National Coalition For Men Carolinas (NCFMC)

U.S. Senate Committee on Health, Education, Labor, and Pensions

Hearing on Sexual Assault on Campus: Working to Ensure Student Safety

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Case #1 - Duke University Lacrosse Player's case

On March 13, 2006, Crystal Mangum a black female student at North Carolina Central University who worked as a stripper, dancer and escort, falsely accused three white Duke University students, members of the Duke men's lacrosse team, of raping her at a party held at the residence of two lacrosse players in Durham, North Carolina. Many people commenting on the case, including Durham County District Attorney Mike Nifong, called the alleged assault a hate crime and multiple charges were subsequently filed against the accused students.

Following the accusations feminist activists immediately took to the streets and demonstrated in front of the player's homes, banging pots, blowing whistles and carrying banners calling for the castration of the accused players while "rape culture" hysteria reigned on the Duke campus. Meanwhile, Duke administrators sat passively by doing absolutely nothing to quell the lynch mob activity happening on and around their campus.

Eighty-eight members of the Duke faculty—including 11 members of its History Department, and 15 academic departments or programs signed a public statement in March 2006 denouncing the Duke Lacrosse team. The statement gave the following message to campus protesters: "Thank you for not waiting" until the police completed their investigation. The Group of 88 supported the activities of the campus protesters, which included distributing "wanted" posters showing the pictures and names of the entire men's lacrosse team and branding the team "rapists."

Despite overwhelming evidence that the accused men were innocent, DA Nifong aggressively prosecuted the charges. For its part, Duke University initially suspended the lacrosse team for two games in March, 2006. On April 5, 2006, Duke Lacrosse coach Mike Pressler was forced to resign under threat by athletics director Joe Alleva. Duke President Richard Brodhead then canceled the remainder of the 2006 season.

On April 11, 2007, North Carolina Attorney General Roy Cooper dropped all charges and declared the three players - Reade Seligmann, Collin Finnerty, and David Evans - innocent. Cooper stated that the charged players were victims of a *"tragic rush to accuse."* Crystal Mangum never faced any charges for her false accusations as Cooper declined to prosecute her even as the accused players would have faced several years in prison had they been convicted. In November 2013, Crystal Mangum, the woman that falsely accused the Duke Lacrosse players "was sentenced to between 14 years, two months and 18 years in prison" for the murder of her boyfriend Reginald Daye.

The following is an excerpt from the highly acclaimed book on the Duke Lacrosse case, *Until Proven Innocent* by Stuart Taylor Jr. and KC Johnson that provides a clear picture of the kind of hostile environment the accused players faced with faculty at Duke.

"Like the media, many professors—and not only the radical fringe—were initially swayed by Nifong's public comments and the initial silence from the lacrosse players. All but ignored were the captains' March 16 cooperation with police, their confident March 28 prediction that the DNA would soon clear them, the similar predictions by defense lawyers, and the unlikelihood that they would go out on such a limb without strong reasons for confidence that no rape or sex of any kind had occurred.

But while many of the journalists misled by Nifong eventually adjusted their views as evidence of innocence and of Nifong's conduct came to light, the activist professors did not. Resolutely

refusing to reconsider their initial presumptions as new facts emerged, they served as enthusiastic cheerleaders for Nifong, with whom they had little in common besides their opportunism. For many months not one of the more than five hundred members of the Duke arts and sciences faculty—the professors who teach Duke undergraduates — publicly criticized the district attorney or defended the lacrosse players' rights to fair treatment. Not even after enough evidence had become publicly available to establish clearly both the falsity of the rape charge and the outrageousness of Nifong's actions—widely seen as the worst case of prosecutorial misconduct ever to unfold in plain view.

The majority of Duke's arts and sciences faculty kept quiet as the activists created the impression that Duke professors en masse condemned the lacrosse players. Several months later, John Burness explained their silence: "I think people just go about their business doing what they do and were not paying attention." But, as some admitted privately to friends, they were also afraid to cross the activists—black and female activists especially—lest they be smeared with charges of racism, sexism, classism, homophobia, or right-wingism.

That's what would happen to a chemistry professor who—months after the team's innocence had become clear—became the first member of the arts and sciences faculty to break ranks with the academic herd. It took less than twenty-four hours for the head of Duke's women's studies program to accuse him of racism in a letter to The Chronicle.

