

Pennsylvania NOW, Inc.

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11/12/2011

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Kenneth Frazier, J.D.
President, Merck and Company; Member, PSU Board of Trustees; and Chair, PSU Special Investigation Committee

PO Box 100
Whitehouse Station, NJ 08889-0100
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Ron Tomalis
Secretary, PA Department of Education; Member PSU Board of Trustees; and Vice Chair, PSU Special Investigation Committee
Pennsylvania Department of Education
333 Market Street
Harrisburg, PA 17126-0333
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Dear Mr. Frazier and Mr. Tomalis:

We are writing on behalf of the thousands of members, contributors and supporters of the National Organization for Women in Pennsylvania. Pennsylvania NOW, Inc. is the statewide chapter that works to bring about full equal rights for all women. We understand that you two gentlemen have been appointed by the Penn State Board of Trustees, to chair the committee that will be investigating the child sexual assault allegations at Penn State. We are contacting you because we have grave concerns about the make-up and goals of the committee tasked with investigating the issues and individuals surrounding the alleged child sexual assaults that occurred at Penn State University, as well as proposing policy and structural changes to ensure that campus violence never happens again.

I am also personally writing to you as an alum (I am 1987 PSU Ph.D. Graduate in Human Development and Family Studies) and as a former Commissioner on the Pennsylvania Commission for Women.

The press release on the PSU website from the Board that announced your appointment released Friday afternoon states, "The complete committee membership will be determined and announced in the near future and is expected to be composed of a majority of Board of Trustee members with representatives from each of the board's constituencies as well as representatives of the Penn State community including faculty, students and alumni."

We assume from this statement that the two of you will be filling the rest of the seats on this Committee. As such, we strongly urge you to

- *Make this committee a truly independent review board. An effective independent investigative committee must, at minimum, include experts in the field of sexual assault and domestic violence against both children and adults, survivors of abuse, and others outside the PSU community. These additional members can help bring a fresh perspective to this process;*
- *Broaden the review to include all forms of campus violence – sexual assault, domestic/relationship violence, and stalking – of both children and adults;*
- *Broaden the review to 1) include ways to break down the wall of immunity between the Athletic Department and the rest of the University, and 2) review policies, programs, and reporting mechanisms across the University and within the Athletic Department on all forms of sexual assault, domestic and dating violence and stalking; and*
- *Consider the other recommendations we made in the letter we sent earlier this week to Dr. Spanier and Mr. Garban (see enclosed letter).*

Expand the Independent Review Committee Membership

We are requesting that you add people beyond the University Community for two reasons.

First, community members by themselves often have a vested interest in down-playing an issue in an attempt to put the best light on bad situations. We are sure that this is not what you want to see happen. We believe that as corporate stewards of this world-class public university, you want to take immediate and far-reaching actions to ensure that Penn

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State students, staff and the families in the surrounding community never have to see this kind of behavior and resulting exposé ever again. Appointing outside people to the committee will help do this.

Second, we believe that having experts and survivors on this Independent Review Committee will give you additional information on what to look for, what other policies have worked elsewhere, and will ultimately help you improve policies and programs at the University that will ensure that the 2006 PSU zero-tolerance policy—which we mentioned in our earlier letter—is fully enforced. We would suggest that you include as part of the committee experts from both the Pennsylvania Coalition Against Rape (PCAR) and the Pennsylvania Coalition Against Domestic Violence (PCADV). These two non-profit agencies have statewide experience on issues of both child AND adult sexual assault, domestic violence, and stalking. And since Penn State is a multi-campus university, this statewide perspective would, in our opinion, be very helpful.

On Wednesday, November 9, I contacted both agencies and asked them if they would be willing to work with you on this committee from their areas of expertise to deal with these critical issues. Both said yes and I notified Mr. Garban and the President's office of this immediately after my call via email. The individuals you would need to contact at these agencies are:

- **PCAR:** Delilah Rumburg, CEO, Pennsylvania Coalition Against Rape * 125 N. Enola Dr. * Enola, PA 17025 * (717) 728-9740 * (800) 692-7445 * TTY (877) 585-1091, drumburg@pcar.org.
- **PCADV:** Peg J. Dierkers, Executive Director, 3605 Vartan Way * Suite 101 * Harrisburg, PA 17110 * 717-545-6400 * 800-932-4632 * TTY: 1-800-553-2508, pdierkers@pcadv.org.

