–>

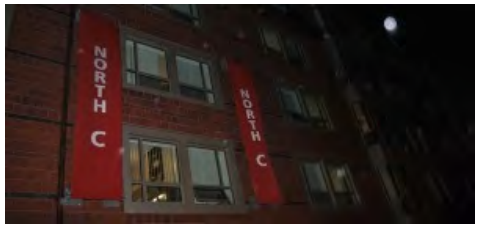
CAMPUS NEWS, FEATURED, LOCAL NEWS, NEWS

Confessed rapist remains enrolled after administrative error

By: **Matt Rocheleau** | February 26, 2010 |

A University of Massachusetts student confessed to raping a friend and former student in the fall and was mistakenly given a deferred suspension. University officials allowed him to stay on campus, a move that now has administrators reexamining UMass' sanctioning policies and procedures, according to the New England Center for Investigative Reporting (NECIR).

The University would only confirm that the student, who is currently enrolled, living on campus, and expected to graduate in May, was found responsible under the Student Code of Conduct for a sexual assault. The University did not confirm that the act allegedly committed was rape, a felony, as the NECIR at Boston University reported in yesterday's Boston Globe.



On Oct. 16, a male student allegedly raped an '09 female alum in the North Apartments Building C, according to the NECIR investigative piece reported in collaboration with other media outlets. (Nick Bush/Collegian)

In the early morning of October 16, the Friday during homecoming weekend, a male student allegedly raped an '09 female alum in the North Apartments Building C, according to the investigative piece reported in collaboration with other media outlets. The victim reported the incident to the dean of students' office in the month that followed. However, an assistant dean of students handed down a deferred suspension to the alleged offender – a decision UMass officials have since said was too lenient and have called the situation regrettable, Interim Vice Chancellor for Student Affairs and Campus Life Jean Kim told The Collegian yesterday.

"Personally, I do not believe the sanction matched the misconduct," Kim said.

The deferred suspension sanction, which notifies students that a subsequent violation of the University's Code of Student Conduct will result in suspension, did not follow the proper procedure to necessitate a final review and decision by Dean of Students Jo-Anne T. Vanin, said Kim.

However, the University cannot change or add to the sanctions already handed down because, as she explained, there is no appeal process allowed to any person other than the accused within the student code of conduct .

According to the NECIR's piece, Christina Willenbrock was the assistant dean who handled the case. University officials declined to discuss any disciplinary action that might have or could be taken against administrators who handled the case. Kim said there was no one individual to blame for what happened. She said the blame instead goes to how the administrative process was set up.

UMass also declined to name either student involved, citing privacy rules – Family Educational Rights and Privacy Act (FERPA) – in both instances.

The University learned of the procedural error last month after the victim contacted UMass to inquire about the punishment given to the accused student, Kim said. A review of the case was conducted shortly thereafter by Kim, and she has since instituted a written, formal policy that states any cases classified among the most serious offenses – level-3, which includes sexual assault, possessing weapons and distributing illicit substances – are to be sent to the dean of students for review and a final decision.

Kim is also in the early process of putting together a special committee to review the University's Student Code of Conduct in its entirety, she said.

That committee will later present its recommendations back to Kim. However, any recommended changes to the student conduct code would ultimately have to gain the Board of Trustees' approval before their implementation.

"It's important to put a fix in if you think something's not working right. But then again, it should then ask the larger question, 'is it time to take a look at the whole system?' I think it is," she said, adding that such a review "is something that should be done on a periodic basis," but, "sometimes a situation arises that just begs the question."

Following the alleged rape, the University reviewed past cases and said there has been no other case in which proper procedure was not followed, according to Kim.

"I believe we have a good judicial process in place," she said. "This was an anomaly, an aberration, but there's always room for improvement."

When asked if the assistant dean's decision may have been an act of favoritism, Kim said it was absolutely not the case.

"I can't explain why it happened. I don't know," said Kim of the assistant dean's failure to have the case reviewed by the dean. "We take the situation of sexual assault and the safety of all of students very seriously," she said.

Assistant dean of students, Shawn McGuirk said questions regarding the matter will not be handled by the dean of students office and referred questions to Kim. Christina Willenbrock is currently on maternity leave, according to Kim, and a voicemail left at her South Hadley residence was not returned.

Students who report a sexual assault are immediately offered counseling, said Kim. The victim then has four choices: to report the incident to the UMass Police Department and pursue criminal charges, to have the incident go under the dean of students' review, to do both, or to not take action.

