

Trial by Error: A Content Analysis of the Media Coverage Surrounding the Jerry Sandusky Trial



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Abstract

In late 2011, reports surfaced that former Penn State defensive coordinator Jerry Sandusky was indicted on 52 related counts of child molestation against 10 young male victims. Since then, a jury found Sandusky guilty of 45 of the original 52 counts against him. The media coverage surrounding the Sandusky case was widespread at the pretrial and trial levels, leading to a potential media bias against the defendant. This article examines 217 news articles released during Sandusky's trial. A content analysis was conducted to examine the coverage of Sandusky's trial and the allegations against him. Drawing on prior literature, this study examines the potential biases made against Sandusky through the theoretical lens of "trial by media," the tone of the publicity his case received, errors made in the reporting process, and the legal implications of his conviction from a policy standpoint.

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Introduction

On June 18, 2012, days before the verdict was rendered in the Jerry Sandusky case, researcher Christopher Ferguson asked, “What makes a pedophile tick?” in an article for *Time Magazine*. Ferguson discussed pedophilia within the context of the American Psychiatric Association’s *Diagnostic and Statistical Manual of Mental Disorders IV-TR* and discussed research that suggested no clear consensus as to the origins of this behavior (Ferguson, 2012). This article is relevant to the Sandusky case because it was written before the conviction, but in the eyes of the media—and even some members of the academic community as per Ferguson’s article—Sandusky was already guilty.

In the end, the jury found Sandusky guilty of 45 out of the original 52³ charges he faced. The publicity on high-profile criminal court cases, like Sandusky’s, is often extensive and reveals details of the crime, making a fair trial a difficult thing to achieve at times. Sandusky’s defense team raised this issue at the time of his trial, and provided rationale for the judge’s decision to forbid the media from actively reporting from inside the courtroom while the court was in session. While a lot of research has been dedicated to the content of pretrial publicity, trial coverage is not as frequently studied.

Ferguson’s article is a prime example of a pro-prosecution style of publicity. Researchers suggest that any type of pre-conviction publicity, either pro-prosecution or pro-defense, would have negative impacts on the case (Kovera, 2002; Ruva & McEvoy, 2008). However, when the language used already assumes a guilty verdict, a clear bias has been created against the defendant. Pre-trial publicity, while often avoidable, does raise questions about the defendant’s right to an unbiased trial, and the different policy and procedural issues that follow. Using the explanatory lens of “trial by media,” this paper attempts to provide context for the media coverage of the Sandusky trial, but does not provide a test of the theoretical lens. This article looks at the media coverage of Jerry Sandusky’s ten-day trial to examine the extent of this bias by looking at the events of the trial itself, the media’s portrayal of Sandusky’s character, and whether the societal verdict was already decided before the trial even began.

³ Although Sandusky was indicted on 52 charges, four counts were dismissed before or during court proceedings.

Literature Review

A Brief Timeline of the Sandusky Scandal

To understand the coverage of the court case, a brief explanation of the criminal events is needed. From his original hiring in 1969 as an assistant football coach, Sandusky was viewed as an asset to the football program and was at one point considered “the heir apparent to (Joe) Paterno” (Moushey & Dvorchak, 2012). Over time, his influence extended outside of the university through his work with at-risk children. To further the outreach of his work, Sandusky founded in 1977 a charity organization, the Second Mile, which served as a “group foster home devoted to helping troubled boys” (Grand Jury Report, 2011, p. 11). From very early on, Sandusky worked closely with young children and had easy access to those he would later sexually abuse.

The abuse of Sandusky’s first known victim began in 1994 and occurred in the showers at the school where a young boy was touched in “ways that made him feel uncomfortable” (Chappell, 2012). Although a police report was filed for a victimization that occurred in 1998, Sandusky was never arrested or charged for the offense. However, he did retire from Penn State the following year with emeritus status, which allowed him to retain campus privileges. For fifteen years following the first abuse, Sandusky tallied offenses against ten young victims. He abused his victims on the Penn State campus, in hotel rooms, and even in the basement of his own home. It was not until November 5, 2011, when news broke that Sandusky was indicted for sexual assault, that the public knew the true extent of his victimizations. The Centre County Clerk of Court⁴ released the indictment online, which allowed for the national news media to immediately begin discussing and dissecting the document. The indictment detailed the sexual assault of Sandusky’s victims and exposed more than fifteen years of child sexual abuse that was alleged to have occurred.

The Trial

Jerry Sandusky’s trial began on June 6, 2012 with jury selection. Due to the role of the University in the small town area, nearly all of the jurors selected had ties through work or family to the university, the Second Mile Foundation, or to the victims (Ganim, 2012). Sandusky’s defense attorney made a change of venue

⁴ A complete version of the Sandusky indictment and other court documents can be found at the Centre County Court website, www.centrecountypa.gov.

request, but the proceeding judge denied his petition. During the trial, the prosecution described Sandusky as a pedophile and a “serial predator” with a long history of abuse (Chappell, 2012). During the defense’s arguments, Sandusky was portrayed as anything but a serial child molester. To defend their claims, the defense team called witnesses to the stand who testified about the normality of coaches showering with children after athletic practices (Associated Press, 2012b). Sandusky invoked his Fifth Amendment rights and chose not to testify during the trial, but prior to the trial participated in an interview with sports reporter, Bob Costas, where he admitted to “horsing around” with those boys (Chappell, 2012) while still declaring that he was not a pedophile (Hopper, 2011). In the end, his defense failed at persuading the jury to find him not guilty. The jury convicted Sandusky of 45 out of 48 remaining charges that he committed against ten known victims. The Sandusky case is now considered one of the biggest single perpetrator child sexual abuse scandals in history (Rhee, Vagschal, & Tran, 2012). In October 2015, Sandusky began the appeals process for his case, which was still ongoing at the time of this submission. The appellate case will be further discussed in later sections of this paper.

