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CAMPUS NEWS, NEWS

UMass mum on mishandling of sexual assault case

By: **Matt Rocheleau, Alyssa Creamer and Hannah McGoldrick** | March 03, 2010 |

*[*This story has been updated to reflect **Wednesday's announcement** from that University that a meeting scheduled for Thursday from 5 to 6 p.m. to discuss the mishandling of a sexual assault case will be open to the campus community in Campus Center Room 101.]*

The assistant dean who reportedly handed down the wrong sanction to a student that allegedly confessed to rape said yesterday she wanted to speak to the press, but is being prevented from doing so by administrators. And, repeated requests for further information regarding how the case was mishandled have been thwarted thus far by multiple campus officials.

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

Assistant Dean of Students Christina Willenbrock, according to NECIR, handled the case, did not properly report it to her superior and decided on the sanction – which notifies students that a subsequent violation of the University's conduct code will result in suspension – ultimately given to the accused student.

Willenbrock reluctantly declined to comment to Collegian reporters who visited her South Hadley home yesterday.

"The University won't let me speak about it," she said. "I would love to tell you all my opinions and thoughts on the matter, but I really can't."

Campus spokesman Edward Blaguszewski confirmed that Willenbrock has had discussions with the Dean of Students office, but declined to comment on Willenbrock's allegation that the University is preventing her from discussing the incident because he said he is "not familiar with the details of that."

The University has repeatedly refused to confirm NECIR's reports that the case was handled by Willenbrock, and has also declined to disclose any disciplinary action that might have or could be taken against administrators who mishandled the case. UMass is not legally required to withhold that information, but rather it is UMass' choice to do so and is consistent with how UMass handles what it considers personnel matters, Blaguszewski said.

The Dean of Students office has also been silent on the issue. Assistant Dean of Students, Shawn McGuirk said Thursday questions regarding the matter will not be handled by the Dean of Students' office and referred questions to Vice Chancellor for Student Affairs and Campus Life Jean Kim.

However, UMass will hold a meeting open to all campus community members Thursday from 5 to 6

p.m. “to discuss the sexual assault that has recently been reported in the media,” according to e-mails sent this morning from the office of Vice Chancellor for Student Affairs and Campus Life Jean Kim.

Collegian reporters and several Student Government Association (SGA) officials were invited to the meeting in an e-mail sent Tuesday, but campus officials today opened the meeting to the entire community and have relocated it from a smaller conference room to Campus Center Room 101 “to accommodate as many students as possible,” said an e-mail.

Both Kim and Dean of Students Jo-Anne T. Vanin “will be available to answer questions and to address any concerns you may have on this issue,” said an e-mail.

The deferred suspension sanction did not follow the proper procedure to necessitate a final review and decision by Dean of Students Jo-Anne T. Vanin, said Kim.

Kim said last week there was no one individual to blame for what she said was too lenient of a punishment and a regrettable situation. She said the blame instead goes to how the administrative process was set up.

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

“I can’t explain why it happened. I don’t know,” added Kim Thursday of the failure to have the case follow proper protocol. “We take the situation of sexual assault and the safety of all of students very seriously.”

However, the University cannot change or add to the sanctions already handed down through the student judicial system because, as Kim explained last week, there is no appeal process allowed to any person other than the accused.

The Collegian in an interview with Kim Thursday was told and reported that the school could not release the names of the two students involved because they were legally prohibited under the Family Educational Rights and Privacy Act (FERPA).

However, with assistance from the NECIR the Collegian has found, and the University subsequently confirmed, that the federal privacy law does not apply in this case. UMass is instead choosing to not release the names case “due to privacy considerations,” Blaguszewski said Tuesday.

“We are confirming, as allowed by FERPA, that a UMass Amherst student was found responsible for sexual assault and received a deferred suspension. The victim was a UMass alumna, and the incident occurred during Homecoming Weekend,” said an e-mail press release sent to media members last week.

Kim also confirmed that the accused student is currently enrolled, living on campus and expected to graduate in May. She added that the victim initially went to UMPD first, but later decided against pursuing criminal charges.

FERPA does, however, prohibit the University from confirming NECIR’s reports that the act allegedly committed was a felony rape, that it happened in North Apartments Building C on Oct. 16, 2009, and that the victim reported the incident in November, according to Blaguszewski, who said he consulted with UMass’s lawyer on the matter.

The only information the University is allowed to release or confirm under FERPA is the accused suspect’s name, the sanction given to the student found responsible, and the name of the violation the student was found responsible for under UMass’ Code of Student Conduct (CSC) – which is only specified in the CSC as sexual assault, said Blaguszewski. There is no violation in the CSC that specifies what form of sexual assault a student is accused of or found responsible for.