Broaden the Review

Pennsylvania NOW leaders and our membership were, just like you, "outraged by the horrifying details contained in the Grand Jury Report." We too have felt betrayed by these acts. However considering the long history of the Athletics Department and the PSU Administration in minimizing reports of campus-related violence on adult women, we are not completely surprised that this too allegedly happened. Which is why we are asking you to broaden the review to all forms of campus violence and to more specifically look at the ways to break down the *wall of immunity* that has historically and currently appears to exist between the Athletic Department and the rest of the University. To help you understand, here's some history of Pennsylvania NOW's involvement and concern over this issue. In addition, please review the attached Newsweek article that corroborates much, but not all of the following. It also adds additional details.

In 1994, I was President of Ni-Ta-Nee NOW, the local chapter of the National Organization for Women. That year, the Penn State Football team lost a bowl game to the University of Texas. After the team lost, Joe Paterno, in apparent frustration, said, "I'm going to go home and beat up my wife." He later defended this statement by saying the statement was "just part of the sports culture, locker room talk, harmless, a joke that did not mean anything." On behalf of Ni-Ta-Nee NOW, I publically called on Mr. Paterno to apologize. There was no apology.

In 2002, a football player was placed on a two-semester suspension from the University after having been charged with sexual assault. He was allowed to finish the semester, which ended in December 2002. Yet in January 2003, Head Coach Joe Paterno allowed him to play in a bowl game, even though he was no longer a member of the University. Kathy Miller, then President of Pennsylvania NOW, called for an apology from the administration and a review of immunity within Athletics for this lax treatment of sexual assault. Again, no apology. Only some minimal review of the policies surrounding sexual assault and a ban on suspended students playing sports for the University ensued.

Also, in 2002, two Penn State wrestlers were arrested for the 1999 rape of a female student. One of these men – Jean Celestin – was found guilty of this rape by a Centre County jury but only sentenced to six months of jail after the judge received letters from PSU's administration urging a lighter sentence. This was after the University did almost nothing when it came to light that these two men had allegedly stalked, "tortured," and publicized the woman's name after she reported the rape to the police; in fact, both of these wrestlers remained in school throughout this period from 1999 on

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with their full wrestling scholarships. Had it been anyone outside of Athletics, we do not believe that the University-based scholarships would have continued OR these letters of support would ever have been written. As a result of this action, the Women's Law Project (WLP) filed a suit against the University on behalf of the female student. The University settled the WLP case, paying the female student \$17,000 and agreed to appoint a committee to determine how sexual assault cases on campus are handled (see attached WTAE TV report dated November 11, 2011). Ms. Miller, on behalf of Pennsylvania NOW, again called for an apology from Paterno and the Athletic Department. Again nothing was done.

On January 2, 2006, two days after I became President of Pennsylvania NOW, Mr. Paterno once again made light of sexual assault. When questioned by a reporter about his thoughts on the suspension of a Florida State linebacker from the Orange Bowl game because of allegations of sexual assault, Paterno responded, *"I think it is so tough, there are so many people gravitating to these kids. He may not have even known what he was getting into. Somebody may have knocked on the door, a cute little girl knocks on the door. What do you do? Geez. Thank God they don't knock on my door. I'd refer them to a couple of other rooms. But you just hate to see that. It's just too bad."* Considering the previous lack of response from both the Athletics Department and the University, we upped the ante. We asked Mr. Paterno to take responsibility for his ongoing behavior, apologize, and resign from the University. We also asked the University to break down the wall of immunity between Athletics and the rest of the University, to fully review their policies, and create a zero-tolerance policy towards all forms of campus violence. The initial response? After our call hit national news, both the Athletic Department and the PSU Office of University Relations released statements saying that NOW was "taking these comments out of context" and by implication were not of much worth. Subsequent communications plus a meeting with three members of the University administration—the Vice Provost for Educational Equity, Student Affairs, and University Affairs—resulted in a slight change of heart; in April 2006, Dr. Spanier released a zero-tolerance policy statement condemning all forms of campus violence (see letter of November 7 for more details).

