

LOCAL

## Special prosecutor: MSU actions 'made it virtually impossible to know' truth about Nassar

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Published 10:00 a.m. ET Dec. 21, 2018 | Updated 5:03 p.m. ET Dec. 21, 2018

LANSING – In a scathing report on Michigan State University’s handling of sexual assault complaints against Larry Nassar, the Attorney General’s Office said the university’s “culture of indifference and institutional protection” contributed to hundreds of women and girls being sexually abused.

The document, released Friday, says university employees failed to report concerns about Nassar, provides new details of the deeply flawed 2014 Title IX investigation, and shows how top MSU officials tried to stonewall the independent investigation, an extension of an “anti-transparency” culture.

“An institution truly interested in the truth would not have acted as MSU has,” wrote William Forsyth, who led the investigation. “MSU’s initial decision to hire a private law firm to conduct its internal investigation, its subsequent refusal to release the results of that investigation and waive attorney-client privilege, along with its insistence on having its attorneys attend witness interviews have made it virtually impossible to know exactly what happened at MSU during the Nassar years.

“For as long as MSU frustrates the search for the truth, we will never be fully confident that we have it.”

Although Forsyth’s report is the most detailed and damning document released to date on MSU’s failures, university officials maintained their position that they’ve cooperated with the investigation.

In a statement, university spokeswoman Emily Guerrant pointed to the fact that no new charges were announced.

"We are extraordinarily sorry that Larry Nassar was on our campus and has hurt so many people," she wrote. "The university is engaged in — and investing in — an intense reform and cultural change effort to ensure that Michigan State University is a safe campus for students, faculty, staff and community."

Forsyth will depart the investigation at the end of the year, but he said Friday the work isn't over. Prosecutors are still fighting in court for 177 documents the university won't release, and three criminal cases are proceeding against top university officials.

Attorney General-elect Dana Nessel will oversee the prosecutions of former MSU President Lou Anna Simon, former dean William Strampel and former gymnastics coach Kathie Klages, all charged through Forsyth's investigation.

In a statement, Nessel referred to MSU's "callous disregard" for victims.

"I am committed to using my role as Michigan's Attorney General to do whatever we must to bring justice and honor to the survivors, which includes continuing any aspects of the investigation which require further action."

To date, the investigators have contacted almost 550 people, including interviews of over 280 victims and 105 current or former MSU employees. They've reviewed about 105,000 documents, consisting of almost 500,000 pages.

Investigators also interviewed Nassar. He was one of the first contacted and provided no useful information. "In fact," Forsyth wrote, "it immediately became clear that his statements of remorse in the courtroom were a farce."

Central to Forsyth's investigation was who at the university may have been aware of Nassar's abuse and failed to act. His report listed 13 women who from 1997 to 2015 reported Nassar's abuse to MSU employees, and the 11 employees who failed to report that abuse to authorities. He said all 11 either did not recall being told or said they were not told.

When asked why he had not charged those who denied being told of Nassar's abuse even though victims told police those employees had knowledge, Forsyth declined to comment.

"(T)he MSU employees who allegedly received reports of Nassar's sexual assault or improper medical treatment ... downplayed its seriousness or affirmatively discouraged the survivors from proceeding with their allegation," Forsyth wrote.

"That so many survivors independently disclosed to so many different MSU employees over so many years, each time with no success, reveals a problem that cannot be explained as mere

isolated, individual failures; it is evidence of a larger cultural problem at the MSU Sports Medicine Clinic and MSU more broadly.”

Christina Grossi, a member of Forsyth's team, said all MSU's trustees had been interviewed and they all kept to the university's position of "circle the wagons," including those trustees who have publicly supported the victims and advocated for change.

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## **‘Indifference toward sexual assault’**

Forsyth’s investigation was announced after university trustees asked Attorney General Bill Schuette to conduct an independent investigation of MSU, but Forsyth’s report says MSU failed to cooperate as it promised it would.

He wrote that the university issued false public statements, drowned investigators in irrelevant documents, fought the release of relevant documents and wrongly asserted attorney-client privilege.

“These actions warrant extended discussion because they highlight a common thread we encountered throughout the investigation into how the University handled allegations against Nassar,” the reports states. “Both then and now, MSU has fostered a culture of indifference toward sexual assault, motivated by its desire to protect its reputation.”

MSU privately insisted that attorneys it had hired to represent the university be present for interviews between Forsyth’s investigators and employees, Forsyth wrote, adding that those attorneys stopped employees from answering certain questions. The tactic, according to the report, was seen by Forsyth’s team as an attempt to limit the disclosure of details about MSU’s knowledge and handling of the Nassar matter.

Guerrant said staff has been “very cooperative” with investigators and defended the university’s use of attorney-client privilege.

“Any legal advice from our lawyers to a person or group is protected, and we are exercising that protection,” she said.

East Lansing District Court Judge Richard Ball will determine whether the documents MSU wants kept private will be released, she said.

The university drowned the investigation in irrelevant documents, like the university’s bed

documents, according to the report.

“MSU’s decision to invoke this privilege and protect certain documents, while legally permissible, nonetheless reflects a decision to place financial and legal considerations over and above the survivors’ and the public’s interest in learning how Larry Nassar was able to prey on so many young women at the state’s largest public university,” Forsyth wrote.