Leading the rush-to-judgment crowd at Duke was Houston A. Baker Jr., a professor of English and of African and African-American Studies. He showed his mettle in a March 29 public letter to Duke administrators that boiled with malice against "this white male athletic team" —a team whose whiteness Baker's fifteen-paragraph letter stressed no fewer than ten times. He demanded the "immediate dismissals" of all lacrosse players and coaches, without acknowledging their protestations of innocence or the evidence. He assailed "a 'culture of silence' that seeks to protect white, male athletic violence." He denounced the lacrosse players as "white, violent, drunken men . . . veritably given license to rape, maraud, deploy hate speech." He bemoaned their alleged feeling that "they can claim innocence and sport their disgraced jerseys on campus, safe under the cover of silent whiteness."

Baker provided a window both into his soul and into the indifference of many academics to fact after a critic e-mailed him, "You will owe a big apology when the truth comes out, but I doubt you will be man enough to issue it."

Retorted the professor: "Who is really concerned about whether a woman was actually raped or not? Are you a perfect idiot?"

One would think that the number of commentators decrying the toxic environment that faculty and the administration at Duke University created for the accused students that Duke's leadership would have taken reasonable steps to ensure that a presumption of innocence and equitable due process would be extended to any student accused of sexual misconduct at Duke. Yet just last month another male student that was accused of sexual misconduct filed a lawsuit against Duke alleging due process violations including being denied the right to counsel, the exclusion of evidence being introduced at his hearing and not having the right to directly question his accuser. Not surprisingly, Duke's kangaroo court quickly found the accused student guilty and expelled him three days before his graduation.

However, as you are about to hear, creating a hostile environment, fostering a rush to judgment, placating angry feminist activists and denying due process rights to accused male students in North Carolina is not exclusive to Duke University.

Our second case involves two students at the University of North Carolina at Chapel Hill. Though the name of the Complainant is part of the public record, I will refrain from using her name as the name of the falsely accused male student is not part of the public record and we are committed to protecting his privacy. Therefore, I will refer to him simply as John Doe.

Case #2 – University of North Carolina at Chapel Hill case (John Doe)

On February 18, 2012 a freshman female student at the University of North Carolina at Chapel Hill falsely accused her ex-boyfriend John Doe of sexual assault and filed a formal complaint with the university alleging physical, emotional and sexual abuse. At the time, Doe was a sophomore student in good standing with a cumulative 3.2 GPA and a clean disciplinary record.

The two had been in a loving relationship since high school dating back to May of 2010. From the outset, Doe was a committed, loving boyfriend and their relationship was based on mutual trust and consent. Doe was a year older than the Complainant and shortly after his arrival at the university, Complainant began complaining about the emotional difficulties she was experiencing as a result of the geographically distant relationship. The emotional distress combined with depression culminated in Complainant's attempt to take her own life by drug overdose in April of 2011. For his part, Doe was devastated to hear that the girl he loved had attempted suicide.

In November of 2011, Complainant ended her relationship with Doe but still had strong feelings for Doe telling mutual friends that she still loved Doe and believed a temporary break would be helpful for their relationship. In February of 2012, Doe confided in a friend the various types of sex that he and Complainant had enjoyed as part of their dating relationship. When the friend confronted Complainant with this information she became visibly upset and embarrassed, denying this was true. The next day Complainant filed her allegations of rape and violence.

Based solely on an allegation the university indefinitely suspended Doe. Doe was then pressured by the university to withdraw which he did. Relying solely on Complainant's allegations, the university removed Doe from campus, threatening him with arrest if he was found on the campus and demanding that Doe agree to a psychological evaluation as a condition of readmission.