Trial Coverage and Publicity

Like most high-profile cases, a significant amount of media publicity was associated Sandusky's case from indictment to conviction and sentencing. While this is not a study on pretrial publicity, some of the merits of that research are applicable to a study regarding trial coverage. Much like pretrial publicity that paints the defendant in a negative light (Kovera, 2002; Ruva & McEvoy, 2008; Studebaker, Robbenolt, Pathak-Sharma, & Penrod, 2000), negative trial coverage can be influential in a guilty verdict—particularly if the jury is not sequestered, which is what occurred in the Sandusky case. Media coverage of court cases may also have a hand in influencing sentences. In a review of media coverage involving crimes against children, Berry, Philo, Tiripelli, Docherty & Macpherson (2012) suggest that mass media reports focused extensively on the child victims often result in increased sentences and penalties against these defendants. In addition to the fact that the Sandusky trial is a sensational example of child sexual abuse, the case already had a higher likelihood of resulting in a long-term prison sentence based on results of prior research surrounding these types of cases. When so much media attention focuses on cases such as these, the verdict may be determined well before the case is even tried – in other words, the media’s representation of the case may preempt any defense that the defendant is planning, making it more likely for the public to side with the prosecution. Even with a presumed fair and

impartial jury on the stand, unconscious and implicit biases against the defendant might still be present, aiding in the delivery of a guilty verdict. The idea of “trial by media” explains this phenomenon (Greer & McLaughlin, 2011, 2012; Phillipson, 2008)

“Trial by Media”

The United States Government and its constitution provide its citizens certain rights regarding criminal trials. The Sixth Amendment provides the right to a speedy trial and an impartial jury of peers. However when high-profile cases erupt, the media reports heavily about the case – which is in their First Amendment right to do so. This results in a conflict of interest as the media reports infringe on the Sixth Amendment rights of the defendant. The right to a fair trial has been described as “the most fundamental of all freedoms” (Estes v. Texas, 1965). Still, we must question whether the media’s rights are being infringed upon by not being able to report on these high-profile cases – specifically when media gag orders are in place. When the media reports on these cases, its ability to invoke the First Amendment essentially undermines the Sixth – the violation of “human dignity, the state’s duty to secure equal respect for the basic rights of all, and the foundations of democratic society, among which must be the rule of law, a vital aspect of which is the right to a fair trial” (Phillipson, 2008, p. 18). Therefore, while the media has the freedom to report on whatever they want, it should not be at the expense of the defendant. Although intentional malice may or may not be present, any publicity can be biasing against the defendant as was suggested by Kovera (2002), and Ruva and McEvoy (2008). With malicious reporting, better known as “attack journalism” (Sabato, 1991), reporters show the extreme elements of the case that make it as news-worthy as possible, while often creating a moral or legal divide between the individual in question and the reader. These stories sell papers – especially the ones involving any type of crime and/or those that have child victims (Antunes & Hurley, 1987; Ryan & Owen, 1976).

The notion of “trial by media,” can then be explained by all of the media attention that is being paid to a specific story. Trial by media, as developed by Greer and McLaughlin (2012), suggests that the media has rendered a guilty verdict before the trial even begins. In this instance, with all of the publicity associated with Jerry Sandusky’s case, he essentially would have been “exposed, tried, judged and sentenced in the court of public opinion,” rather than in a court of law (Greer & McLaughlin, 2012, p. 397). Previous research using testing the idea of “trial by media” has acknowledged that the phenomenon can occur with a variety of

situations and do not always involve an actual crime to be tried. Celebrities often find their actions judged this way (Greer & McLaughlin, 2012). Additionally, the “trial by media” phenomenon can be seen more often in high-profile cases in which some possibility exists that the celebrity defendant may be acquitted due to his or her high profile status. It is suggested that in the event the acquittal does occur, the media has still obtained some degree of justice by causing damage to the defendant’s reputation (Greer & McLaughlin, 2012). It must be acknowledged however, that high media coverage can result in potentially favorable outcomes for the defendant, as seen in cases like Steven Avery, the subject of the 2015 documentary series “Making a Murderer.” Individuals like Avery are able to garner support from the general public based on the portrayal of his case in a popular media platform.

Greer and McLaughlin conclude that the use of “trial by media” varies on a case-by-case basis, but the extent of media coverage focused on a singular case has a role in the outcome of cases within the criminal justice system. The media is not as concerned about the due process rights of the defendant, causing the previously mentioned dichotomy between the First and Sixth Amendment rights being in conflict with one another. The components of Sandusky’s case make it an interesting one from a media standpoint, and one that grabbed the attention of the general public. Not only was Sandusky somewhat considered a celebrity by those in the State College area, he gained new notoriety as he faced charges for victimizing multiple children over a fifteen-year period. The media reports on stories containing these two characteristics with the highest frequency, in comparison to studies without these two characteristics (Antunes & Hurley, 1987; Ryan & Owen, 1976). This research examines the media coverage surrounding the Sandusky trial through the explanatory lens of the “trial by media” phenomenon. This study does not provide a test of “trial by media” phenomenon, but instead examines the breakdown of the media’s portrayal of Sandusky and his offenses to see if the reports are consistent and accurate in the information presented.

