

Pretrial Publicity and Pedophilia: A content analysis of the Jerry Sandusky case



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Abstract

Prior to the jurors in Jerry Sandusky's trial convicting him of 45 charges of sexual abuse and sentencing him to 30 to 60 years in prison, the news media covered the story for six months (from November 2011 to June 2012). During this time period, media sources exposed the nation, to an ambush of stories about Sandusky, his victims, and his employer during the commission of his crimes, Pennsylvania State University. After a grand jury indicted Sandusky for 52 counts against 10 young boys, a storm of pretrial publicity was unleashed about him. This article examines 238 pretrial news stories using a content analysis approach. Drawing on prior literature, this study examines the legal and policy implications of Sandusky's trial, the tone of the publicity his case received, and the role publicity might have played in influencing jurors. Results from the content analysis and future research possibilities will be discussed.

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Introduction

On November 5, 2011, the national media reported that for nearly the past two-years, an investigation was taking place looking into the alleged sexual abuses committed by Jerry Sandusky. By the end of 2011, Sandusky had been arrested two separate times and charged with the abuse and sexual molestation of ten underage boys, which took place between the years of 1994 to 2009 (Chappell, 2012). Sandusky was charged with 52 counts associated with child endangerment, sexual molestation and the corruption of minors (Moushey & Dvorchak, 2012). This news was shocking to many people who always associated Pennsylvania State University and its praised football program as pristine and untouchable. However, when the news broke that the former Defensive Coordinator, Jerry Sandusky, was accused of these actions – and that he had been using university facilities as a the location of his alleged molestations – the formerly unspoiled atmosphere in Happy Valley vanished.

With the release of the grand jury report, the events of the past fifteen years were revealed, painting a picture of Sandusky as an accused serial sexual child abuser who used team facilities⁴ and his own charity as a way to seduce at-risk boys. Furthermore, it was also implied that Penn State officials were to blame for not doing more to stop the abuse and that they were in the wrong for taking action to cover-up the abuses. Using a content analysis of local and national media coverage, this study will examine the Sandusky scandal and the key players involved. Additionally, we will also examine the pretrial publicity associated with the case to determine what effect the publicity might have had in Sandusky's conviction, thus furthering the research in this previous examined field (Imrich, Mullin & Linz, 1995; Studebaker, Robbennolt, Pathak-Sharma & Penrod, 2000; Tankard, Middleton & Rimmer, 1979).

Timeline of the Sandusky Scandal

Although November 5, 2011 was the first time that much of the nation had been aware of what was occurring at Penn State, PSU, a series of events were developing over the past two decades that would erupt into the scandal we witnessed since the news broke. In total, Sandusky victimized ten young boys – all of whom were involved with the Second Mile Foundation that Sandusky founded in 1977 as a

⁴ After his retirement in 1999, Jerry Sandusky was given "Emeritus" status at PSU and retained access to the football team and its resources.

“group foster home devoted to helping troubled boys” (Grand Jury Report, 2011: 1). Two significant victimizations in the case – the 1998 abuse of Victim #6⁵ and the 2001 abuse of Victim #2⁶ – were important to the case because they occurred on university property, and were made aware to university officials at the time of the victimization (Freeh, 2012). Despite their knowledge that Sandusky was abusing children on Penn State property, and that there might be more even more victims, high-ranking PSU officials did nothing to stop Sandusky.

Not only did key administrators, such as PSU President Graham Spanier, Athletic Director Tim Curley, and Senior Vice President of Finance and Business Gary Schultz, fail to stop Sandusky from committing even more molestations but also these men proactively covered up his actions. The three men lied to the grand jury investigating the case, by describing Sandusky’s actions as merely “horsing around” and as being “inappropriate,” but that they were not convinced that sexual abuses had occurred (Chappell, 2012). This severe underrepresentation of the sexual abuses has led both Curley and Schultz to be indicted with “making false statements to the grand jury and failing to report the possible abuse of a child” (Chappell, 2012).

Although this is only a brief narrative of the entire Sandusky case, in-depth analyses of the entire series of events have been captured by several journalists (Chappell, 2012; Moushey & Dvorchak, 2012). The goal of this paper is not to rehash the entire case but rather to examine the pretrial publicity that was associated with the Sandusky case itself. Since Sandusky had ties to such a prominent state university with a very well known football program, an immense amount of attention was paid to his trial from the moment that the case broke on November 5, 2011. Before exploring the actual media coverage associated with the Sandusky trial, we will review previous literature surrounding pretrial publicity.

Pretrial Publicity

For large-scale legal cases, inevitably the media will provide wide-spread news coverage of the events surrounding the situation – this leads to pretrial publicity

⁵ The victims are identified according to their testimony chronology in the grand jury report. They are not listed in chronological order.