According to Kim, the student who was sexually assaulted in October initially went to UMPD first, but later decided against pursuing criminal charges.

Campus spokesman Edward Blaguszewski added that the victim could still decide to pursue criminal charges.

Both Blaguszewski and Kim assert that campus reports of sexual assault have declined in recent years and credited the downward trend to grant money the campus receives from the Office of Violence Against Women of the U.S. Department of Justice.

From July 2003 through June 2007, the Five Colleges received around $700,000 in funding. Of this, $300,000 went to UMass, Blaguszewski said. The grant money is used to enhance preventative and support services for victims and hold perpetrators responsible. Schools receiving the grants are required to report back data on reports of assault.

In 2003, there were 36 forcible sexual offenses at UMass, according to Federal Cleary Report data provided by the University. In each of the following two years, that figure dropped by more than half to 14 such offenses, then dropped again to 12 in 2006, then to nine the next year and then increased slightly to 11 in 2008, the most-recent year in which data is available.

"Clearly we need to continue to work on reducing these incidents, but we have been moving in the right direction," said Kim.

Between 2003 and 2007, 26 reports of sexual assault were brought for review by the dean of students. Eleven of those cases received sanctions – none were expelled, three were suspended – while the other 15 were dismissed due either to insufficient evidence, the victim's request, or the accused student's willful departure from the University, said Blaguszewski. UMass has a broad range of sanctions beyond expulsion and suspension, including probation, removal from housing, and fines, he added.

"The full extent of campus sexual assault is often hidden by secret proceedings, shoddy record-keeping, and an indifferent bureaucracy," said Center for Public Integrity Executive Director Bill Buzenberg in a press release yesterday.

According to the release from center, which was among the collaborative media outlets involved in a larger component of the investigative piece on sexual assaults on college campuses in Wednesday's Globe, "Students found 'responsible' for sexual assaults on campus often face little or no punishment

COLLEGIAN PARTNERS

Boston Criminal Defense Attorney

Criminal Attorneys Tampa

Family Law Attorneys

Personalized Water Bottles

MEDIA AFFILIATES

The Amherst Wire A Web-based news magazine and Collegian media partner.

UVC-TV 19 UMass' student-run TV station and Collegian media partner

WMUA 91.1 FM UMass' federally licensed (non-commercial) broadcast facility serving the Connecticut River Valley of Western Massachusetts, Northern Connecticut, and Southern Vermont.

–>

Globe, "Students found "responsible" for sexual assaults on campus often face little or no punishment from school judicial systems, while their victims' lives are frequently turned upside down."

It claims UMass is not alone in having mishandled a sexual assault case, and many students were troubled by the news yesterday.

"I think this campus makes a big deal about stupid things a lot of times and not a big deal about serious things like this," said UMass sophomore Tim Miller, a natural resources conservation major. "People are getting all of these crazy suspensions for things like downloading music, and something like this happens and gets overlooked."

Undeclared sophomore, Liz Zheng, said, "Of course [the sanction handed down] is not right, but there's not really much that can be done about it now, so I'm not sure." She added, "I think what happens from here is really up to [the victim.]"

For details about the safety services provided at UMass, visit www.umass.edu/umpd/safety/rapeprevention and www.umass.edu/ewc.

For continued coverage of this story, ***click here****.*

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

5 Responses to "Confessed rapist remains enrolled after administrative error"

Ed Cutting says:
February 26, 2010 at 11:47 am
Let's see who dropped the ball here.

If it went to the UMPD that means that it went to (indirectly if not directly) Lisa Kidwell. Kidwell has taken protecting women to the point where she routinely uses the Constitution for toilet paper, and yet she let this fall through the cracks?

Kidwell routinely goes over to the Deans Office and pressures for students to be expelled – and she apparently didn't here.

And then we have four inexperienced new hires in the Dean's Office. Worse, they were hired on the basis of political correctness and not their knowledge of legal procedures and such. Willenbrock was hired last fall and is out on maternity leave already — there are some ethical issues regarding political correctness here.

And while I can speak to her, I can speak to Shawn McGuirk. On April 1, 2009, I was the victim of a rather public assault. I pressed CSC charges and wound up talking to McGuirk. He wanted to talk about my schoolwork, he wanted to talk about my feelings and all of that soft & fuzzy stuff.

He finally asked me what I wanted — I said "I want you to prosecute this judicial charge." He responded by asking me "why?" and my response was "because the student violated the CSC."