Current Study

The current study examines the media coverage surrounding the trial of Jerry Sandusky. This case received a notable amount of publicity since it broke as a news story in November 2011. The trial process itself was relatively short—jury selection began on June 5th, the trial itself began on the 11th, and the verdict was rendered on June 22nd, 2012. This period accounts for ten-business days, from the opening statements to when the verdict was rendered. To put that into perspective,

Sandusky was formally indicted on November 5th, 2011—that is a full seven months between Sandusky’s initial indictment until the first day of jury selection on June 5th.

For seven months, the media was able to report on pretrial activities. During the actual trial, the media only had 10 business days and 1 weekend to report the activities of the trial. That is a sizeable time difference, in which the media was able to speculate on whether or not Sandusky was guilty of the alleged sexual assaults. As this is an exploratory study, we sought to identify the information presented by the media regarding Sandusky’s crimes. Based on these exploratory goals, we developed two research questions regarding the examination of the media reports: 1) How did the media portray Jerry Sandusky as an individual compared to the portrayal of his alleged offenses, and 2) Was the information regarding the case accurate? These two research questions are necessary to determine whether or not the media coverage would be condemning of Sandusky and his actions, thereby creating a bias against the defendant, and meeting the criteria of the explanatory “trial by media” lens.

For this paper, we only examined the media coverage reported during the trial. Many news agencies sent reporters to cover the Sandusky trial and a multitude of articles have been written covering the proceedings. Reporters were allowed in the courtroom, but were not allowed to actively report while court was in session (i.e. via social media, text messaging, or email). This required the media to take notes and submit their reports when the case was in recess – in effort to be one of the first reporters to file a story about the day’s trial proceedings. Reporting information in a rapid manner can lead to reports filled with incorrect or impartial information, which has the potential to tell a biasing story against the defendant. To examine the media’s reports within the framework of a “trial by media,” we used a content analysis to examine 217 unique articles from national and local news sources.

Methodology

Sample

The articles chosen for this study were selected based on their relevance to the trial and their date of publication. We used a convenience sample of local and national newspaper articles that were published during the selected time range, which began with jury selection (June 5th, 2012) and ended with the verdict of guilt (June 22nd, 2012). Sources included national news corporations including, but not limited to, *NBC*, *ABC*, *CBS*, *CNN*, *FOX News*, and the sports-news company *ESPN*. Additionally, we included some local coverage from smaller news sources such as

The Centre Times Daily, the State College newspaper in Pennsylvania, and *Penn Live*, a central Pennsylvania news company based in the same local market. In addition to the local and national news outlets, other articles were pulled from a variety of large-market geographic locations, and included articles from both the east and west coasts to ensure diversity. This decision was made in order to obtain articles that were outside of the immediate geographic proximity of the trial itself. Articles attributed to non-news sources such as personal blogs commenting on the trial were eliminated from the sample; this ensured that only articles from professional legitimate media news outlets were used. These articles were obtained by setting up an online news alert through Google Alerts, which provided daily “email updates of the latest relevant Google results (web, news, etc.) based on your queries” (Google Alerts, 2013). This alert was set to identify any news articles that included the search term “Jerry Sandusky” or the “Penn State Scandal,” resulting in a large possible population of articles.

An article’s trial relevance was based on the presence of sexual contact, legal coverage, jury selection, mention of PSU, jury deliberation, trial verdict, and mentions of other people significant to the case such as Head Coach Joe Paterno, for example. The articles were then narrowed based on the previously mentioned selection criteria. The search filter was established for the beginning of June 2012 and was turned off after data collection was complete at the trial’s end later that same month. The email alert system delivered articles every day and included as many fifty articles per email. However, these group emails delivered repeat articles, so we had to make sure that the articles were unique and independent of one another – meaning that each article was only included once in the dataset. This repeat of articles was due to the prevalence of *Associated Press* articles that were delivered through various news agencies. The overlap in material also fueled the decision to select articles from online news sources; this provided us a way to expand the search for independent articles while at the same ensuring that varieties of topics were covered within the articles themselves. In total, 217 different articles were collected regarding the media coverage of Sandusky’s trial.

Procedures

Once the articles were coded, the project progressed following the steps outlined by Weber (1990) in regard to conducting the actual content analysis. The first step was to identify themes relevant to the study of Sandusky’s case during the trial. The themes were established by using a priori and posteriori approaches. First, themes from previous research on media coverage and trial publicity (such as the

jury selection process, victim testimony or impact statements, and the representation of the criminal allegations) were identified prior to viewing any of the articles for content (a priori). Based on prior literature and reoccurring reported information found within the articles themselves, the main themes identified examined the jury selection process, representation of sexual contact and behaviors, overall representation of Sandusky as the defendant, witness testimony vital to the prosecution's case, and the jury deliberation. Second, new themes relevant only to this specific case and derived from the written content of the news articles during pre-trial coverage (such as the mentions of mental illness) were identified and added to the codebook (posteriori). These new themes were specific to the Sandusky case but still fit within the parameters of the content analysis.

The articles were then coded based on a multi-variable codebook. Each item was coded individually based on information from the corresponding article. Dependent upon the theme being analyzed, some of the items were coded using a 1) binary Yes/No response – which indicated either the presence or absence of the item, 2) a coded numerical response – which coincided with a specific date, the identification of a person by name or the number of a victim, or 3) a rank response of a negative, neutral or positive representation – which was used for the descriptive representation of the defendant or the sexual victimization. Use of these coding schemes, including the negative, neutral or positive representations were derived from Weber's work on basic content analyses (Weber, 1990).