⁶ In 2001, graduate assistant Mike McQueary heard “rhythmic slapping” indicative “to be those of sexual activity” coming from the showers of the team locker room on the PSU campus. When McQueary looked into the showers, he saw Sandusky performing anal sex on what looked like a 10 year old boy (Grand Jury Report, 2011: 6).

that can have an influence on the trial outcome itself (Bruschke & Loges, 1999; Kerr, Kramer, Carroll & Alfini, 1991; Kovera, 2002; Ruva & McEvoy, 2008; Ruva, McEvoy & Bryant, 2007). In the past 20 years, we have seen the O.J. Simpson murder trial, Timothy McVeigh's trial for the Oklahoma City Bombing, and Casey Anthony's murder trial. These three cases, and several others, have all been associated with high amounts of pretrial publicity. The media covers these cases and reports in-depth information about what has occurred; some go as far as to have on legal analysts or former prosecutors and judges who dissect the events of the case on a daily basis. This coverage can have a big impact on viewers and potential jurors. This coverage causes a contradiction between the media's First Amendment right to free speech and the defendant's Sixth Amendment right to a fair and impartial jury. Researchers have argued that the media has eliminated the possibility of a fair and impartial jury on cases such as these because it is nearly impossible not to hear about such large-scale cases like the Oklahoma City Bombing or the Casey Anthony trial if you lived in those areas (Studebaker, Robbennolt, Pathak-Sharma & Penrod, 2000). This exposure may lead to a jury comprised of people who have preconceived notions about the defendant, and even whether or not the defendant is really guilty.

There are some options for the court system in trying to combat pretrial publicity. Defendants can try to get a change in venue when pretrial publicity makes a fair and impartial trial an unlikelihood; such was the case for Timothy McVeigh who was successful in getting his case moved from Oklahoma City to Denver (*U.S. v McVeigh*, 1996). Casey Anthony's defense team successfully achieved a change in venue for her murder case. Legal precedent allows judges some discretion in whether or not they are willing to grant the change in venue. According to *Murphy v. Florida* (1975), judges must take into account the "totality of the circumstances," which includes any pretrial publicity, prejudice against the defendant and where the most appropriate place would be to relocate the trial. Sometimes, if the case is large enough there is no adequate place to move the trial. In addition to a change of venue, other safeguards including the use of a continuance, extended voir dire, judicial admonitions, trial evidence, jury deliberation, change of venire and change of venue could be implemented by judges to protect against pretrial publicity (Studebaker et al., 2000: 321). However, researchers examining these safeguards have found them to be ineffective in removing the bias associated with pretrial publicity (Kerr, Kramer, Carroll, & Alfini, 1991; Kramer, Kerr, & Carroll, 1990; Olczak, Kaplan, & Penrod, 1991; Otto, Penrod, & Dexter, 1994).

Additionally, researchers have “shown that prejudicial pretrial publicity can negatively influence evaluations of the defendant’s likability, sympathy for the defendant, perceptions of the defendant as a typical criminal, pretrial judgments of the defendant’s guilt and final verdicts” (Studebaker et al., 2000: 320). Some of these issues might seem very basic in nature but when compounded with other influences, issues such as the likability of the defendant is magnified within the scope of the case. Before jurors form the final verdict of guilt, they must weigh the evidence set before them, the testimony of witnesses and sometimes the defendant, and the instructions of the presiding judge. Although they are not supposed to take any outside information – such as pretrial news coverage – the literature has shown that jurors do take this information into account. Sometimes jurors cannot remember where the information came from, whether it is from the trial itself or from an outside news source (Ruva, McEvoy & Bryant, 2007). This is problematic in the long run because jurors can influence one another as well, causing a multitude of falsities to be circulating around the deliberation room.

It is also suggested that it is not just negative pretrial publicity that has an effect on juror decision-making. Kovera (2002) discusses how any type of media exposure can influence a juror’s decision-making process, not just negative exposure. Using two rape-centered studies with varied media exposure – some of it pro-defense, some pro-prosecution, and the rest were neutral in that it did not address the rape – Kovera explained how participants attitudes came into play when exposed to the footage (2002). The Kovera piece suggests that “some types of news – at the very least, the particular story presented in this investigation – can cause jurors to render more punitive judgments,” (2002: 66).

Following a similar pathway, Ruva & McEvoy also examined the effect that different types of pretrial publicity would have on juror decision making, while taking memory error into account in a study of mock jurors (2008). Some were asked to give a verdict immediately after the stimulus was introduced and some were asked to give a verdict after a delay. As expected, those who were exposed to pro-prosecution publicity were almost two times as likely to render a guilty verdict compared to those who were exposed to pro-defense footage. Ruva & McEvoy discuss that for both pro-defense and pro-prosecution footage, participants were not likely to experience any more memory error for either type of exposure. These effect findings for the delay were consistent with earlier research (Ruva, McEvoy & Bryant, 2007).

The literature on pretrial publicity has focused on many types of methodological procedures including the use of mock juries (Kovera, 2002; Ruva & McEvoy, 2008, Ruva, McEvoy & Bryant, 2007) and content analyses (Imrich, Mullin & Linz, 1995;

Studebaker et al., 2000; Tankard, Middleton & Rimmer, 1979). For this study, we will use a content analysis to examine local and national newspapers that covered the Sandusky case from the day the news broke, until his trial began.

