regard to Stollak, he voluntarily surrendered his license after not contesting that he failed to inform authorities of Kyle Stephens' allegations of sexual abuse by Nassar.

Erika Davis' allegations of conspiracy by MSU officials

There is one additional allegation involving MSU's knowledge of Nassar's conduct that warrants discussion: Erika Davis' claim of a cover-up by certain MSU officials after Nassar allegedly drugged her and then filmed himself sexually assaulting her. According to Davis' civil complaint, the assault happened in 1992 when she was 17 years old. She alleges that her field hockey coach, Martha Ludwig, referred her to Nassar because she (Ludwig) knew him through a mutual friend. Based on her coach's recommendation and Nassar's reputation and standing with USA Gymnastics, Davis made an appointment with Nassar. She further alleges that after the alleged assault she told her coach, who confronted Nassar, retrieved the video of the assault, and ultimately took the allegations to the athletic director. She also claims that former athletic director George Perles intervened, confiscated the video and forced the field hockey coach to resign and sign a non-disclosure agreement about the matter. She also alleges that she told her "dorm mom" Cheryl about the assault and that "Cheryl" told her to contact the MSU Police Department. Davis claims that, when she went to the MSU Police Department to report the assault, a sergeant instructed her to drop the complaint and told her to leave the building.

As part of our review of MSU, we investigated Ms. Davis' allegations and found no credible evidence to support them. In fact, we found substantial evidence contradicting her claims concerning the supposed cover-up. We interviewed Ms. Ludwig who told investigators that she did not recall Ms. Davis. Ludwig also told investigators that she had never referred any of her athletes to Nassar and did not know Nassar personally or by reputation. She further stated that the only interactions she ever had with George Perles were in regard to whether the field hockey team could practice on the "turf field" in order to prepare for upcoming games. Ms. Ludwig also stated that her contacts with Perles, which were always about work and sports, were always professional and respectful. Moreover, there is no evidence that Ms. Ludwig was forced to resign or was required to sign a non-disclosure agreement upon leaving MSU. More significantly, we confirmed that in 1992 Nassar was not affiliated with either the MSU Sports Medicine Clinic or USA Gymnastics. In actuality, Nassar was still a medical school student in the spring of 1992. Further,

we could find no “dorm mom” named Cheryl assigned to any of Ms. Davis’ residence halls during her time at MSU. Finally, we found no evidence that Ms. Davis filed a complaint with the MSU Police Department in 1992.

A failure of people, not policy

While MSU’s latest efforts at reforming its sexual misconduct policies and procedures are a step in the right direction, our investigation leads us to conclude that the inability to halt Nassar’s lengthy pattern of abuse and to address the dysfunctional atmosphere at the College of Osteopathic Medicine is attributable not to any deficient policy, but to a series of individual failures; policies are no better than the people tasked with implementing them. Until there is a top-down cultural change at MSU, survivors and the public would be rightly skeptical of the effectiveness of any set of written policies.