Article Coding

Two researchers independently reviewed and coded each article. After the initial analyses, a cross-check comparison was completed on the two separate analyses to identify congruence in coding between researchers. The goal was to provide the two reviewers the opportunity to implement the coding scheme with high fidelity. To aid in minimizing errors, the codes stated what the researchers were looking for plainly, and with as much clarity as possible. Upon comparison, very few instances of discordance were discovered; less than 10 percent of the entries required a re-review. During the re-review process, the two researchers discussed the differences in their coding. The researchers elaborated on their decision-making, and then reviewed the articles together to validate the interpretation of the text. Finally, a consensus was reached about what final code was used. Due to the simplicity in the coding approach, measures of inter-rater reliability were not calculated and all disagreements were reconciled. This re-review process helped

maintain the integrity of the content analysis while reducing errors between the two coders.

Predominately, this was an exploratory study in which the researchers looked the presence or absence of information fitting the developed themes mentioned above. This provided frequency information for the issues being discussed. Many of the items used a dichotomous coding structure (absence or presence of the theme), whereas other themes used a count, or a categorical code (the negative, neutral or positive representation measures). This was done for all 217 articles. However, only the first 52 articles were coded for the jury selection measures, which included the size of the jury pool, and whether or not they had ties to PSU. Once jury selection was completed, the media no longer reported on jury related issues, including the selection process, in the remainder of the articles, therefore the remaining articles were not coded for the jury measures.

Measures

For this study, the central elements examined included the representation of Jerry Sandusky as a defendant, the representation of the sexual abuses he committed, those around him who played key roles in this case, and the jury selection process among other themes. Since this study focused on the trial, many of these themes were focused on common locations where the abuses took place, how long the abuses spanned for, whether or not the victim(s) received any gifts from Sandusky, and what each victim's relationship with Sandusky was like. Another prominent theme was the public representation of Sandusky once the trial proceedings began. Since he was still not convicted at the time of the articles' publication, the media should have only discussed his case in terms of allegations and the charges he faced in court. Despite not yet being convicted, potential biases toward Sandusky were becoming more apparent in the articles based on the language that was used by the reporters at the time.

For instance, if Sandusky was described as a "child molester" or as a "pedophile," then that article was classified as negative in nature compared to presenting a positive or even a neutral representation of the defendant. These terms are applied to an individual based on a conviction or a clinical diagnosis – neither of which had occurred at the time the articles were written, thus showing bias present against the defendant. Similarly, we also examined the representation of Sandusky's alleged sexual contact. Using the same negative, positive, or neutral scale, we looked to see how the abuse allegations were described. If the article included information about "rape," "sodomy," or "sexual assault," we classified the

behavior as being shown in a negative light, since these are outright identifications of the crimes. If the article used more clinical terms such as “oral sex” or “anal sex,” then the behavior was classified as more neutral in description. Positive representations included any articles that downplayed the abuse by using terms like “sexual encounter,” “horseplay,” or “inappropriate contact.”

Finally, specific legal coverage of the case was coded with the defense’s arguments and the ultimate verdict specifically examined. One of the main variables examined for the defense was the mention of Sandusky suffering from a possible mental illness. This variable was important because had the potential to portray Sandusky in a positive light and his actions could be negated as the result of an illness he had no control over. Measures regarding the verdict included variables of 1) when the jury received the case, 2) how long the jury deliberated, 3) the number of counts thrown out by the judge, 4) the total number of counts being deliberated, 5) the number of counts that Sandusky was found guilty and not guilty on respectively, 6) any possible sentence or maximum sentence that Sandusky may have received, and 7) the date of his sentencing. This group of themes was particularly important to the content analysis because of the legal ramifications that the articles may be suggesting. Discussing a verdict before the defendant is found guilty provides another bias against the defendant, as it suggests that the guilty verdict is inevitable.

Results

In order to capture the complex nature of the publicity coverage during the Jerry Sandusky trial, a multi-stage analysis was conducted. In the first stage, the focus was on jury selection. Fifty-two articles were included in this analysis. In the second stage, the focus was on the entirety of the trial. Two hundred and seventeen articles (including the 52 from the first stage of analysis) were included in this analysis. The third and final stage focused on the role that time had on different themes that were mentioned during the trial coverage.

Stage One – Jury Selection

In the examination of the jury selection process, the univariate analysis revealed similarities and differences in the news coverage focused on the previously identified themes. To identify the size of the potential jury pool, we coded for a count of the number of potential jurors. Thirty-four of the 52 articles (65.4%) did not mention the size of the jury pool at all. Those articles that did mention the jury

pool reported a range of 80 to 600 potential jurors that could be called up for jury duty (sd= 125.2 jurors). There was a large and varying range of the total number of potential jurors mentioned in each article. At the time, there was speculation that such a large jury pool would be needed to find an impartial jury who did not have close connections to Penn State or to Sandusky himself.