Current Study

The current study examines the pretrial publicity of the Jerry Sandusky case using a content analysis approach. This case was chosen by the researchers for two reasons, first it is a case that was bound to attract a large amount of pretrial publicity, allowing it to be closely examined like the cases of O.J. Simpson, Casey Anthony and Timothy McVeigh. Secondly, although the pretrial publicity of Sandusky's case is extensive his case is unique in comparison to other high profile cases – Sandusky's case is not a capital murder trial. Finally, the Sandusky case also has high-ranking university officials implicated in the crime, which might suggest some sort of institutional deviance on the part of Penn State. Like other pretrial publicity research, this study examines news media coverage mainly to see the portrayal of the defendant, Jerry Sandusky. The media frequently covers crime stories, as they tend to be the most profitable (Antunes & Hurley, 1978; Ryan & Owen, 1976). Their coverage of criminal cases – especially those that involve the death of the victim of the abuse of a child – allows the media to apply an sensationalized, emotional twist to the story (Beckett, 1996; Cheit, Shavit & Reiss-Davis, 2010; Mejia, Cheyne & Dorfman, 2012). Due to the vast amount of media coverage surrounding Sandusky, the university, and other key players in the case – all of whom had varying levels of celebrity within the university culture and in the world of college football – this case is likely to be one that will be remembered for some time to come. The Sandusky case has revealed decades of abuse against the ten victims he was indicted for abusing. A case of this size draws the need for months of work with attorneys before the case can be brought to trial – from the case reveal on November 5, 2011 to the start of jury selection on June 5, 2012 thousands of media stories have been focused on the Sandusky case. This multitude of information creates the need to examine what type of pretrial publicity Sandusky was receiving and whether or not the tone of the articles had an assumed effect on Sandusky's conviction.

Method

Sample

Articles for this study were chosen for coding based on their focus on the pretrial events surrounding the case and date of publication from various local and national online news sources. Sources included national news corporations including, but not limited to, *NBC*, *ABC*, *CBS*, *CNN*, *FOX News* and 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. These articles were not based on any particular geographic region, but were part of a larger, general solicitation for information. We were able to obtain these articles by setting up an online news alert through Google Alerts, “an 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.” The search filter was established for early November, 2011 and was turned off after data collection was complete in June, 2012. The email alert system delivered articles everyday 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 independent of one another, meaning that each article was only included once in the data set. This repeat of articles was due to the prevalence of *Associated Press* articles that were being delivered through various news agencies.

As stated earlier, the pretrial articles spanned from November 5, 2011 to June 5, 2012 and were arranged in chronological order, by the researchers, according to their published date. An article’s pretrial relevance was based on the presence of sexual contact, legal coverage, Sandusky’s indictments, PSU, and other people significant to the case such as Head Coach Joe Paterno, Assistant Coach Mike McQueary, PSU Athletic Director Tim Curley, Senior Vice President for Finance and Business Gary Schultz, or University President Graham Spanier. Although there was much more coverage on the Sandusky case than the articles we collected, it would be very difficult to collect every article ever written on the pretrial coverage. Furthermore, the decision was made to only use online news articles because of the overlap in coverage through the *Associated Press*, making the need for extensive geographic coverage unnecessary. This allowed us to access news outlets across the nation and to also make sure only one version of the article made it into the sample. A total of 238 articles were included in this sample.

Procedures

The articles were coded based on a multi-variable codebook that was developed by the researchers. The main themes examined items such as the number of charges, number of victims, mention and perception of sexual contact and behaviors, overall perception of Sandusky and his actions, and mention of legal coverage – all things that were legally relevant to the case, and which have been analyzed in prior content analyses (Studebaker, et al., 2000). We expected that the media would cover these issues extensively. Each item was coded individually based on information found within the article. Some items were coded using a Yes/No response – when looking for the presence or absence of an item – a coded numerical response – when coding for a specific place, such as the location of the victimization – or a rank response of a Negative, Neutral, or Positive representation – when examining the representation of Sandusky or of his actions.

We derived the themes used in this research using a priori and a posteriori approaches. First, themes from previous research on pretrial publicity (such as representation of the offender and the criminal act, statements of guilt or innocence, and the mention of “alleged” victims) were identified prior to the viewing of any articles. Second, new themes (such as potential co-conspirators and the cover-up of Sandusky’s actions) from the written content within the various news articles were identified and added to the codebook. Two researchers independently reviewed and coded each article. After the initial analyses, a comparison was done between the two separate analyses to see the congruence in coding between researchers. Less than 10 percent of the entries required a re-review. During the re-review process, both researchers came together to discuss the differences in their coding. Both researchers elaborated to each other about their decision, and then they reviewed the articles together to validate the interpretation of the text. Finally, a consensus was reached about what final code used. This re-review process helped maintain the integrity of the content analysis and reducing error among coders.

Each of the articles was individually coded by one of the researchers according to the coding sheet. Then each article’s codes were entered into the statistical analysis program, SPSS. After the articles were put into SPSS, the second researcher reexamined all of the articles and compared them to the coding completed by the first researcher. There was some discussion regarding disagreement over the coding of some of the themes. However, this only occurred in less than 10-percent of the articles. Only one data set was used, however there was a significant amount of double checking between researchers to make sure that everything was coded correctly. The coding for the themes was dependent on the type of information being derived from the articles. For example when

accounting for the representation of Sandusky, we were searching for wording that represented a Negative, Neutral or Positive representation. For these rank codes, a Negative response was coded as 0, a Neutral response was coded as 1, and a Positive response was coded as 2. Some of the themes only examined the presence or absence of the variable. If the variable was absent it was coded as 0 and if the variable was present it was coded as 1. This was done for all 238 articles. A list of the examined themes is located in the appendix of this paper.

