



PHOTO COURTESY OF JACK PROTHERO

**JUST JO-PA AND ME AND JACKIE MAKES THREE** - Valerie Prothero, left, never suspected when her father shot this photo with sister Jackie and Penn State coach Joe Paterno in 1981 that one day she would play in the PSU Blue Band.

**Prothero**

(continued from page 1)

Rose Bowl don't intimidate her at all.

Flying to Los Angeles is her main concern. She has never flown before.

"Last year when we played at the Citrus Bowl in Florida, we went by bus," she said.

The band's schedule in Los Angeles will be hectic.

After flying in from Harrisburg early December 28 while trying to adjust to the three-hour time difference, the students got up at 5 a.m. the next morning to tape an hour-long special at Disneyland, to be aired on CBS January 2 an hour before the Rose Parade.

January 2 will be worse: get up at 3 a.m. for a shower and to eat breakfast at 4 a.m. with one eye open.

At 8 a.m. the band will begin the 5-1/2 mile parade - after walking two miles from the bus to the staging area.

At 12:30, they must be at the stadium to perform for a pregame tailgate party for Penn State alumni.

At 1:40 they'll play the Nittany Lions' pregame show, with the kickoff at 1:50.

Valerie recalled the rigorous week of auditions which she survived last year to earn the right to wear the Blue Band's coveted blue and white uniform.

As a rookie, she spent her first week at college sight reading music, playing her heart out, learning the marching routines and the band's famous "high step" and passing evaluations and three callbacks.

"The high step is hard," Val-

*Flying to LA, not performing, was the biggest challenge*

erie said. "You have to pick up your leg until your thigh is parallel to the ground and point your toes. It's very smart looking. It doesn't sound hard until you do it so fast that you're practically running - while playing your instrument. It's very physically demanding, a good cardiovascular workout."

Band practice is good exercise - word is out on Main Campus that the women in the band have great legs.

The band practices four times a week and does a different halftime show every week. All pre-game music is memorized.

"Sight reading is also very important," Valerie said. "You don't get much time to practice outside of regular rehearsals".

The first couple of weeks at school were the worst, juggling her studies and band practice, she said.

The first weekend of school is also band camp.

"It's tough to balance studying and band. I was so tired. It was tough to study - sometimes you have to make yourself do it," she said.

In addition to playing for football games, Valerie also plays mellophone for basketball games with Penn State's Pep Band.

She learned the mellophone at Dallas six years ago, and also played French horn for eight years while she was a member of the Dallas High School concert and marching bands.

**System failed**

(continued from page 1)

If there's a problem with someone's records and offenses are never recorded, "we would never know about it," she said.

"It's the contractor's responsibility to make sure the drivers have all of the proper credentials and training," said Ray Bowersox, who is presently supervising transportation at Lake-Lehman. "I keep copies of everything on file."

Like Dallas, Lake-Lehman doesn't update the Act 34 unless someone returns after not having worked there for a year.

People hired before 1986 have been grandfathered in and don't need an Act 34 clearance, Bowersox said.

Like Farr, Bowersox doesn't recall any complaints against bus drivers or clearances coming back less than squeaky clean.

"No one tells us if an offense has happened," he said. "We would never know about it - especially if it occurs outside of the area - unless the police would notify us. We try to do our best with these things, but I sometimes wonder how up-to-date they are, especially if something happened recently."

Before he began driving school bus, Werts was arrested by Exeter Borough police chief James McNeil on March 21, 1986, for buying a fifth of Jack Daniels for two boys and two girls between the ages of 13 and 15.

The youths had approached Werts in the parking lot of Modern Lanes in Exeter and had given him \$12 for the liquor, McNeil said.

According to police records, Werts bought them the fifth and took them in his car to a farm on

the flats by the Susquehanna River, where the youths drank it.

One child was later admitted to Nesbitt Hospital and treated for having consumed too much alcohol, McNeil said.

As part of police standard operating procedure, at the time of arrest McNeil photographed and fingerprinted Werts, whose records are still on file at the Exeter Borough police department.

Werts waived his right to a preliminary hearing on the misdemeanor charge of furnishing liquor to minors on April 3, 1986, and was bound over to Luzerne County Criminal Court.

At a bench trial before Judge Gifford Cappellini on September 2, 1986, he pled guilty and agreed to pay a fine of \$250 plus costs.

Because he hadn't been convicted yet, the charge against Werts wouldn't have appeared on his criminal record when his first Act 34 clearance was run in August, 1986.

Werts also worked for Myers Bus Lines, which transports Wyoming Valley West students, sometime between mid-1991 and mid-1993.

Several calls to Myers to confirm Werts's employment weren't returned.

Since the clearance only looks at the previous five years, after the end of 1991 the conviction wouldn't have been picked up.

Dallas ran a second Act 34 clearance on Werts in August, 1993, Farr said. It came up clean.

