

**STATEMENT OF LOUIS FREEH
TO PHILADELPHIA INQUIRER IN RESPONSE TO
“LEAKED” STUDY OF DENIER PENN STATE ALUMNI**

February 6, 2019

Since the Freeh Report was issued almost seven years ago, the accuracy and sustainability of its findings have been tested repeatedly at criminal and civil trials. Under this scrutiny, the facts from the Freeh Report have been found to support Sandusky’s criminal conviction, the criminal convictions of Spanier, Schultz, and Curley, voluntary dismissals by the Paterno family of their suit against the NCAA, Spanier’s dismissal of his defamation suit against Mr. Freeh, the jury and court findings in the McQueary defamation and whistleblower cases, and the U.S. Department of Education’s five-year investigation resulting in a record fine against Penn State. Indeed, just days ago, a Pennsylvania appellate panel rejected argument after argument that Sandusky had raised in criticizing the investigation of his crimes and his trial.

As summarized by the judge in the cases against three of the most powerful people at Penn State who failed to protect against a child sexual predator, these three men “ignored the opportunity to put an end to [Sandusky’s] crimes when they had a chance to do so.” In imposing criminal sentence upon Spanier, Schultz and Curley, the judge aptly summarized the failures at Penn State:

Why no one made a phone call to police is beyond me. Why Mr. Sandusky was allowed to continue to use the Penn State facilities is beyond me. Mr. Paterno, the legendary football coach, could have made that phone call without so much as getting his hands dirty. Why he didn’t is beyond me.

And of course, former Senator George Mitchell, tasked after the Freeh Report with reviewing Penn State’s progress on implementing the report’s recommendations, accepted all of the recommendations and noted: “While parties may continue to argue about the history that led to the Freeh Report and the [NCAA consent decree], a consensus has developed that the principles at the heart of these reforms are best practices for the governance of any large university.”

Now, a gang of deniers composed of former and current Penn State alumni trustees, many of whom ran for their positions on a platform criticizing the Freeh Report, have self-commissioned a rebuttal to the Freeh Report’s findings. Given the public criticisms repeatedly advanced by these deniers, it can come as no surprise that their self-commissioned “study” found alleged flaws in the Freeh Report. Responsible Penn State trustees correctly have declined to authorize the release of this “study,” given its questionable origins and biased approach. But now, the deniers appear to have leaked their “study” and several cherry-picked documents from the Freeh review to select news

outlets, disregarding their pledge made to a Pennsylvania court to maintain these materials in confidentiality.

A small but vocal segment of the Penn State community, the deniers continue to detract from the real victims in this case by trying to convince the public that Coach Paterno and his football legacy were somehow instead the victims. The deniers continue to embarrass the many thousands of outstanding Penn State students, faculty, and alumni by blindly disregarding the uncontroverted facts in favor of a misguided agenda.

The deniers' rallying cry is criticism of the Freeh Report's statement that Penn State's "football culture" may have contributed to the events surrounding the harm caused to many children at Penn State. By way of background, the Freeh Report had reviewed excuses provided by Spanier, Paterno, Schultz and Paterno for their failures to report Sandusky to the police or child services officials, and found it "more reasonable to conclude that, in order to avoid the consequences of bad publicity" these powerful men repeatedly concealed critical facts relating to Sandusky's child abuse. While avoiding bad publicity was the "most significant" factor, the report noted eight other contributing causes to the failure to report, including a "culture of reverence for the football program that is ingrained at all levels of the campus community." The Freeh Report made no claim that this culture of reverence was unique to Penn State, or the sole cause of the numerous and varied failures detailed in the report.

While the Freeh Report contained many compelling examples of the climate at Penn State, the incident with Sandusky and the janitors at the football facility in 2000 provides ample support of the culture of reverence for the Penn State football program. Explaining the decision not to report that Sandusky had been observed in the football locker room showers with a young boy, one janitor said the decision was based on the fact that "football runs this University," which he said would have "closed ranks" to "protect the football program at all costs." The janitor also pointed in particular to Paterno's unique status, explaining that he knew "Paterno has so much power, if he wanted to get rid of someone, I would have been gone." Another janitor expressed a similar view, saying, "they'll get rid of all of us." This incident demonstrates the dark side of a "culture of reverence" that can silence those who witness crimes committed by those perceived to be protected by the culture. No successful challenge to this compelling testimony has been mounted in any of the court cases surrounding Sandusky's wrongs. Indeed, the Pennsylvania appellate court just this week *again* found proper the introduction of this testimony at Sandusky's trial, rejecting all of the criticisms the deniers make of this powerful evidence.