Measures

We were particularly interested in examining the public perception of Jerry Sandusky himself and those around him who would play key roles in this case. Previous research concerning pretrial publicity has stated that the representation of the defendant plays a large role in creating bias within the jurors (Bruschke & Loges, 1999; Kerr, Kramer, Carroll & Alfini, 1991; Kovera, 2002; Ruva & McEvoy, 2008; Ruva, McEvoy & Bryant, 2007). One of our most prominent themes focuses on the representation of Sandusky's character and whether or not that was shown in a negative, positive or neutral light. Since he was still only accused at the time of the articles' publication, the media should only be discussing his case in terms of allegations. Even though that may be happening, the language being used can have a large influence on creating bias against the defendant. For instance, if Sandusky was described as a "child molester" or as a "pedophile," then we classified that article as implementing a negative representation of the defendant. The use of emotional language in a case like this one further demonstrates isolation against the defendant (Studebaker et al., 2000). Along those same lines, we examined the representation of the sexual contact that Sandusky was then accused of. 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. If the article used more clinical terms such as "oral sex" or "anal sex," then the behavior was classified as more neutral in description. We also included a positive representation that allowed for any articles that would downplay the abuse by using terms like "sexual encounter," "horseplay," or "inappropriate behaviors/contact." As written, these measure represent the context of the act rather than the context of the criminal charges.

Throughout the articles, we identified information regarding the victims, witnesses or key players in the case that might create bias against Sandusky. Besides the victims, this information centered around the two men accused of helping to cover up the case – Tim Curley and Gary Shultz. Finally, we also coded

for the specific legal coverage of the case – specifically focusing on the indictment, which included themes focusing on the charges for eight victims, the subsequent charges for the additional two victims, and any potential sentence that Sandusky may have faced if he had been found guilty. This group of themes was particularly important to the content analysis because it all of the possible discussion of a conviction of a man who was, at that point only accused of these crimes. They are also important because of the legal ramifications that the articles may be suggesting, specifically in the discussion of the possible prison sentence. There is a persuasive suggesting that takes place when discussing a possible prison sentence for someone who has not yet been convicted. These themes were developed by the three researchers, were coded by two of the researchers based on the previously mentioned codebook. In all there were 23 measures that we looked for within the articles that encompassed all of the themes just discussed.

Results

To explore the themes around the Sandusky trial, a univariate analysis was conducted on multiple themes derived from the 238 articles collected for this project. This analysis focused on the investigation of frequencies so that the nature of the information presented in various news articles could be better understood.

Coverage of Sandusky's Indictment

To explore the themes around the Sandusky trial, a univariate analysis was conducted on multiple themes derived from the 238 articles collected for this project. This analysis focused on the investigation of frequencies so that the nature of the information presented in various news articles could be better understood. The first set of questions focused on the indictment of Jerry Sandusky. He was originally indicted for 40 counts against eight victims. One month later, he was charged again with 12 additional counts and two more victims – this totals 52 counts and 10 victims. In the news articles, we searched for the frequency in which the following themes were discussed: 1) number of charges filed against Sandusky, 2) the total number of victims in the case, 3) if there were any mention of specific victims, 4) any mention of sexual behaviors, 5) specifically what those behaviors were, and 6) any mention of Sandusky's first or second arrest. Table 1 shows the frequency statistics surrounding these themes.

Table 1 Frequencies and Percentages for Sandusky's Incitement*Articles that mentioned the number of charges filed*

| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
|-----------------|------------------|----------------|
| 0 | 115 | 48.3 |
| 40 | 18 | 7.6 |
| 50 | 9 | 3.8 |
| 52 | 96 | 40.3 |
| Total | 238 | 100.0 |

Articles that mentioned the total number of victims

| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
|-----------------|------------------|----------------|
| 0 | 101 | 42.4 |
| 8 | 28 | 11.8 |
| 10 | 109 | 45.8 |
| Total | 238 | 100.0 |

Articles that mentioned specific victims

| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
|-------------------------------|------------------|----------------|
| No Victim Mentioned | 95 | 39.9 |
| Victim #1 | 15 | 6.3 |
| Victim #2 | 55 | 23.1 |
| Victim #4 | 2 | .8 |
| Victim # 6 | 23 | 9.7 |
| Victim # 8 | 3 | 1.3 |
| Victim # 9 | 3 | 1.3 |
| Victim # 10 | 1 | .4 |
| Multiple Victims Mentioned | 42 | 17.6 |
| All Victims Mentioned | 6 | 2.5 |

Articles that mentioned specific sexual behaviors

| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
|-----------------|------------------|----------------|
| No | 108 | 45.4 |
| Yes | 130 | 54.6 |
| Total | 238 | 100.0 |

Table 1 con't.*Articles that mentioned specific sexual behaviors*

| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
|------------------------------|------------------|----------------|
| No Sexual Behavior Mentioned | 108 | 45.4 |
| Anal Sex or Sodomy | 5 | 2.1 |
| Oral Sex | 1 | .4 |
| Fondling or Touching | 11 | 4.6 |
| Sexual Assault | 32 | 13.4 |
| Showering | 33 | 13.9 |
| Multiple Sexual Behaviors | 32 | 13.4 |