In late March of 2012, Doe was charged by the university' student honor court of sexual misconduct, sexual invasion and harassment. Doe's case was heard in early May during a 20-hour long specially convened university hearing board consisting of two faculty, two students and an administrator. During the marathon hearing, Doe was not allowed to have his attorney present even though any statements he made could be admissible in a criminal court proceeding. The university hearing board utilized a preponderance of the evidence standard as directed by the Office of Civil Rights (OCR), a standard that the Foundation for Individual Rights in Education (FIRE) is on record as having severe concerns with. In FIRE's *Open Letter to OCR* dated May 7, 2012 regarding the OCR's "Dear Colleague" letter issued on April 4, 2011, FIRE wrote:

"Adjudicating accusations of serious sexual misconduct requires equally serious procedural protections. By mandating that institutions use the weak preponderance of the evidence standard, OCR has undermined the reliability, integrity, and basic fairness of disciplinary proceedings and invited error. Given the divergence in quality and competency of school disciplinary hearings and

the potential for life-altering punishment, it is unconscionable to require that those accused of such serious violations be found merely 'more likely than not' to have committed the offense in question. If OCR is to mandate an evidentiary standard for the adjudication of allegations of sexual harassment and sexual assault, it must be no less protective of the rights of the accused than the 'clear and convincing' standard."

FIRE again raised the issue of dropping the OCR mandate of using the preponderance of the evidence standard in their February 28, 2014 letter to the White House Task Force to Protect Students from Sexual Assault. FIRE wrote:

"First and foremost, FIRE believes that OCR should drop its mandate that these tribunals decide cases under the preponderance of the evidence standard. The legal argument that the preponderance standard is the only acceptable standard under Title IX is incorrect, as FIRE has catalogued in our prior correspondences with the Office for Civil Rights. Instead, OCR should encourage institutions to use the 'clear and convincing' standard of evidence, which requires more than just a '50%-plus-a-feather' level of confidence that the evidence supports one side over the other. OCR should also encourage institutions using the preponderance standard to set forth substantive protections for the accused to balance out the low evidentiary threshold. For example, institutions should ensure that there is some mechanism for the accused to cross-examine his or her accuser."

It's worth noting that the higher, clear-and-convincing standard was the traditional standard used by colleges in order to promote due process. As James Picozzi noted in 1987 in the Yale Law Journal, "Courts, universities, and student defendants all seem to agree that the appropriate standard of proof in student disciplinary cases is one of 'clear and convincing' evidence." (James M. Picozzi, *University Disciplinary Process: What's Fair, What's Due, and What You Don't Get*, 96 Yale L. J. 2132, 2159 n. 17 (1987)).

Fortunately for Doe, even while using the lower preponderance of the evidence standard, the evidence of Doe's innocence was so overwhelming that the five-person tribunal, in which the majority of panelists were women, voted 5-0 in favor of exoneration of the sexual misconduct and sexual invasion charges. Other falsely accused college men however are not so fortunate.

Though Doe was exonerated, the university refused to re-admit him back to the university. After refusing to readmit Doe for over a year, Doe's family hired an attorney to help them obtain re-admission for their son. The university dictated that Doe submit to a psychological evaluation; that he provide a risk assessment conducted by a medical team at his expense; and that he agree to meet monthly with an assigned caseworker within the Dean of Students office as conditions of his re-admission. Doe was forced to comply.

When Doe returned to campus in January of 2013, he immediately faced a hostile environment. The Complainant had orchestrated campus demonstrations declaring to the student body that her "ex-boyfriend is a rapist" and that she was being "re-victimized" by his return to campus. Posters were plastered all across the campus stating "Intimidate Rapists". Though Complainant never appealed the university hearing board's decision, nonetheless she decided to try her case in the court of public opinion resulting in over 200 media outlets picking the story up declaring the university guilty of not taking Complainant's allegations seriously.

Doe needed to be escorted to class by friends for safety reasons as online bloggers were threatening violence against him. When Doe complained to the university, they told him they could

not do anything for him other than refer him to the campus police and refused to open an investigation of the threats made against him.

To quell the epithets being directed toward him on campus, Doe filed a complaint with the student honor court and Complainant was charged with an honor code violation for directing harassment and intimidation against Doe. In a final act of what can only be described as blatant discrimination directed against Doe, the university Chancellor personally intervened and dismissed the Honor Court charge, something that has never happened in The University of North Carolina at Chapel Hill's over 100 year old legacy of student governance.

Today, Doe suffers from PTSD, anxiety and severe depression. Like other college men that have been traumatized by false accusations of rape, Doe has displayed suicidal ideation.

I would like to introduce into the record a letter written by the parents of Doe which can be found as Attachment A to this testimony, which speaks to the profound pain and devastating harm done when universities attempt to handle allegations of sexual assault.

