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District Attorney's office discusses UMass rape situation

By: **Matt Rocheleau** | March 07, 2010 |

The county's district attorney's office did not comment on a sexual assault case recently mishandled by campus administrators, but an official there said Friday that most instances of sexual assault require the victim's consent and willingness to testify in court for the case to move toward prosecution.

A University of Massachusetts student confessed to raping a friend and former student in the fall and was mistakenly given a deferred suspension, according to **an article** by the New England Center for Investigative Reporting (NECIR) at Boston University published last week. University officials allowed him to stay on campus, a move that has been called "unacceptable" and now has administrators reexamining UMass' sanctioning policies and procedures.

The victim in the case reported the incident to the UMass Police Department (UMPD), according to University officials. Though the victim decided against pressing charges at the time, she may still do so.

But, because more details about the case remain unknown – including the names of both the accused student and the victim – the district attorney's office was not able to confirm whether or not they have had any involvement in the case, said First Assistant District Attorney Renee Steese of Northwestern District Attorney Elizabeth Scheibel's office, and therefore declined to comment directly on the matter.

Steese confirmed that student judicial records – including testimony given by a student during their judicial hearing – can be subpoenaed by the district attorney's office for criminal prosecution.

"If we're engaged in a prosecution, we would make every effort to obtain that record," she said.

However, in most cases, the district attorney needs to be contacted either by local or state police, a crime lab or the victim in order to press charges, Steese said.

"For us to conduct a prosecution, there needs to be a complainant," she said. "We don't hear about every sexual assault. Typically, we become aware of reports of sexual abuse through the police department, communications from the crime lab regarding DNA analysis, or from the victim directly calling the district attorney's office or the state police detective unit assigned to this office."

Steese also said that moving cases of sexual assault forward is often dependent on the victim's desire to do so, as well as whether the victim agrees to testify.

"In the vast majority of sexual assault cases, the victim will be testifying at trial," she said. "In a criminal prosecution, the victim is going to have to testify."

In order to prove an accused person is guilty beyond a reasonable doubt, "you have to have someone say 'This person did this to me,'" added Steese. "You can't have someone just say 'Yes, I did this.'"

Victims are often reluctant to testify in such situations because of the trauma they've been through and desire to keep the matter private.

When considering whether or not to press charges, "The position of the victim on participating in the criminal process is given great weight by the office because of the nature of the offense," Steese said.

Although the student in this case has not yet sought to press charges, she may still do so. The statute of limitations for rape in Massachusetts is 15 years.

Word leaked last week that the victim, a 2009 UMass graduate, provided information to the dean of students' office, which handles disciplinary matters, last fall. While in most cases students are given more serious punishments for sexual assault offenses, this student was given a deferred suspension, which administrators have called a collective mistake and apologized for in an attempt to regain the faith of the student body. Several female students have also since come forward and said they have had similar difficulties presenting their cases to administrators.

Matt Rocheleau can be reached at mrochele@dailycollegian.com.

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