Articles that mentioned Sandusky's first or second arrest

| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
|--------------------------|------------------|----------------|
| No Arrests Mentioned | 180 | 75.6 |
| First Arrest | 37 | 15.5 |
| Second Arrest | 13 | 5.5 |
| First and second Arrests | 8 | 3.4 |
| Total | 238 | 100.0 |

Representation of Sandusky

The second themed set of questions focused on how Sandusky was represented in the article. Examining the overall representation of the defendant is a common element of most pretrial publicity research, which is why we chose to include it in this study as well. For this theme, we examined the tone of the articles searching for key words that would suggest a negative, neutral or positive representation of Sandusky. Most commonly, the newspaper articles represented him in an overall neutral light. We also examined whether or not there was any mention of doubt that Sandusky might not be guilty, which was certainly something that was expressed about half of the time in the articles. Finally, we also examined whether or not there was mention over Sandusky's behavior being chronic in nature – specifically we looked to see if the 1998 victimization was mentioned, since this the first victimization that was made known to the police. More than half of the time, the articles discussed the 1998 victimization suggesting that the behavior was chronic in nature. Table 2 discusses shows the frequency results for the themes focusing on the representation of Sandusky.

Table 2 Frequencies and Percentages for the Representation of Sandusky

Articles that portray Sandusky in a Pos/Neu/Neg representation

| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
|-----------------|------------------|----------------|
| Negative | 58 | 24.4 |
| Neutral | 174 | 73.1 |
| Positive | 6 | 2.5 |
| Total | 238 | 100.0 |

Articles that mentioned doubt that Sandusky is guilty

| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
|-----------------|------------------|----------------|
| No Doubt | 111 | 46.6 |
| Some Doubt | 127 | 53.4 |
| Total | 238 | 100.0 |

Articles that mentioned Sandusky's Chronic Behavior

| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
|-------------------------|------------------|----------------|
| No Mention | 100 | 42.0 |
| Chronic Behavior (1998) | 138 | 58.0 |
| Total | 238 | 100.0 |

Representation of Sexual Contact

In addition to examining the overall representation of Sandusky, we examined the overall representation of the crimes he was accused of. This was a two-fold theme. We first examined whether or not there was any mention of the sexual activity at all. This was one of the most frequently discussed topics within the articles. Then we looked at the articles to see how the sexual contact was represented. Much like the earlier theme, we examined sexual activity in terms of negative, neutral and positive representations. Whereas the articles chose to represent Sandusky in a more neutral manner, there was a more negative representation afforded to the crimes he was accused of. The dichotomy in the two representations is a telling finding in itself. Table 3 shows the frequency statistics focusing on the representation of the sexual contact.

Table 3 Frequencies and Percentages for the Representation of Sexual Contact

| <i>Articles that mentioned sexual contact</i> | | |
|---|------------------|----------------|
| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
| No Mention | 16 | 6.7 |
| Sexual Contact | 222 | 93.3 |
| Total | 238 | 100.0 |

| <i>Articles that portray the sexual contact in a Pos/Neu/Neg representation</i> | | |
|---|------------------|----------------|
| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
| Negative | 201 | 84.5 |
| Neutral | 10 | 4.2 |
| Positive | 27 | 11.3 |
| Total | 238 | 100.0 |

Indictment for School Cover Up

The fourth set of questions focused on the indictment of two school officials who were involved in covering up Sandusky's behaviors, Tim Curley and Gary Schultz. Both men were indicted on one count for lying to a grand jury and one count for failing to report the possible abuse of a child. These charges stem from their role in covering up the 2001 victimization of Victim #2. Specifically, we were interested if the articles discussed the cover up at all. More than half of them made no reference to the cover up, but of those that did certainly mentioned Tim Curley and Gary Schultz, either as individuals or a duo who worked in conjunction to hide Sandusky's actions. Furthermore, the majority of the articles did not discuss the charges that were brought against the two men. This is a logical set of results that fall in line with the first set of findings that did not mention the two men very frequently to begin with. Table 4 shows the frequency results of our examination of the indictment and the cover-up activities of Curley and Schultz.

Table 4 Frequencies and Percentages for the Indictment for School Cover Up

Articles that mentioned school officials involved in cover up

| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
|----------------------------|------------------|----------------|
| No Mention | 136 | 57.1 |
| Tim Curley Only | 5 | 2.1 |
| Gary Schultz Only | 3 | 1.3 |
| Mentioned, but not by name | 15 | 6.3 |
| Both Mentioned | 79 | 33.2 |
| Total | 238 | 100.0 |

Articles that mentioned charges for the school officials

| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
|--------------------|------------------|----------------|
| No Mention | 155 | 65.1 |
| Tim Curley 1 count | 1 | .4 |
| Both 1 Count | 21 | 8.8 |
| Both 2 Counts | 61 | 25.6 |
| Total | 238 | 100.0 |

Legal Coverage by the Media

This study predominately focused on Sandusky and his victims, but since pretrial publicity precedes an actual trial, there was ample information reported about the trial itself. The fifth and final set of themes focused on legal coverage prior to the trial. Much of the information about the trial was speculation that attempted to predict the outcome of the trial. Surprisingly the possible prison sentence that Sandusky could have faced was barely mentioned by reporters, which might suggest that there was some attempt to keep the reporting centered on the story itself rather than on any sort of speculation. The articles discussed the Sandusky's defense counsel or the prosecution's case about one third of the time.