The NCHERM Group is the largest higher education-specific law practice in the country, doing the legal work of more than 50 campuses. They consult with more than 300 campuses each year, in addition to those they represent as attorneys. They've had more than 3,000 higher education clients since 2000. They have a special expertise in Title IX law, and their law firm frequently represents campuses being investigated by the Department of Education's Office for Civil Rights (OCR). The following is an excerpt from an open letter that NCHERM Group published on their website on May 27, 2014 (See www.ncherm.org) regarding the difficulty that sexual assault cases pose today in higher education:

"*Caught in the middle of all this is the campus Title IX Coordinator (TIXC) who receives a complaint from a victim who is in pain. The TIXC pursues the complaint with diligent investigation within the requisite +/- 60 days, and then calls us in puzzlement over why they have now found text messages from the complainant both before and after the incident, describing it as consensual. It's easy for media outlets to paint uncaring campuses as the bad guys over and over again, but reality is often far more complex than that. Worse, FERPA – the federal student privacy law – leaves colleges unable to explain and defend the backstory to the cases they process.*

Our generation and generations before us fought from our very cores for the right of victims to be believed, to be treated with respect, and to receive acknowledgment of their basic dignity from seemingly callous educational institutions that championed male privilege by merely slapping rapists on the wrists, if they punished them at all. We've been instrumental in seeing hundreds, if not thousands, of victims vindicated through campus resolution processes, which is why we're so pained that while the last twenty years has brought transformation, we've now arrived at the destination only to find that today's students have wholly redefined sexual experience – as every generation does – without reference to the rules we wrote. How can we demand respect for a generation that at times seems not to demand it from themselves, or at least demands it on very different terms than we did? To illustrate what we mean, we can use just some of the recent cases where our firm was asked to assist.

- *A female student interviewed recently during an investigation had spread rumors by social media that she had been raped by a male student. When the rumors got back to the male student, he approached her about it, and she offered him a lengthy apology, and then put*

it in writing. We had to investigate nevertheless, and she told us that they'd had a drunken hook-up that she consented to. She was fine with what happened. We asked her why she called it a rape then, and she said, "you know, because we were drunk. It wasn't rape, it was just rapey rape." We asked her if she was aware of what spreading such an accusation might do to the young man's reputation, and her response was "everyone knows it wasn't really a rape, we just call it that when we're drunk or high." By the way, whomever popularized the term "rapey" deserves a special place in purgatory.

- *A female student alleged a campus sexual assault based on non-consensual oral intercourse. Her texts both before and after the incident with the alleged perpetrator state that she enjoys swallowing and "dirty boys who cum in her mouth," all in reference to her actions with him. In her complaint that the oral sex was non-consensual, she informed the campus that she was appalled that he did not wear a condom. He insists it was consensual. We don't know that we'll ever know what happened, but we do know what can and can't be proven.*
- *A female student was caught by her boyfriend while cheating on him with another male student. She then filed a complaint that she had been assaulted by the male student with whom she had been caught cheating. The campus investigated, and the accused student produced a text message thread from the morning after the alleged assault. It read:*
    - *Him: How do I compare with your boyfriend?*
    - *Her: You were great*
    - *Him: So you got off?*
    - *Her: Yes, especially when I was on top*
    - *Him: We should do it again, soon*
    - *Her: Hehe*
- *A female student claimed multiple instances of sexual aggression, assault and coercion by her boyfriend over more than a year, but after making the complaint, she could not recall or provide ANY specifics of each instance in terms of location, time, or salient details. His corroborative evidence showed cooperation and even initiation by the complainant.*
- *A female student was heard by a campus panel, there was no evidence to support her complaint. He was found not responsible and decided not to press a complaint against her for a false allegation out of sensitivity to her serious mental health issues. Then, she went around campus telling anyone and everyone that he had raped her. The male student then filed a complaint against the female student for harassment. The female student then filed a complaint with the college for processing his complaint as an act of retaliation against her.*
- *In another recent case, a long-term relationship between two students involved many consensual sexual acts. The couple broke up. The male student started dating another student on campus, at which point the former girlfriend filed a complaint that there were non-consensual acts amongst many prior and subsequent consensual acts that they engaged in. Perhaps, but the timing is suspicious, and there is no evidence to suggest any concern about the behaviors during the time they were dating. Again, there is often a chasm between what is alleged and what evidence is able to prove.*

We could go on and on with a litany of these complicated and conflicting cases. We hate that some of them provoke tired old victim-blaming tropes, such as the woman scorned and the cover-up of cheating. ***We hate even more that in a lot of these cases, the campus is holding the***

male accountable in spite of the evidence – or the lack thereof – because they think they are supposed to, and that doing so is what OCR wants."