The deniers also repeatedly say that the Spanier trial proved the Freeh Report wrong because the jury acquitted Spanier on a conspiracy count. One active alumni group composed largely of deniers has said: "The story should be that there was no conspiracy to cover up child abuse at Penn State." But a juror who spoke publicly to explain the Spanier

verdict perhaps best summarizes why this alumni group's wishful thinking is wrong. The juror said the jury acquitted Spanier of the conspiracy charge out of a feeling that there was conspiring among the three men, but there was not evidence that the goal was to put children at risk. "It didn't feel like they were conspiring to endanger children," the juror said. "***They were conspiring to protect Penn State.***" (emphasis added). The juror's statement is understandable, given the closing argument by Spanier's criminal case counsel, who said that to find Spanier guilty of conspiracy, the jury would have to believe that Spanier "agreed to enter into a conspiracy to commit endangering the welfare of a child," and that Spanier and his co-conspirators had "agreed to put children in danger," and took actions toward that goal.

We also understand that the deniers have leaked select draft pages of the Freeh Report, allegedly supporting the finding that an investigator did not agree with Report's conclusions. While we have not reviewed the alleged support for this claim, we have seen a leak of a document from early March 2012, where an investigator noted that there was yet "no smoking gun to indicate [a] cover-up." This statement made in early March 2012 is fully understandable, as our team had not found the critical "smoking gun" evidence of the 2001 email trove among Schultz, Curley and Spanier until several weeks later, when we discovered the email chain where Spanier agreed to not report Sandusky to the child protective agency, as the "The only downside for us is if the message isn't 'heard' and acted upon, and we then become vulnerable for not having reported it." And it would be even more weeks until Schultz's notes, ominously wondering if Sandusky's acts involved "other children" and "the opening of Pandora's box," were finally secured after being hidden away from our team. Or Schultz's handwritten February 2001 note planning a meeting to confront Sandusky and report him to DPW unless he "confesses to having a problem." These amazing admissions were the "smoking guns" that had been missing just a few weeks before. We now know that Schultz himself admitted at Spanier's trial that he was concerned about Sandusky's behavior even after the 1998 incident.

The deniers also place false hope in the 1998 decision not to charge Sandusky with a crime. But a prosecutor's decision not to criminally charge Sandusky neither exonerates Sandusky nor ends Penn State's obligation to protect its community from a known serial pedophile. As the court made clear in ruling on Penn State's insurance coverage for Sandusky's crimes, Penn State could face liability to molested children for its "negligent employment, investigation, supervision, reporting to the proper authorities, or failure to so report." The court explained that as top Penn State officials became aware at least in 1998 (and perhaps earlier) of potential abusive acts by Sandusky, and knew as the American public does that sexual predators are often repeat offenders, Penn State could well have expected Sandusky to continue to molest children in the future, which he did. We discussed these precise dangers in our report, as well as the failure by Penn State leaders and board to have addressed properly the risk presented by the allegations against Sandusky in 1998 or 2001.

Ending Sandusky's access to Penn State football facilities—his bait to lure a steady stream of young boys—was one obvious step that should have been taken. Stopping Sandusky from bringing boys on football bowl game trips would have been another reasonable step, and may have spared Victim 4 from Sandusky's sexual assault during the 1999 Alamo Bowl trip. But Spanier, Schultz, Paterno and Curley failed to take any of these or other reasonable actions to keep their campus safe.

The unauthorized leak of the denier's "study" hopefully can allow responsible members of the Penn State community to move forward, leaving to the dustbin of history those reckless and irresponsible former trustees who disregarded their fiduciary obligations and pledge to a court, all to advance a misguided, tilted, dishonest and biased "study" that does nothing to ensure that the wrongs of Penn State's past are not repeated.