One very interesting finding rests in the idea that only one article discussed the possibility of a trial relocation. Given the amount of pretrial publicity focused on this case, it was anticipated that this would be something that would have been very thoroughly discussed. There was also a lot of discussion about the jury that would serve on the case – the jury was a strong issue of concern for this case, especially since there was no attempt to obtain a change in venue. Keeping the trial in the State College community provides a group of jurors with strong ties to the university. Finally, there was not much focus given to the notion of postponing

the trial itself, as a way to give Sandusky's defense counsel more time to prepare for the hearing. Table 5 presents the frequency results for all of the items focusing on the legal coverage of the case.

Table 5 Frequencies and Percentages for the Legal Coverage by the Media

Articles that mentioned the possibility of a prison sentence for Sandusky

| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
|------------------|------------------|----------------|
| No Mention | 235 | 98.7 |
| Prison Mentioned | 3 | 1.3 |
| Total | 238 | 100.0 |

Articles that mentioned discussion of the defense counsel or prosecution

| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
|--|------------------|----------------|
| No Mention | 164 | 68.9 |
| Defense Counsel or Prosecution Mentioned | 74 | 31.1 |
| Total | 238 | 100.0 |

Articles that mentioned the possibility of relocating the trial

| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
|-------------------------------|------------------|----------------|
| No Mention | 237 | 99.6 |
| Possible Relocation Mentioned | 1 | .4 |
| Total | 238 | 100.0 |

Articles that mentioned the jury for the trial

| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
|-----------------|------------------|----------------|
| No Mention | 69 | 29.0 |
| Jury Mentioned | 169 | 71.0 |
| Total | 238 | 100.0 |

Articles that mentioned postponing the trial

| <u>Response</u> | <u>Frequency</u> | <u>Percent</u> |
|------------------------|------------------|----------------|
| No Mention | 200 | 84.0 |
| Postponement Mentioned | 38 | 16.0 |
| Total | 238 | 100.0 |

Time Analysis

Finally, we examined the evolution of the articles from when the story broke in November 2011 until it went to trial in June 2012. We coded the articles for the month they were published, to see how Sandusky and his actions were represented over time. What we see is a negative relationship for both the representation of Sandusky and the representation of the sexual contact, meaning that as time increased both Sandusky and the sexual act were represented with increased negativity. The relationship was significant for the portrayal of the sexual contact, but not for the representation of Sandusky. Some explanations for this finding could be the sample size or the exact even distribution of articles over time. Another more likely explanation based on the data is that this insignificance is due overwhelming presence of a neutral representation of Sandusky throughout the articles. . As a reminder, nearly 74-percent of the articles represented Sandusky neutrally compared to the 84.5-percent of articles that portrayed the sexual contact in negative terms. Based on these findings, it is reasonable to expect that this difference in portrayal could explain the issue with significance in the bivariate correlations.

This examination suggests that the closer the case got to trial, the representations became more negative comparative to when the case first broke. These are the articles that will be the freshest in the minds of the jurors during the trial, suggesting that some sort of bias could be created by the media. Table 6 shows the bivariate correlations that were run to show the relationship between the time the articles were written and the representation of Sandusky and the sexual contact, respectively.

Table 6 Bivariate Correlations for Time Analysis of the Representation of Sandusky and of the Sexual Conduct

| | Month of the Case | Representation of Sandusky | Representation of Sexual Contact |
|----------------------------------|-------------------|----------------------------|----------------------------------|
| Month of the Case | 1 | -.120 | -.259** |
| Representation of Sandusky | -.120 | 1 | .159* |
| Representation of Sexual Contact | -.259** | .159* | 1 |

*p < .05 **p < .01 ***p < .001

Discussion

Overall, these results show two important findings concerning the pretrial publicity surrounding Jerry Sandusky's case. First, the publicity was rather neutral in its representation of Sandusky himself, but was more negative when the alleged sexual crimes were being discussed. Our results show that 74-percent of the articles examined chose to describe Sandusky in a neutralizing light. This more neutral representation is in part due to the language that is being used – many of the articles described Sandusky as someone who was facing allegations of sexual misconduct or as a person charged with sexual assault. When Sandusky was described as a “child molester” or a “pedophile,” a more negative association was implied. This more neutral representation could also be due, in part, to the doubts that are associated with his guilt. Slightly more than half of the articles suggest that there was the possibility that Sandusky might not have been guilty.

Secondly, a respectable amount of coverage was paid to Sandusky's victims. This coverage shed a different light on the case and was condemning in itself because of the amount of attention that was paid to the more sensitive aspects of the crimes. At times, many of the articles focused on the sexual victimization of each of the ten victims in rather explicit detail. Although there were some articles that chose to only use more clinical terms such as “oral sex” or “anal sex” to describe the victimization, there were a large group that chose to use stronger, more suggestive wording such as “sodomy”, “rape” or “child molestation”. When words such as these are used, a more negative connotation is assumed, compared to the more neutral tone that the clinical terms provide. Over 84-percent of the articles described the sexual contact as being negative in nature – this is more of a contrast from the 74-percent that provided a neutral representation of Sandusky himself. What this means is that the actions and the victimization were being villainized but the defendant himself was not being as villainized as his actions. The representation of the defendant is one of the biggest concerns for pretrial publicity research (Kovera, 2002; Ruva & McEvoy, 2008; Ruva, McEvoy & Bryant, 2007; Studebaker et al., 2000).