Universities should not be in the business of investigating and adjudicating something as serious as rape; that needs to be left in the hands of law enforcement and our criminal courts. Likewise, university panels that deny accused students the right to have an attorney present, deny accused students the right to face and question their accuser, deny the ability to provide exculpatory evidence and that trample on constitutionally protected due process rights have no place messing around with something as serious as sexual assault.

Judith Grossman is a highly regarded feminist and attorney who wrote the following in an Op-Ed in a piece entitle *A Mother, a Feminist, Aghast* that was published April 16, 2013 in the Wall Street Journal regarding how unsubstantiated accusations against my son by a former girlfriend landed him before a nightmarish college tribunal:

"I am a feminist. I have marched at the barricades, subscribed to Ms. magazine, and knocked on many a door in support of progressive candidates committed to women's rights. Until a month ago, I would have expressed unqualified support for Title IX and for the Violence Against Women Act.

But that was before my son, a senior at a small liberal-arts college in New England, was charged—by an ex-girlfriend—with alleged acts of "nonconsensual sex" that supposedly occurred during the course of their relationship a few years earlier.

What followed was a nightmare—a fall through Alice's looking-glass into a world that I could not possibly have believed existed, least of all behind the ivy-covered walls thought to protect an ostensible dedication to enlightenment and intellectual betterment.

It began with a text of desperation. "CALL ME. URGENT. NOW."

That was how my son informed me that not only had charges been brought against him but that he was ordered to appear to answer these allegations in a matter of days. There was no preliminary inquiry on the part of anyone at the school into these accusations about behavior alleged to have taken place a few years earlier, no consideration of the possibility that jealousy or revenge might be motivating a spurned young ex-lover to lash out. Worst of all, my son would not be afforded a presumption of innocence.

In fact, Title IX, that so-called guarantor of equality between the sexes on college campuses, and as applied by a recent directive from the Department of Education's Office for Civil Rights, has obliterated the presumption of innocence that is so foundational to our traditions of justice. On today's college campuses, neither "beyond a reasonable doubt," nor even the lesser "by clear and convincing evidence" standard of proof is required to establish guilt of sexual misconduct.

These safeguards of due process have, by order of the federal government, been replaced by what is known as "a preponderance of the evidence." What this means, in plain English, is that all my son's accuser needed to establish before a campus tribunal is that the allegations were "more likely than not" to have occurred by a margin of proof that can be as slim as 50.1% to 49.9%.

How does this campus tribunal proceed to evaluate the accusations? Upon what evidence is it able to make a judgment?

The frightening answer is that like the proverbial 800-pound gorilla, the tribunal does pretty much whatever it wants, showing scant regard for fundamental fairness, due process of law, and the well-established rules and procedures that have evolved under the Constitution for citizens' protection. Who knew that American college students are required to surrender the Bill of Rights at the campus gates?"

Stop Abusive and Violent Environments (SAVE) is a Washington D.C. based non-profit victim-advocacy organization working for evidence-based solutions to domestic violence and sexual assault. In SAVE's April 30, 2014 E-Alert SAVE wrote:

"The 2011 U.S. Dept. of Education (DED) policy mandating that colleges revamp their procedures for adjudicating allegations of sexual assault does not require rape cases to be referred to local law enforcement officials for investigation and prosecution. We believe this is a serious oversight that needs correction."

Since issuing the April E-Alert, SAVE has documented 30 lawsuits filed against universities or colleges by men alleging that they were falsely accused of sexual assault and harmed by the manner in which the university or college processed their case (http://www.saveservices.org/wp-content/uploads/Campus-Sexual-Assault-Lawsuits.pdf). Additionally, SAVE has documented over 150 editorials published this year alone criticizing how college tribunals handle sexual assault cases (http://www.saveservices.org/falsely-accused/sex-assault/accusing-u/).These articles highlight widespread concerns about whether rape victims are well served by the campus sex panels, about the veracity of the infamous one-in-five claim, and in regard to the curtailment of due process rights for the accused.