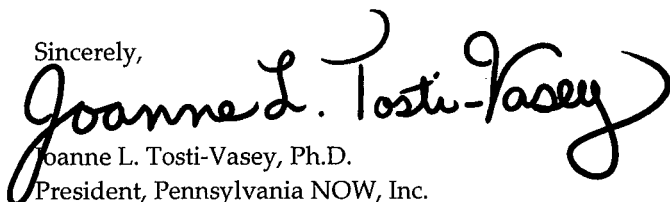
Yet considering the revelations of the last week, we believe that not only does the University have an issue of denial and cover-up of child sexual assault, but that there continues to be an on-going pattern of minimizing all forms of campus violence against adults as well as children. The University, to its credit, has set in place protocols to deal with sexual assault, domestic/relationship violence, and stalking. It also initially beefed up the Judicial Affairs sanctions after the 2006 incident but backtracked when someone threatened to sue the University for these sanctions. These protocols seem to be working better outside of Athletics, but little if any education, training or enforcement seems to be getting to this part of the University.

Therefore we are asking you to broaden the review to ensure that any child, woman, or any other adult – faculty, staff, student, or visitor on campus—should ever have to endure such violence again.

Please review the attached materials; add PCAR, PCADV, and survivors of assault to the Committee; and do a comprehensive review of all forms of violence at the University so that we no longer have to endure such maltreatment of another human being.

We look forward to your response to our concerns. Thank you.

Sincerely,



Joanne L. Tosti-Vasey, Ph.D.
President, Pennsylvania NOW, Inc.

Cc: Office of the President, Board of Trustees

Enc.: Letter to Board of Trustees and President of PSU (November 7, 2011), Newsweek article (November 12, 2011), WTAE TV report (November 11, 2011)

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November 7, 2011

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Steve A. Garban, Chair, PSU Board of Trustees (bot@psu.edu)

Graham B. Spanier, PSU President (president@psu.edu)

205 Old Main

The Pennsylvania State University

University Park, PA 16802

Dear Mr. Garban and Dr. Spanier:

We are writing on behalf of the thousands of members, contributors and supporters of the National Organization for Women in Pennsylvania. Pennsylvania NOW, Inc. is the statewide chapter that works to bring about full equal rights for all women.

We are greatly concerned and appalled about the allegations of child sexual abuse against former assistant coach Jerry Sandusky and the apparent lack of appropriate follow-through to notify law enforcement in a timely manner as required by law, and the alleged perjury to the Grand Jury resulting from this lack of follow-through indicating a possible cover-up of what occurred. We are calling on you as the corporate stewards of this world-class public university to take immediate and far-reaching actions to ensure that Penn State students, staff and the families in the surrounding community never have to see this kind of behavior and resulting exposé ever again.

We are pleased that the Penn State Board of Trustees met last night and took appropriate action by accepting both Tim Curley's and Gary Schultz's request to step down from their current positions at the University. But we are concerned about Dr. Spanier's statement of November 5 giving "unconditional support" for both of these men. This "support" is, in our opinion, a continuance of the Athletic Department's history of overlooking and/or condoning acts of sexual assault and violence by both students and staff of the University's athletic programs. In January 2006, Pennsylvania NOW asked Joe Paterno to apologize and resign from the University because of his ongoing insensitive statements over many years regarding domestic violence and sexual assault. We pointed out that there is an atmosphere within the athletic department that overlooks and diminishes the crime of sexual assault and allows a climate where this criminal behavior could be condoned.

On February 21, 2006, representatives from Pennsylvania NOW (myself), the Centre County Women's Resource Center (Anne Ard, Director), and the PSU Women's Resource Center (Peggy Lorah, Director) met with Steve McCarthy, Vice President for University Relations, Terrell Jones, Vice Provost of Educational Equity, and Vicky Triponey, Vice President for Student Affairs. We discussed our concerns about the lack of consistency between the standards of the Athletic Department and the University as a whole, as well as a need for a stronger policy on sexual assault, domestic violence, and stalking across the University.

First, we discussed the issue that there appears to be at least a "partial wall" separating University policy from the Athletic department that needs to be torn down. Our bottom line was that we want women—as well as children as indicated in this alleged set of incidences—to be safe while at the University or under the supervision of University staff. We also stated that both men and women, staff or student, need to understand that violence against another person - be that sexual assault, stalking, relationship violence, OR violence in general - is unacceptable and that disciplinary actions will be taken no matter whether you are an athlete or not. As part of this discussion, one of the representatives for the University said that "mandatory" training within Athletics on sexual assaults and domestic violence had been tried but

did not appear to be working, particularly within the football program because "Those that don't need [the training] come and those that do don't." As a result of this statement, we spent a good while discussing alternative ideas on how to deal with violence and this wall of separation between Athletics and the rest of the University.