According to a 1998 FERPA amendment, colleges and universities are not prevented from speaking about disciplinary matters if those matters involve a violent offense – such as sexual assault – and if the accused student is found to be in violation of the school’s conduct code – as University officials said happened in this case.

The amendment, 20 U.S.C. 1232g (6)(B), states, “Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing the final results of any disciplinary proceeding conducted by such institution against a student who is an alleged perpetrator of any crime of violence (as that term is defined in section 16 of title 18, United States Code), or a nonforcible sex offense, if the institution determines as a result of that disciplinary proceeding that the student committed a violation of the institution’s rules or policies with respect to such crime or offense.”

“In short, FERPA does not require the University to release the name, charge, or sanction connected to a student disciplinary case,” said Blaguszewski in an e-mail yesterday.

The University has since tried to clarify misconceptions among its own leaders about why the University is not explaining the incident further.

In an e-mail titled “Daily Collegian Sexual Assault Articles” sent to Housing and Residence Life staff Friday by Associate Director for Residence Life Laura Giles said, “The law requires that details of the proceedings be confidential.”

Blaguszewski confirmed last night that this statement – which “was the longstanding guidance and

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practice [UMass] was given" – is no longer true under FERPA and that campus officials have since been briefed on the law's 1998 amendment.

"There was no intent to misguide anyone," Blaguszewski said yesterday.

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

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 last week's 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."

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

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One Response to "UMass mum on mishandling of sexual assault case"

Ed Cuttting says:
March 3, 2010 at 2:52 am

First, I really do think that forwarding my past replies to everyone including the UM Director of Mental Health has a "chilling impact on free speech." That, ladies, is a legal term, and I again call for a housecleaning in the Dean of Students Office and in Housing disServices as well.

And in perfect clarity so that no one can misinterpret a threat: "FIRE" stands for Foundation for Individual Rights in Education.

Second, what you schmucks fail to understand is that I am not afraid of you anymore (Laura Giles, Jean Kim, that includes both of you too). I'm just irritated and annoyed, dealing with lawyers and regulatory agencies is such a hassle when I could instead be doing my schoolwork so as to escape this purgutorial cesspool…

Third, someone ought to be reading the Massachusetts State Whistleblower Act:
http://www.mass.gov/legis/laws/mgl/149-185.htm
UMASS CAN'T PREVENT YOU FROM TALKING ABOUT THIS!!!!! In fact, if they are in the process of firing you for something else and you go to the press with this, it precludes them from firing you….

Fourth, who is the perp? Who is protecting him? Why?

Fifth, this part about "nothing can be done" is complete bull****! There is the whole realm of the criminal justice system. There are lesser involved offenses including "assault & battery" with which he (IS it a "he") can be charged and be given the option of going to jail or quietly leaving UMass. THEY DON'T WANT TO DO ANYTHING!

Sixth, this again shows the true incompetence of the UM administration. When is the last time that an administrator was fired for not doing her job, or for not taking responsibility for something?

Seventh, how much longer will UMass attempt to hide public information from student view? I am in possession of two different emails where university administrators ordered that I not be provided public information, in one case the number of parking spaces in Lot 71. I was writing a story for the now-defunct Minuteman and it was a legitimate request – and someone somehow mistook Ed Cutting for Ed Blaguszewski and I literally received the email telling people not to tell me the number.

What is Laura Giles doing sending out an email telling people to not obey Massachusetts Law. (Not that Housing Services obeys Massachusetts Law much, anyway….

Eighth, where the hell was the ACT group on this? I say again that the group is nothing more than an out-of-control lynch mob because they apparently had time to lynch me while ignoring an actual rapist who actually did something to harm a UM student. Unless we aren't willing to go with rape being harmful violence, you aren't alleging that, JoAnne, are you?

Ninth, how do we know that Willenbrock DIDN'T ask JoAnne about this case? She isn't being allowed to talk (in violation of the whistleblower law) and how do we know?

Tenth, is Jack Wilson falling on his sword for this? And why should he when it is people like Jean Kim, JoAnne Vanin and Laura Giles who bear responsiblity?

And folks, how much more are you going to try to do?

And yes, Ed Cutting apparently is a greater threat to public safety THAN A DAMN RAPIST because I ask

dangerous questions. I am a threat to their stable incompetence.

By contrast, who cares about an alumnus, who does't even go to school out here anymore, getting raped? It isn't like there is going to be any administrator affected and if the girl doesn't shut up, they can go after her friends for having too many beers in the refrigerator and threaten to trespass her from campus.

Parents reading this need to think long and hard about sending their daughters (and sons) out here. Yes women (and men) get raped on this campus, but women also get run over in crosswalks. The question is what the university does about it, and it is real clear that they are far more interested in busting kids for empty beer bottles than rape….

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