High-ranking university officials also exhibited a “culture of anti-transparency,” Forsyth wrote.

In December 2017, a month after Nassar had pleaded guilty to sexual assault charges and a month before his state sentencing hearings began, Bill Beekman sent “a lengthy” email to then university President Lou Anna Simon summarizing meetings and conversations from the day before.

Beekman, who at the time was the secretary of the Board of Trustees and is now the athletic director, ended the email by saying, “I will delete this email after sending it.”

Forsyth said Nassar was not discussed in the email.

**More:** Who is William Forsyth, the man investigating Michigan State's handling of Larry Nassar?

## **2014 Title IX inquiry had significant failures**

The 2014 Title IX investigation of Nassar has been one of the most-criticized aspects of the scandal, and Forsyth spent nearly a quarter of his report showing how it failed.

Amanda Thomashow was a recent MSU graduate in 2014 when she went to see Nassar for treatment for hip pain. She reported the incident to the university, which prompted a Title IX inquiry.

The investigation, conducted by Kristine Moore, cleared Nassar of any policy violations.

“There is no evidence that (Moore) conducted the investigation in bad faith or consciously arrived at a predetermined result,” Forsyth wrote. “But there were multiple shortcomings in the investigation that, even without the benefit of hindsight, substantially influenced MSU’s conclusion that Nassar did not violate its sexual misconduct policy.”

Moore, who months after the Thomashow investigation took a job in MSU’s Office of General Counsel, relied on the opinions of four medical experts who all worked for the university and

had close ties to Nassar.

Forsyth called this Moore's "first significant failure" and provides new details about the relationships between Nassar and the experts, two of whom are among the 11 employees women say they previously told about Nassar's abuse.

Forsyth called Nassar's relationship with Dr. Brooke Lemmen "particularly troubling."

In 2014, Nassar recommend to Moore that Lemmen be used as one of the experts in the investigation. Lemmen later told Moore that she and Nassar were "very good" friends.

Nassar emailed Lemmen three days before Moore first interviewed Thomashow, the report states. He gave Lemmen information on his procedure and told her he'd previously performed the treatment without any objections. Moore was not aware of this communication at the time of her investigation, according to Forsyth, and said the interaction would have prejudiced the investigation.

Moore continued to defend her decision to seek out MSU experts with ties to Nassar, saying everyone agreed that the treatment he said he performed was medically legitimate.

"That reasoning, however, ignores the very real probability that their conclusion was influenced by their bias in favor of Nassar," Forsyth wrote. "It also is predicated on the assumption that Nassar was, in fact, performing the technique that he claimed he was performing, as opposed to the highly irregular actions that Ms. Thomashow described."

Lemmen left MSU in 2017, a month after the university told her it was seriously considering firing her because she removed patient files from the university at Nassar's request, a detail not included in Forsyth's report.

She appeared multiple times in Forsyth's report, including the reference to two women — one in 2007 and another in 2012 — who raised concerns about Nassar to Lemmen. In the second instance, a young girl's mother told Lemmen that Nassar's treatments made them feel uncomfortable, to which Lemmen responded, "[W]e get that a lot."

Forsyth wrote in a footnote that "Dr. Lemmen's connection with Nassar makes it all the more troubling that her MSU email account was deleted before our investigation began."

Moore also didn't accurately convey how Thomashow described Nassar's conduct to Lemmen, Dr. Lisa DeStefano and Dr. Jennifer Gilmore, Forsyth wrote.

She told the doctors some of what Thomashow told her, but did not include the fact that Nassar placed three fingers on top of the Thomashow's vagina and rubbed in a circular motion.

After learning the details, Lemmen, DeStefano and Gilmore each "retreated" from their previous positions, Forsyth wrote.

Absent from this section of Forsyth's report is any reference to the fact that Moore produced two versions of the final Title IX report. The Nassar investigation was the only Title IX report over a three-year period that had two final versions.

The difference in the reports was the conclusion section.

The version given to Thomashow said Moore didn't find Nassar's conduct to be of a sexual nature, but that her report was helpful because it allowed the university to "examine certain practices at the MSU Sports Medicine Clinic."

The other version went to Nassar, his boss, the Office of General Counsel and other officials at MSU. That version cited "significant problems," said Nassar's conduct could open the university to lawsuits and expose patients to "unnecessary trauma based on the possibility of perceived inappropriate sexual misconduct."

Forsyth said that he didn't like that there were two endings to the report, but that was his personal opinion.

"I never see what's gained by doing two documents, which are different," he said. "All it does is set you up to be criticized for why you did this and why you basically withheld that information from the person who made the complaint."

During the news conference, Forsyth said the investigation doesn't include any immunity deals. The tip line that was set up received about 100 tips, Grossi said, and the majority related to their investigation. Tips outside their scope were forwarded to appropriate authorities.

"Obviously we say a lot about Michigan State in (the report), but there were definitely people at Michigan State who were helpful and have tried to do the right thing, including lots of people who called our tip line to try to help," Grossi said.

Forsyth wrote in the report that despite MSU's efforts at reform and updated policies, more dramatic change is needed: a cultural change starting from the top.

"I'm sorry for what's happened to (the victims), and continues to happen in the sense they (may) never find out what happened," Forsyth said Friday.

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