Similarly, many articles did not specify exactly how many jurors were selected (69.2%). From court documents and media reports, twelve jurors and four alternates were selected to hear the case. In the articles that did discuss the selection of jurors, the mention of the number of jurors selected ranged from one juror to sixteen jurors (this accounts for alternates for the jury; sd= 4.4 jurors). In some instances, articles mentioned specific jurors – providing some background information about them – but most did not (63.5%). Of the articles that mentioned specific jurors, they provided information on three jurors all the way to each of the sixteen jurors specifically (sd= 4.4 jurors). This information consisted of ties to the university (alumni or current students), occupation, and gender of those selected. The jury was comprised of five men and seven women, not counting the alternates. Thirty-seven articles (71%) did not specify the number of male jurors and 36 articles (69.2%) did not specify the number of female jurors. When the number of male jurors was mentioned, the frequency ranged from one male to seven males chosen for the jury, accounting for alternates (sd= 2.3 male jurors). When the number of female jurors was mentioned, the frequency ranged from one female to nine females chosen for the jury, which also included the alternate jurors (sd= 2.9 female jurors).

As previously mentioned, one issue that is often of concern is the ties that the jury has to the defendant in the case. Sandusky's defense team requested a change of venue, due in part to this issues; that request was denied by the court. The results show that 50% of the articles did not mention any ties, whereas 50% of the articles did mention ties to Penn State—an even split. However, from the voir dire process it had been reported that all but two of the jurors worked for PSU, was a student or a graduate of the school, knew or was related to an employee of the school, or directly knew someone who was involved in the case. Penn State is the largest employer in State College and is the central institution of the surrounding areas. Given the size of the university and the body of people living in the area, it was strongly unlikely that the court would be able to find potential jurors who did not have strong ties to the area or to the school itself. At the time, there was some concern regarding the potential costs associated with the voir dire process given the possibility that the court would not be able to find a full impartial jury panel to choose from, thus causing a delay in the selection process. However, since the jury

was paneled so quickly, the costs associated with the voir dire were no longer an issue. Since the discussion of the jury selection process was rather limited overall, these results suggest that there was no great importance placed on the jury as a whole. The media reported on the jury selection itself, but once completed the media felt as though reporting about the defendant was more important.

Table 1. Articles Covering Jury Selection Themes

| Ranges for each theme | | | |
|---|------------------|----------------|-----------|
| <u>Topic</u> | <u>Min</u> | <u>Max</u> | <u>SD</u> |
| Size of the jury | 80 | 600 | 125.2 |
| # of jurors selected | 1 | 16 | 4.4 |
| # of jurors specifically | 0 | 19 | 4.4 |
| # of male jurors | 1 | 7 | 2.3 |
| # of female jurors | 1 | 7 | 2.9 |
| Frequency & percent of articles indicated whether jurors had ties to Penn State | | | |
| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> | |
| Ties Indicated | 26 | 50 | |
| No Ties Indicated | 26 | 50 | |
| Total | 52 | 100 | |

Stage Two – Trial Coverage

Looking beyond jury selection, the second stage of analysis takes into account all 217 articles that were collected for this study. Major themes of interest include representation of the sexual abuse and of Sandusky as the defendant, the nature of the relationship between Sandusky and his victims, gifts that were given, witness testimony, the case presented by defense counsel, and jury deliberation among others. As with the jury selection, these themes are discussed in the order in which they occurred during the trial. The representation of the sexual contact received a

lot more attention than other issues. Sexual contact was mentioned in 151 (69.6%) of the articles reviewed. In the majority of the articles (108; 49.8%), sexual contact was represented negatively, but some articles did provide a neutral (31; 14.3%) or even a positive (12; 5.5%) representation. This may have been in an attempt to keep potential bias out of the news reports before the verdict was rendered. However, due to majority of the articles portraying the sexual contact negatively (using terms such as child molestation or rape), the potential for biasing the public seems high. In comparison, Jerry Sandusky himself was not represented as negatively as the sexual contact was. The majority of articles (126; 58.1%) portrayed a neutral representation of Sandusky. Only 75 articles (34.6%) portrayed a negative representation of him and even fewer, 16 articles (7.4%), portrayed him in a positive manner. This was an unexpected finding as pretrial news reporting discussed both Sandusky and the sexual abuse in a negative light (Klein, Tolson & Longo, 2013).

Table 2. Frequency and Percentages of Articles Covering the Representations of Sexual Abuse and of Sandusky

| Mentioned the sexual contact | | |
|----------------------------------|------------------|----------------|
| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
| No | 12 | 5.5 |
| Yes | 151 | 69.6 |
| Total | 217 | 100.0 |
| Representation of sexual contact | | |
| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
| Negative | 108 | 49.8 |
| Neutral | 31 | 14.3 |
| Positive | 12 | 5.5 |
| Not Mentioned | 66 | 30.4 |
| Total | 217 | 100.0 |

| Representation of Sandusky | | |
|----------------------------|------------------|----------------|
| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
| Negative | 75 | 34.6 |
| Neutral | 126 | 58.1 |
| Positive | 16 | 7.4 |
| Total | 217 | 100.0 |

The prosecution used the victims' testimony as a large part of its case against Sandusky, choosing to focus largely on the sexual abuse and their relationships with the defendant. Many issues were covered during the lengthy testimonies of the eight victims who took the stand. The young men discussed receiving gifts from Sandusky as a preventative measure to keep the victims quiet. The boys testified that they received football tickets to Penn State games (25 articles; 11.5%), sports equipment (5 articles; 2.3%), a mission trip to Mexico (3 articles; 1.4%), and clothes (4 articles; 1.8%). Eighteen articles (8.3%) mentioned multiple gifts and three articles (1.4%) mentioned all of the gifts listed. The gifts mentioned were likely used to solidify his relationships with his victims as part of the grooming process.