One possible explanation for these variations in representation rests with the timeline of the pretrial publicity. When the case made headlines on November 5, 2011, there was still a great deal of unanswered questions. In high-profile cases such as these there may be a natural tendency on the part of journalists to take a more conservative approach in what is being reported until all of the facts can be sorted out – especially if there are child victims involved, like there were in this instance. As the case progressed and more details emerged, the results of the time analysis suggest that the portrayal of the sexual contact increases in negativity as

we got closer to the trial. This negative view of the sexual contact was probably also influenced by the victims themselves. Several of the victims stepped forward at various points during the trial preparation process – and even testified in the trial itself – to discuss what it was that Sandusky had done to them individually. This extra information could have had an influential role in how the reporters wrote about the case.

Not only was time an influential factor in the progression of an emerging story, but the cultural situation may have played a large role as well. For many years, Jerry Sandusky honed his coaching skills within the Penn State Football organization so well, that he was considered the heir apparent to Joe Paterno for many years. He was a respected figure in the community and had a prominent role as a leading charitable figure, who spent much of his time helping at-risk boys through The Second Mile Foundation.

Due to the prominence of the university and of Sandusky himself, many people were probably reluctant to believe the accusations he faced. Despite the early reluctance, there was a transition at some point in the pretrial proceeding when Sandusky started to be cast in a more negative light. The closer the case got to trial, the more negative the publicity became. Although the results of this content analysis showed a more neutral representation of Sandusky, it must be noted that even neutral pretrial publicity can be harmful to a defendant's case.

Our data is not able to make a definitive conclusion as to whether or not the pretrial publicity was biasing towards Sandusky and had a hand in his conviction. However, our results suggest that there was a bias towards Sandusky and prior research suggests that this bias could be detrimental to the defendant in the end (Kovera, 2002). The articles that placed a large emphasis on the victims and the sexual contact were the most biasing against Sandusky. In the end, he was convicted on the majority of the counts that he faced. Although our data is unable to make a conclusion regarding just how influential the pretrial publicity was in influencing that guilty verdict, we are able to suggest that Sandusky was portrayed in a neutral light despite the notion that his sexual contact was portrayed very negatively.

Policy Implications for Pretrial Publicity Issues

The Sandusky case is relatively a new one to be examined within academic research fields, however the research surrounding pretrial publicity is extensive. The results of this study show that the media reported a variety of pretrial publicity, but not all of it was negative in nature. Previous research suggests that it does not matter

what type of research is being reported—just the sheer fact that it exists is enough to bias a jury against the defendant (Kovera, 2002; Ruva, McEvoy & Bryant, 2007; Studebaker et al., 2000). If all media attention is potentially biasing against the defendant then the question must be asked, what policy initiatives could be implemented in order to limit the effects of pretrial publicity in criminal cases.

Researchers argue for the increased use of procedural safeguards such as extended voir dire, change in venue, and importing jurors from surrounding areas (Studebaker & Penrod, 1997; Studebaker et al., 2000). These are good initial screen procedures to increase the defendant's ability to receive a fair trial; however, it is acknowledged that pretrial publicity bias can survive these initial screenings and make its way into the courtroom (Mehrkens Steblay, Besirevic, Fulero & Jimenez-Lorente, 1999; Studebaker & Penrod, 1997). The Casey Anthony trial used jurors that were bused in from a neighboring Florida county and the Timothy McVeigh trial was conducted using a change of venue—both examples of court judges trying to implement judicial safeguards against the effects of pretrial publicity.

Furthermore, when the case is high profile in nature like the Sandusky case is, we recommend the use of gag orders that are placed on the defendant, the prosecution, and the defense teams. Gag orders are intended to limit the amount of direct information that is passed on to the media by key actors in a criminal trial. For the Sandusky case, a gag order would have been very beneficial to the defendant since Sandusky made the mistake of conducting a pretrial interview on national television. Even the American Bar Association promotes the idea of limiting attorney statements to the press, so that defense attorneys do not directly or indirectly create additional prejudice against their client (2013). Although gag orders may be beneficial, we do acknowledge the defendant's right to free speech even if it might not be in his or her best interest.

We also recommend that if there are available funds, then the defense team should rely on community member surveys and other polling research that could be done to gauge the temperament of the community members in the surrounding judicial arena. These surveys can be used as a way to petition the court for a change in venue (Posey & Dahl, 2002)—something that does not frequently happen but may be of use if the case is high profile enough to warrant extensive media coverage. These surveys are not always allowed into court proceedings by the acting judge (Studebaker & Penrod, 1997), but at the very least they provide the defense with background information regarding just how much of a defendant bias they have to fight against. Finally, we suggest that that uniform jury sequestration practices be implemented for high profile cases such as this one. We acknowledge that jury sequestration is expensive for the court, time consuming, and often an

inconvenience for jurors especially when the trial takes weeks to complete. We also acknowledge it is not possible, or even effective, for all criminal juries to be sequestered, but we suggest that the jury be mandatorily sequestered when 1) the defendant is a celebrity or a high-profile figure, 2) when the alleged crime itself becomes high-profile in nature, such as a mass shooting, a bombing, or something with special racial, gender or age components to it, 3) when the alleged crime has multiple victims, such as a serial killing, or 4) when the defendant is being charged with capital murder. Often these caveats cross over with one another, making the need for sequestration that much more great. For example, the Timothy McVeigh case fits all four of these proposed elements but the jury in that case was only sequestered for the deliberations, not the trial itself. Other cases like the more recent George Zimmerman trial implemented jury sequestration even though the case was only for a second-degree murder charge. However, due to the racial nature of the case and Trayvon Martin's status as an adolescent the case received high levels of media scrutiny, which fits the first of the four proposed elements.