Second, we agreed that there needed to be a University-wide statement of zero tolerance on all forms of sexual assault, domestic violence, and stalking. As a result of the discussions both during and following this meeting, student policies on sexual assault, domestic violence, and stalking were revised and Dr. Spanier released the attached statement (see endnote¹) in April 2006. The fourth paragraph of this statement is particularly appropriate now. I repeat what Dr. Spanier said then: *There is no room on any Penn State campus, or anywhere in society, for violence.... We [PSU] are committed to ensuring access to medical care, counseling, and other services for victims, and we will prosecute the perpetrators of such acts of violence.*

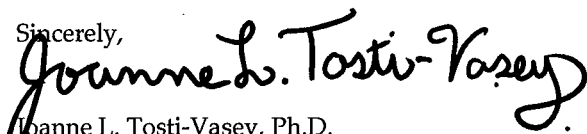
We call on you today to stand by your words. Rather than giving "unconditional support" to individuals who allegedly covered up a potential sexual assault of a minor once the incident was reported to them, the University needs to follow through on the commitment made in April 2006. Don't backtrack.

Our youth deserve better custodians of their lives while at the University. Everyone attending, working at, or participating in programs and activities at Penn State also deserve an environment free of violence. Therefore we are asking the Administration and the Board of Trustees to follow through on the Board's plan to "conduct an independent review of the University's policies and procedures related to the protection of children; review with administrators police reporting protocols; publicize the findings of the independent review; review with administrators police reporting protocols; and enhance educational programming around such topics." As part of this process and to further advance the zero tolerance policy made in 2006, we request that you

1. Broaden the review to include all policies surrounding sexual assault, domestic and dating violence, and stalking of both children and adults;
2. Broaden the review to include ways to break down this wall of immunity between the Athletic Department and the rest of the University, and to review policies and programs across the University and within the Athletic Department on all forms of sexual assault, domestic and dating violence and stalking.
3. Consider, as part of "enhanced" educational programming, bringing in outside training from people within the sports field who are respected by Athletics who may be more accepted by athletic staff and coaches (we initially suggested this in 2006, but as far as we know, this has never happened);
4. Create a protocol or policy that ensures that individuals are not retaliated against when they report allegations of abuse to authorities as required by law or university policy. As the New York Times reported, "The chronology of events laid out by the state attorney general's office includes multiple episodes that seem to suggest a failure by a variety of Penn State officials or employees to act emphatically — whether out of fear, incompetence or, perhaps, self-interest." As with sexual harassment, "fear" often results in stifling someone from speaking out; and
5. Fully enforce the 2006 zero tolerance policy, up to and including, separation and/or permanent resignation of individuals from the University who participate in, condone, or cover up this form of behavior through either their action or inaction.

We look forward to your response to our concerns. Thank you.

Sincerely,



Joanne L. Tosti-Vasey, Ph.D.

President, Pennsylvania NOW, Inc.

Endnote

i April 2006

*Statement by Graham B. Spanier
President, The Pennsylvania State University
Sexual Assault*

Crimes of aggression and sexual violence are a serious problem in our nation and in our own community. At Penn State, we are fully committed to combating sexual violence and to responding quickly and compassionately to those victimized by it.

April is designated as Sexual Assault Awareness Month, a time to focus public attention on what has been called a "silent epidemic" because crimes of this nature often go unreported. Now is the time to increase our understanding of the effect these crimes have on victims. It is the time to make a statement as a community that we will not tolerate rape, sexual assault, stalking, domestic violence or other harmful acts that destroy the dignity and self-worth of any member of our community.

We should be concerned that these heinous crimes can and do happen in our community, and we must all work together to change attitudes, to educate one another, and to identify prevention strategies. We must hold the offenders accountable and promote healing and justice for victims.

There is no room on any Penn State campus, or anywhere in society, for violence. Through education, advocacy, intervention, and the creation of safer surroundings, Penn State is working to prevent all forms of violence against others. We are committed to ensuring access to medical care, counseling, and other services for victims, and we will prosecute the perpetrators of such acts of violence.

Let us leave no doubt that we are a community that cares about its members. We cannot allow fear of sexual assault to shatter the safety and trust we cherish.

Related News Articles

The Daily Beast: Joe Paterno's Troubling Attitude Toward Sex Charges
<http://www.thedailybeast.com/articles/2011/11/12/joe-paterno-s-troubling-attitude-toward-sex-charges.html>

Women's Rights Group Filed Rape Lawsuit Against Penn State In '02
<http://www.wtae.com/news/29740682/detail.html>