Forty-five articles mentioned a specific relationship type between Sandusky and his victims. Most commonly Sandusky is referenced as a father figure (32 articles; 14.7%), but other articles also mentioned mentorship (or referenced that the victim was like Sandusky's girlfriend/lover). The abusive encounters frequently took place on the Penn State campus, but also included non-university areas. On-campus locations include football facilities (9 articles; 4.1%), the sauna (1 article; 0.5%), and the locker room showers (16 articles; 7.4%). Sandusky also abused victims in his basement (17 articles, 7.8%), in other areas of his house (6 articles; 2.8%), and at the team hotel during NCAA bowl games (2 articles, 0.9%). The majority of articles (68; 31.3%) mentioned more than one location where the abuse took place. These locations led to detection by a variety of people. Forty articles (18.4%) mention the mother of Victim #1 finding out about the abuse.

One of the most frequently mentioned victimizations involved the 2001 abuse involving Sandusky in the shower with Victim #2. Seventy-four articles (34.1%) discussed this abuse and 12 articles (5.5%) more specifically mentioned the report of "skin on skin" smacking sounds that were heard by Mike McQueary when he

witnessed the event occur. This victimization was arguably the most important of the case due to the allegations regarding the university cover-up. Furthermore, only seven articles (18.4%) mentioned that McQueary did not immediately report the incident to anyone, but rather waited until a day after the witnessed abuse to report the incident to former head coach, Joe Paterno. Combining this testimony with the fact that Victim #2 has never been identified made it a difficult case to handle in court.

Table 3. Frequency and Percentages of Articles Covering Testimony from the Victims

| Mentioned specific gifts | | |
|--------------------------|------------------|----------------|
| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
| Football Tickets | 25 | 11.5 |
| Sports Equipment | 5 | 2.3 |
| Mission Trip to Mexico | 3 | 1.4 |
| Clothes | 4 | 1.8 |
| Multiple Gifts | 18 | 8.3 |
| All/Nearly All Mentioned | 3 | 1.4 |
| No Gifts Mentioned | 176 | 73.3 |
| Total | 217 | 100.0 |

| Mentioned the nature of the relationship with Sandusky | | |
|--|------------------|----------------|
| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
| Mentorship | 1 | .5 |
| Father Figure | 32 | 14.7 |
| Victim was like a girlfriend | 11 | 5.1 |
| Lover | 1 | .5 |
| None Mentioned | 172 | 79.3 |
| Total | 217 | 100.0 |
| Mentioned location of abuse | | |
| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
| Penn State Facilities | 9 | 4.1 |
| Sandusky's Basement | 17 | 7.8 |
| Other Areas of Sandusky's House | 6 | 2.8 |
| Showers | 16 | 7.4 |
| Sauna | 1 | .5 |
| Hotel | 2 | .9 |
| Multiple Places | 68 | 31.3 |
| None Mentioned | 26 | 12 |
| Total | 217 | 100.0 |

| Who found out about the abuse | | |
|-------------------------------|------------------|----------------|
| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
| Mother | 40 | 18.4 |
| Janitor | 6 | 2.8 |
| Authorities | 1 | .5 |
| Multiple People | 1 | .5 |
| None Mentioned | 169 | 77.9 |
| Total | 217 | 100.0 |

Table 4. Frequency and Percentages of Articles Covering McQueary’s Testimony

| Mentioned shower incident | | |
|---------------------------|------------------|----------------|
| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
| Indicated | 74 | 18.4 |
| Not Indicated | 254 | 65.9 |
| Total | 217 | 100.0 |

| Mentioned of “skin on skin” smacking sound | | |
|--|------------------|----------------|
| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
| Indicated | 12 | 5.5 |
| Not Indicated | 205 | 94.5 |
| Total | 217 | 100.0 |

| Mentioned to whom McQueary immediately reported the incident | | |
|--|------------------|----------------|
| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
| Joe Paterno | 7 | 18.4 |
| His Father | 17 | 65.9 |
| No one mentioned | 192 | 88.5 |
| Total | 217 | 100.0 |

In an attempt to understand and explain Sandusky's behavior, 46 articles (21.2%) mentioned that he might have had a possible mental illness. This was one of the main arguments made by the defense, even though no official clinical diagnosis was ever made. There was even mention that an expert witness would testify in 37 articles (17.1%) regarding this possible mental illness. The defense also raised the question about the victims' credibility and whether or not the eight young men were reliable witnesses as some of the alleged abuses took place years earlier when the victims were young and suggestible. Their credibility was questioned in 98 articles (45.2%). Sixty-seven articles (30.9%) mentioned that Sandusky would testify himself, but 15 articles (6.9%) further stated that this would not be a good idea for him. He ultimately did not testify on his own behalf.

Table 5. Frequency and Percentages of Articles Covering Sandusky's Defense

| Mentioned possibility that Sandusky has mental illness | | |
|--|------------------|----------------|
| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
| Indicated | 46 | 21.2 |
| Not Indicated | 171 | 78.8 |
| Total | 217 | 100.0 |

| Mentioned expert witness' testimony about mental illness | | |
|--|------------------|----------------|
| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
| Indicated | 37 | 17.1 |
| Not Indicated | 180 | 82.9 |
| Total | 217 | 100.0 |
| | | |
| Mentioned victims' credibility | | |
| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
| Indicated | 98 | 45.2 |
| Not Indicated | 119 | 54.8 |
| Total | 217 | 100.0 |
| | | |
| Mentioned potential of Sandusky testifying | | |
| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
| Indicated | 67 | 30.9 |
| Not Indicated | 150 | 69.1 |
| Total | 217 | 100.0 |

| Mentioned it was a good idea for Sandusky to testify | | |
|--|------------------|----------------|
| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
| Indicated | 13 | 6 |
| Not Indicated | 204 | 94 |
| Total | 217 | 100.0 |

As the trial ended, reports on jury deliberation mentioned various lengths of time that it took the jury to come to a verdict. Reports of deliberation ranged from seven hours to two days. This is another example indicative of sporadic and contradictory reporting on behalf of the media; something that seemed to be happening quite frequently over the course of the trial. Interestingly, only one article correctly identified the amount of time that the jury deliberated for. The jury spent more than 20 hours deliberating over the course of two days.