He asked me "is it really that simple" and my response was "yes, it really IS that simple." Now this is a far cry from a rape, but it is reflective of the political correctness that pervades that office. (And if you consider all men to be rapists anyway, why worry about the one who actually is and is confessing to it?)

JoAnne Vanin dropped the ball by not properly supervising someone WHO HAD ONLY BEEN WORKING THERE TWO MONTHS at the time.

If it was reported to the UMPD, Chief Johnny Whitehead dropped the ball by not bringing it to ACT. JoAnne Vanin dropped the ball by not inquiring about the rape on her CLEARY statistics, and not bringing that to ACT. And as this happened in housing and housing staff likely knew, Laura Giles dropped the ball by not bringing this to ACT.

Or did ACT itself drop the ball – deciding that rape was insignificant, that harassing Ed Cutting to be of far more importance?

And then Jean Kim dropped the ball – she should have made it clear to JoAnne that a new employee with only a couple of months on the job ought not be making decisions of this magnitude without running it buy a supervisor. And both she and JoAnne are responsible for creating an environment where Willenbrock didn't feel comfortable asking for a second opinion on such matters, and Willenbrock is responsible for not asking for one anyway.

This whole matter yet further demonstrates the urgency of ACT Delinda Est. It would be one thing if the university was infringing on student civil rights in a well-intended (but misguided) attempt to protect students – but as this so clearly shows, ACT isn't even able to accomplish THAT. ACT has thus become the McCarthyite Witch Hunt Brigade, and unlike Joe McCarthy, they are actually sober.

The important thing to note here is that the victim knew of her right under FERPA to request the

The important thing to note here is that the victim knew of her right under FERPA to request the outcome of the proceeding. I know this too – but how many other people know that in any proceeding where a physical assault is ALLEGED, the victim has the right to know the outcome of the proceeding? Last spring, Shawn McGuirk didn't even know this.

Yes, an Assistant Dean of Students who is ignorant of FERPA, I am not making this up. (I couldn't be this creative….)

This whole thing shows two things: First, just how valuable Gladys Rodreguez (who retired last spring) was to this university, and second the extent to which political correctness has replaced common sense in 227 Whitmore…

Ed Cutting says:
February 26, 2010 at 11:51 am
Let me state what I was just implying – how many MORE cases like this are out there????

Particularly in cases involving male victims where there is not a level of support similar to the EWC's counselor/advocate?

Maureen says:
February 26, 2010 at 12:23 pm
This is discraceful! As a parent of a Freshman, I was concerned when the sexual assault in the library came out. Have they caught the person in that situation. To then knowingly allow a student that raped another student to stay in the dorms at the college is beyond belief. This matter should have been handed over to the police. It is a criminal matter- not just a school safety matter. At what point do we finally stop protecting the criminals and support the vitims! I am very dissapointe in the administration!

Casey says:
February 26, 2010 at 1:44 pm
Just so you know the Every Woman's Center DOES help male victims of sexual assault and relationship violence. We serve all victims in the community regardless of gender expression.

Ed Cutting says:
February 26, 2010 at 3:10 pm
"According to Kim, the student who was sexually assaulted in October initially went to UMPD first, but later decided against pursuing criminal charges."

Apparently it WAS handed over to the police. The UMPD (or as they like to call themselves the UMAPD) is the primary law enforcement agency for the campus, and legally considered to be a municipal (town/city) police force under Massachusetts law.

Detective Lisa "Creative Fiction" Kidwell is the person who deals with rape (and runs the illegal RAD program). She should have spoken with the victim, that is protocol.

I personally know of situations where she (and other officers) have taken CORI-protected post-arrest information over to the Dean of Students' Office (in violation of law) so as to facilitate the expulsion of students.

Something happened here beyond even basic UMass incompetence.

WHO IS THE PERP? If he (and we are all assuming it is a he and it well might not be) lives in the North Apartments then he either has money or political connections – that is prized real estate.

This case was broomed – it isn't just incompetence – and I want to know why. There were three people who should have brought this to ACT, none did, I want to know why.

Trackbacks/Pingbacks

Leave a Reply

Name (required)

Mail (will not be published) (required)

Website

Submit Comment

Before submitting a comment please make sure it is in compliance with our **comment policy.**

© 2009 The Massachusetts Daily Collegian | About Us | Advertise with The Collegian | Comments Policy | Questions, Comments and Concerns