Because of the complexity of campus sexual assault, it is essential that sexual assault victims along with persons who have been unfairly victimized by the college adjudication system are heard so that both sides of this issue are adequately represented. Simply stated, we believe that balancing the interests of both victims and of the accused is the most effective way to address sexual assault on college campuses.

Legislating bedroom behavior?

I would be remiss if I didn't mention well-intentioned but ill-defined policy currently being promoted by some legislators that would legislate bedroom behavior by pushing a broad and dangerous concept of "affirmative consent" as is currently happening in the state of California. Both the Los Angeles Times and the Orange County Register, two newspapers with diametrically opposing political views are in unison against legislating the "affirmative consent" requirement. *See* Editorial, *Sex and the college student: A bill in Sacramento to require 'affirmative consent' by both partners is problematic*, Los Angeles Times, May 29, 2014, at 12; *Editorial: Bureaucrat's approach to sexual assault*, Orange County Register, June 6, 2014 (available at www.ocregister.com/articles/sexual-617346-consent-assault.html).

The following excerpt is taken from the LA Times from their May 29, 2014 editorial:

"But is there a role for the government in mandating affirmative consent? It seems extremely difficult and extraordinarily intrusive to micromanage sex so closely as to tell young people what steps they must take in the privacy of their own dorm rooms. Colleges, to their credit, are struggling to clarify and strengthen their policies on sexual misconduct, and are seeking to provide better support for victims of sexual assault in the face of growing concern about the issue. But

must they become so prescriptive as to try to set rules about exactly how sex should proceed? There are serious questions about whether such a policy is either reasonable or enforceable."

The Orange County Register June 6th editorial reads in part, "*Perhaps next, the Legislature will require libidinous young adults to obtain notarized consent forms from their partners, or demand that would-be lovers videotape their consent on their smartphones – while holding up that day's newspaper to verify the date consent was given. Maybe some conscientious students will even include nondisclosure clauses.*

The bill is also curious in that it creates a separate standard of sexual assault for college students, and only college students at campuses that receive state funding, at that. Imagine if the same standard were applied to married couples and others in the general population, who do not routinely see the need to ask their partners for a signed permission slip before engaging in sexual activity. Yet, the laws are supposed to apply to everyone equally."

We are hearing reports that at least one Senator wants to push an even more restrictive "explicit consent" standard stating through her spokesperson "***that unless there is explicit consent, it's rape and there is no gray area." (****http://www.themaneater.com/stories/2014/5/7/white-house-endorses-mccaskill-assault-campaign/**).*

Is this how far we've fallen as a society? Are we now going to require Congress to tell us how to enjoy sexual relations with our partners by redefining how consent is expressed?

Recommendation

I have submitted this testimony with the goal of improving the environment of our university campuses and ensuring safety, fairness and proper respect for sexual assault victims and for those that are accused of sexual assault, which seem to be overwhelmingly men. Too often, a highly charged emotional campus atmosphere results in falsely accused college men having their lives being ripped apart and destroyed by biased campus sex panels while serial rapists remain free to repeat offend. We need to put rapists behind bars and not destroy the lives of innocent students.

With the desire to balance the interests of both accuser and the accused, I suggest the following recommendations to this esteemed committee:

- **Remove sexual assault cases completely from universities** and their administrators – We need to remove sexual assault cases from the hands of university administrators and place them where they belong, in the hands of competent law enforcement to investigate. The criminal justice system, not college honor courts, is the proper place to prosecute rape charges.
- Until such time as sexual assault cases are removed from higher education, **restore fundamental due process protections for the accused** during sexual assault related disciplinary hearings including providing the accused the right to have an attorney present like we now have in the State of North Carolina; the right to face and question your accuser; the right to present evidence; and the right for both the accuser and the accused to appeal a disciplinary decision.
- Require universities and colleges to **provide better policies defining what constitutes the necessity of sending a campus-wide notification related to a sexual assault** which should be based on verifiable evidence of danger. Not every claim of sexual assault

is substantiated. Campus law enforcers need better guidance from the U.S. Department of Education on whether to issue campus warnings after reported sex crimes. Timely warnings are required under the Clery Act for any ongoing threat to student safety. Given the hook-up culture that exists today, should campus police issue warnings for every reported sexual assault or only those substantiated with credible evidence?