Table 6. Frequency and Percentages of Articles Covering Jury Deliberation

| Mentioned how long the jury deliberated | | |
|---|------------------|----------------|
| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
| 1 day | 33 | 1.8 |
| 2 days | 1 | .9 |
| 7 Hours | 7 | .5 |
| 8 Hours | 9 | .9 |
| 19 Hours | 2 | .5 |
| Not Mentioned | 207 | 95.4 |
| Total | 217 | 100.0 |

Stage Three – Time Analysis

Due to the dynamic nature of trial reporting, it was hypothesized that time might affect some aspects of the reporting. Specifically, we were interested in understanding if the representation of Jerry Sandusky and the representation of the sexual acts that he committed would vary (becoming more negative) as the trial progressed. Upon conducting a bivariate analysis between time and the two outcome variables of interest, no significant relationship was found. Analyses were run with time in days and in weeks, but no significance was found for any of the time measures.

Discussion

The results of this paper show some important findings in regards to both the Jerry Sandusky case, and media coverage of high-profile criminal trials. The media covered so many issues during the trial, and consequently, the articles provided incomplete or incorrect information. This is shown in one of the biggest issues present in this study—the amount of inconsistencies in media reporting. Although the amount of media coverage is high, this does not automatically equate to a high level of accuracy concerning the trial. For example, some of the coverage unveiled discrepancies regarding the timelines of abuse, or even basic information such the amount of time the jury spent deliberating. Live reporting was not allowed from the courtroom and reporters had to wait until the end of the day to run their stories. This required the media to take notes and file their reports later. Despite restrictions to immediate reporting, the media retained the ability to select what they angle to present the day's events so that viewers found the story interesting and the media chose how to characterize the defendant based on each piece of evidence presented. However, it is concerning that basic information was not checked before the reports went to press and that several narratives were being delivered from the same set of facts derived from the same trial. These errors could be the result of the live reporting restrictions and the reporters' handwritten notetaking. It was not made clear whether or not retractions or corrections were made regarding the articles, which contained inaccurate information. Yet, it does not appear as though any of the reporters or news agencies were embarrassed for punished for these errors, or if they were even aware that these errors were made since there was no formal retraction from any of the news sources examined.

The results of this study indicate that there may be some sort of sensitivity to a trial of this caliber. This study explored the portrayal of Sandusky as the defendant, and the separate portrayal of Sandusky's crimes. The results show that Sandusky,

as the defendant, was portrayed less negatively than his offenses. Even though there is difference between the two themes, this still suggests that a media-driven bias was present during the trial, which had the potential to contribute to the delivery of a guilty verdict, when examined through a “trial by media” lens. With a well-known defendant who was associated with a major university and nationally recognized sports program, the amount of media coverage available was extensive. Because we did not test the “trial by media” hypothesis, we cannot definitively say that Sandusky was found guilty through a “trial by media” before his criminal trial began. Although the softened reporting style might be an attempt to not present bias against Sandusky, the results suggest that the representation of the sexual abuse was portrayed more negatively than the representation of Sandusky as the defendant. Once again this is a departure from the pretrial coverage in which both the sexual abuse and Sandusky were portrayed in a negative fashion (Klein, Tolson & Longo, 2013).

Sandusky was a wealthy individual and was able to afford the services of a privately retained attorney. Unlike indigent defendants, Sandusky did not have to rely on the services of a public defender. This allowed Sandusky’s legal team to make a maximum effort to diminish the amount of negative publicity that is associated with his trial. Although Sandusky’s crimes are not white-collar crime in nature, he could still personally be identified as an elite offender due to his monetary status, and prominent and philanthropic reputation within the State College community. Since he was an elite offender, who hid his offenses in plain sight, we must question how this case would play out had Jerry Sandusky not been Jerry Sandusky, but rather a non-significant individual who was not well known at all. These factors could drastically change the nature of the case and perhaps the media coverage would not have been as extensive – thus potentially eliminating any biases that may have been present. Although he was convicted, Sandusky stood a much better chance at an acquittal than most individuals who did not have any sort of money or power to their names. Investing in media campaigns, such as his pretrial interview on *Rock Center with Brian Williams*, having a personal relations team, and a privately retained attorney, are all things that are not necessarily at the disposal of a defendant with limited resources.