"This isn't the first time I've heard of this happening - a conviction never appearing on a person's record in Harrisburg," McNeil said.

*"This isn't the first time I've heard of this happening - a conviction never appearing on a person's record in Harrisburg."*

James McNeil

Exeter police chief, who arrested Werts in 1986

**Timing or error missed prior conviction on Werts' record**

• January 1, 1986: Pennsylvania passed Act 34, requiring anyone who works with children to pass a background criminal check.

• March 21, 1986: Dean Lee Werts was arrested by Exeter Borough police for furnishing alcohol to two boys and two girls between 13 and 15 years old. One boy was admitted to Nesbitt Hospital to be treated for having too much alcohol, police said.

• April 3, 1986: Werts waived his right to a preliminary hearing on the charge and was released on his own recognizance. The case was bound over to Luzerne County Criminal Court.

• August, 1986: Werts was hired by Emanuel Bus Lines, which supplies buses to Dallas school district. His Act 34 background check submitted to the district showed no convictions.

• September 2, 1986: Werts pleaded guilty to charges of furnishing liquor to minors in a bench trial before Judge Gifford Cappellini and paid a \$250 fine plus court costs.

• Late 1991 or early 1992: Because five years have elapsed since Werts's conviction, the first offense wouldn't be reportable to prospective employers. His background check would come out clean.

• Mid-1992: while driving for Myers Bus Line, Werts was transferred from a bus route to working in the garage after parents complained about his conduct around the children, according to a Wyoming Valley West official in a previous interview.

• August, 1993: According to a second Act 34 background check on file at the Dallas School District, Werts's criminal record was clean.

• November 17, 1994: Kingston Township police arrested Werts at his Franklin Township home and charged him with multiple counts involving improper sexual contact with two 12-year-old boys.

**Act 34 is riddled with gaps that weaken it**

Act 34, designed to protect children from criminals working in the schools, requires everyone who works with children to have a background criminal check before they can be hired. But it's easy for the check to miss items that would be cause for concern.

Under the act, which went into effect January 1, 1986, employers receive a list of any criminal convictions of prospective employees for the past five years.

Act 34 applies to teachers, day care workers, cafeteria workers, janitors, substitute workers and foster parents who began working after that date.

People who taught or worked with children before 1986 and didn't have a background check are exempted.

The only time Act 34 background checks must be updated is if a person goes to another job, then returns to working with children after more than a year.

A background check contains an adult's complete conviction record, from library theft or game law violations to murder, according to Lt. Robert Hanula of the Records Identification Division of the Pennsylvania State Police Central Repository in Harrisburg. The information is cross-filed under a person's fingerprints and kept with the state police and the FBI.

Persons convicted of certain misdemeanors or felonies within the past five years may not be hired to work in any capacity with children, according to Act 34.

Summaries, the least serious offenses, are usually overlooked for an Act 34 clearance, Hanula said.

The Act 34 dirty laundry list includes criminal homicide, aggravated assault, kidnapping, unlawful restraint, rape, statutory rape, indecent assaulting, indecent exposure, concealing the death of a child born out of wedlock, endangering the welfare of children, trafficking in children (selling babies for adoption), prostitution, distribution of obscene materials, corruption of minors, sexual abuse of children, DUI (for bus drivers), homicide by vehicle while driving under the influence, homicide by vehicle while sober, retail theft, library theft and certain drug-related offenses.

*Once cleared, future convictions may slip through unnoticed*

"These records are permanent and may be erased only when a person either dies or reaches age 70 and has had no convictions for the past ten years," Hanula said.

An Act 34 clearance also includes a check with the Child Abuse Registry, a complete statewide listing of anyone who has been investigated for suspected child abuse, whether or not they have been convicted.

There can be a six to 12-month delay in posting convictions to a person's record, depending on the backlog of cases in court at the time, Hanula said.

A conviction may never show up on a person's record if their fingerprints don't match up with the computer database, if slow courts delay recording convictions or if a person has been convicted of offenses outside the immediate area, he said.

"If you start out with a clean Act 34 and are later convicted of an offense - especially if it's out of state - chances are that no one will ever find out about it," Hanula said.

"Convictions for offenses committed outside your area could slip through unnoticed unless someone who knows where you work finds out and sends your employer a news clip or letter about it."

In the case of Dean Lee Werts, who pled guilty in Luzerne County court to furnishing alcohol to minors in September, 1986, shortly after he began driving Dallas school buses for Emanuel Bus Lines, the conviction may have simply slipped through the cracks in the system.

"Furnishing alcohol to minors is definitely a misdemeanor," Hanula said. "It should have been printed out on his clearance. It could have slid through if the fingerprints weren't good or the information didn't match the database. A person can't be denied employment just for this conviction, but an employer could be justified in questioning it."

by Grace R. Dove

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by Sean O'Shea

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