Each case must be examined on an individual bases, but overall extensive pretrial publicity is often a difficult issue for the court to contend with and the Sandusky case shows that it is no different in that regard. Sandusky's defense team acknowledged to the court their concerns regarding the high volume of publicity surrounding the case, but the court decided in the end that it would not be a strong factor in the case itself. In the end the judge always has the ultimate discretion for whether or not these protective safeguards can be implemented but it is our opinion that the court needs to make greater use of these recommended policies that other researchers have been advocating for, for a while.

Conclusion

The case of Jerry Sandusky will inevitably find its place among the largest child abuse scandals that have been exposed in recent years. As previously mentioned, by its nature of being a national scandal involving multiple well-known school officials concerning a non-capital crime, this case stands out among other cases that have warranted national scrutiny. Sandusky was a man who used a self-created charity – meant to help at risk youth find a better path in life – to systematically select victims to molest and abuse for nearly two decades. Working in a powerful position within the Penn State University structure, Sandusky was able to conceal his abusive ways for a number of years. This study examines the pretrial publicity associated with Sandusky's very public trial and conviction. The news articles examined in this content analysis show various ways in which journalists described his behavior, but overall there was enough evidence to

suggest that Sandusky was perceived as being guilty from the start. Sandusky's career and status with such a well-known football institution created almost a feeling of disbelief among people when his story broke. Once the details emerged, the publicity surrounding the case was extensive. His case, much like that of O.J. Simpson, Timothy McVeigh, and Casey Anthony, was decided by the public long before the defendant ever stepped foot inside the courtroom to receive the official verdict.

Since his trial was decided, several new events have taken place regarding the key players of the scandal. In November 2012, Former University President Graham Spanier was indicted for "perjury, obstruction, endangering the welfare of children, failure to properly report suspected abuse and conspiracy" (Scolforo, 2012). Additional charges have been set against Tim Curley and Gary Schultz. At the time of this article's publication, all three men were still awaiting their trials. Jerry Sandusky has been sentenced to a range of 30 to 60 years of incarceration. He will not be eligible for any sort of parole hearing until he has served the minimum 30-year sentence. Due to his age – currently Sandusky is 69 years old – there is a high likelihood that he will die in prison before he is eligible for that parole hearing. On January 30, 2013 Sandusky was denied a new trial, but his defense attorneys are currently in the process of appealing his conviction.

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Appendix

Coding Sheet for Pre-Trial Articles

| Theme | Code |
|--|--|
| Indictment | |
| Original charges | # of charges _____ |
| Number of original victims Mention of specific victims | Total # of victims ____ # mentioned _____ |
| Mention of specific sexual behaviors in reference to the indictment | Yes/No Which ones? |
| Primary and Secondary Arrest | Yes/No |
| Representation of Sandusky | |
| <i>Is he portrayed as... (overall evaluation)</i> | |
| <ul style="list-style-type: none"> An "evil man", a "child molester", a "pedophile", a "rapist" or someone who "preys upon children" | Negative Representation |
| <ul style="list-style-type: none"> Someone "charged with sexual assault", "charged with sexual misconduct" or "facing an alleged abuse" | Neutral Representation |
| <ul style="list-style-type: none"> Someone "falsely accused" or "who is innocent of the charges" | Positive Representation |
| Is there any doubt that he is guilty? | Yes/No |
| Mention Chronic Behavior (1998 victimization incident) | Yes/No |
| Representation of Sexual Contact | |
| Is it mentioned? | Yes/No |
| <i>Is the sexual contact portrayed as... (overall evaluation)</i> | |
| <ul style="list-style-type: none"> "Rape", "Child Molestation," "Sodomy," "Sexual Assault" | Negative Representation |
| <ul style="list-style-type: none"> The clinical term: "Oral Sex," or "Anal Sex" | Neutral Representation |
| <ul style="list-style-type: none"> "Sexual Encounters," "Horseplay/Horsing Around," "Inappropriate Behavior," "Sexual Attraction to Minors" or anything else that diminishes the sexual contact | Positive Representation |
| Cover Up Indictment | |
| Mention of the two school officials involved in the cover up | Yes/No By name? |
| Charges for against Curley and Schultz | # of charges _____ |
| Legal Coverage | |
| Is there mention of a possible prison sentence for Sandusky? | Yes/No |
| Statements made by defense counsel Statements made by the prosecution | Yes/No |
| Is there mention of trial relocation? | Yes/No |
| Is there mention of the jury? | Yes/No |
| Is there mention of a trial postponement? | Yes/No |