This creates a variety of different policy implications when it comes to pretrial and trial publicity. Some high profile defendants, such as Casey Anthony or George Zimmerman, did not have the same monetary backing that Sandusky had. However, they were acquitted due to prosecutors who charged the defendants too strongly without enough evidence to back the charges. However, due to the media coverage surrounding the cases there was pressure to charge these individuals

with more severe charges. Sandusky's case is different in terms of the number of victims, the prolonged period of abuse, and the amount of evidence levied against him. Although the media has the right to cover these cases, it is concerning that the media has the ability to put pressure on prosecutors who aim too high in terms of the charges made against these high-profile defendants. Furthermore, this pressure is concerning given the amount of inaccurate information delivered in the articles examined in this study. Though reporting errors happen, there was no noticeable effort to retract or correct information in other articles to our knowledge. This presents the defendant with an appeals argument in which Sandusky could claim that the jury was unduly influenced by inaccurate information, which then potentially biased the jurors against him. This, together with the denied request for a change in venue, lays the foundation for a Sixth Amendment appeal of his conviction.

In October 2015, Sandusky began the formal appeals process for his criminal conviction on the grounds of ineffective counsel. Although this reason is a popular ground for appeal, Sandusky is also claiming that factual evidence was withheld during the original trial, that the prosecution created hostile witnesses who were unwilling to answer the defense team's questions adequately, and that a potential leak may have occurred during the grand jury investigation. There has been some speculation that Sandusky may be presented with additional criminal charges due to an extension of the statute of limitations for state employees⁵. At the time of this submission that had not occurred, but the appeals process is still ongoing.

Limitations and Future Research

Jerry Sandusky's case was complex and involved multiple actors in the discovery and potential cover-up of his abuses. This study looked at several issues regarding the media coverage that his trial received, but there are several limitations to this study that must be acknowledged. First, this paper examined only the case made against Jerry Sandusky. Although it was a nationally publicized case that was afforded a great deal of media attention, it is still only one case. Other research has focused on single case studies as well (Freedman & Burke, 1996; Ogloff & Vidmar, 1994; Rollings & Blascovich, 1977; Studebaker et al., 2000), but this work would

⁵ The Commonwealth of Pennsylvania has stated that the statute of limitations on sexual assault and sexual child abuse does not apply to state employees. This means that any accuser who was younger than 50 years of age at the end of 2015, could potentially be charged with additional sex crimes. The court presented timelines of abuse allow for additional victims younger than 50 to fit within the timeframe presented by the prosecution.

benefit from an examination of other cases in addition to the Sandusky case. For example, large-scale analysis could be conducted on multiple child sexual abuse cases. This provides us with a different approach to this style of single-case content analysis. Researchers have taken on this alternative for a variety of different cases (Berry et al., 2012; Cheit, Shavit, & Reiss-Davis, 2010; Mejia, Cheyne, & Dorfman, 2012), but so far the Sandusky case remains mostly unexamined.

Additionally, this study only used 217 articles for the content analysis of Sandusky's trial. Although the articles were filtered in an attempt to use only original and unique articles (meaning there were no duplicates), it is acknowledged that there potentially were more articles that we could have included in our sample. Other media content analyses have included larger sample sizes of 348 for a two-year time period (Mejia et al., 2012) and 1,599 articles for a nine-month time period (Studebaker et al., 2000). Although more articles could have been collected if this study examined the entire case (from indictment to guilty verdict), the 217 articles used for this analysis came from only the trial and did not include pretrial publicity. As the trial only really lasted 10 business days, the 217 articles used in this study provides a large enough sample to complete this content analysis. Future research would benefit from a more extensive collection of articles with more research assistants assigned to collect articles.

Finally, this study was not a test of the "trial by media" hypothesis. Instead, this study was an exploratory examination of the media coverage surrounding the Jerry Sandusky trial, in an attempt to find potential biases against the defendant that could be viewed through the "trial by media" lens. Although we were not able to make any definitive conclusions about whether or not a true "trial by media" in regards to Sandusky's case, the results of this study does show that biases against the defendant existed and that the media reporting was often inaccurate in the presentation of the case facts. This creates concerns regarding the jury deliberation process and exposure to inaccurate information, especially when a jury is not sequestered during the trial itself. This raises the abstract question about what can be done to not taint the perceptions and opinions of potential jurors when the court is unwilling to grant a change of venue or change of venire request. As suggested earlier, this biasing and inaccurate information may provide the defendant with the opportunity to use that as part of his or her appeals arguments.

Conclusion

This study used a content analysis to examine the media coverage associated with Jerry Sandusky's trial. Once revered as a local hero and an institution in his own right, Sandusky used his self-created charity to find young boys to sexually abuse. He used his position of authority within the State College community and within the Penn State structure to keep his abuses hidden for nearly two decades. In this study, we examined articles related to Sandusky's trial and the content analysis showed that the media was reporting with more of a bias directed against the defendant's actions rather than against the defendant himself – something somewhat contradictory to typical cases of trial publicity coverage.

One of the biggest concerns regarding the results of this study was that the media coverage afforded to Sandusky was not consistently accurate. For example, relevant trial information such as the initial age of the victims at the start of the abuse was not frequently reported. When that information was reported, different media outlets reported inaccurate ages for the same individual. Based on the results of the study and the inaccuracies found in the media's reporting, we were unable to definitively conclude that Sandusky was found guilty through "trial by media" since this study did not directly test the "trial by media" hypothesis. However, when news articles have errors like this, the reader might be unduly influenced one way or another concerning the guilt of the defendant based on the inaccurate information that is being relayed. The thin line between the media's freedom of speech and the defendant's right to a fair and impartial trial by a jury of his or her peers are continually at odds with one another. In some instances, that battle will result in a clear bias against the defendant. In other instances, the results are a bit vaguer but are still concerning for the greater picture regarding media reporting in the criminal justice system, and the influence it has on the outcome of criminal cases.

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