- **Direct universities to provide equitable counseling resources** for both accuser and the accused. Today there are a host of resources available on campus for women who claim sexual assault but virtually no resources for those that have been wrongfully accused which are almost exclusively men, yet we know that falsely accused students suffer from emotional, psychological and even physical hardships.
- **Direct universities to provide students sexual assault awareness training**. Avoid stereotyping by suggesting in the training materials that men are potential rapists. Direct training materials to mention the detrimental effect that alcohol consumption has in making good decisions when it comes to sex and include promoting a buddy system when attending parties or events where alcohol is served.
- Encourage universities to **support housing change requests** made by either party and if necessary, arrange for temporary housing to further ensure student safety.
- Require universities to **adopt policies that would discourage a student for knowingly making a false allegation of sexual assault** by imposing the same disciplinary penalties as those that apply to a finding of guilt in a sexual assault case. This will prevent the waste of precious resources needed to support real rape victims and will also restore confidence in the reporting of sexual assaults.

I commend the work of this committee to explore solutions aimed at ensuring student safety on our nation's college campuses. A single case of sexual assault is one too many and we must work together to eradicate sexual assault while preserving the individual rights and civil liberties that are the foundation of American jurisprudence.

I hope that you act in a bi-partisan manner to advance legislation that is fair and equal in its application removing all gender bias so that our nation's daughters and sons are safe to enjoy their university experience.

I am honored to submit this testimony in support of the very important policy work of this committee. Your work will shape the future of how sexual assault cases are handled in post-secondary education and I am grateful that you have an interest in hearing another side to the sexual assault issue; a side that often has no voice but is equally important to the national discussion on addressing sexual assault on college campuses. Thank you.

ATTACHMENT A

Mr. Gregory J. Josefchuk
President
National Coalition For Men Carolinas
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Dear Mr. Josefchuk:

Thank you for providing us the opportunity to share our story with the Senate committee that is meeting to address the issue of sexual assault on college campuses. We are happy to submit this letter in regard to our son's disciplinary case involving the University of North Carolina at Chapel Hill. We also want to thank you for your promise to protect our family's identity.

Our nightmare began on February 20, 2012. That is the date our son was falsely accused of sexual assault by his ex-girlfriend. That is the date that we appeared with our son in the Dean of Students office and heard them tell our family that our son is a sexual predator. That is the date that our son learned he was indefinitely suspended by a clandestine university committee who decided his fate without providing him the ability to be heard or to even answer questions regarding the allegations made against him. That is the date that we learned that due process protections as provided by our Constitution are not to be extended to male university students.

As some background, our son at that time was a 19-year old student at the University of North Carolina at Chapel Hill. He was a student in good standing with a 3.20 GPA and a spotless disciplinary record. He was also unfortunately the former boyfriend of an 18-year old emotionally unstable female student who was determined to destroy the name and life of our son because of our son's revelation to one of their mutual friends regarding the type of sex the two had enjoyed during the 1 ½ years of their relationship.

We won't dwell on the harmful and discriminatory manner in which our son was treated by the university during their investigation, suffice to say that in our lifetime we have personally never witnessed anything as demeaning, humiliating and emotionally insensitive regarding the treatment of a fellow human being as to what our son had to endure at the hands of university employees. There is no question in our mind that convicted murderers sitting on death row are treated more humanely and compassionately than a young male student accused of sexual assault.

That an angry, upset ex-girlfriend could so easily dupe university administrators into removing a student based solely on an allegation which was clearly unsubstantiated and lacking any credible evidence is shameful. At no point was our son afforded a presumption of innocence. He was presumed guilty by the university as evident by the Judicial Programs Officer telling us in the presence of our son, that our son was a "sexual predator".

Our son faced charges of sexual misconduct and sexual invasion and was ordered to appear in front of a five-person university tribunal consisting of two students, two faculty and a university administrator. He endured a 20-hour long hearing in which witnesses and evidence for both sides were presented. The evidence supporting his innocence was so overwhelming that he was exonerated 5-0 on both charges by a panel in which the majority of the panelists were women.

You would think that the conclusion of his disciplinary hearing would put an end to the emotional duress and psychological harm inflicted to our son. But as we found out, this was only the beginning of our son's journey through what can only be described as sheer hell.

Though our son was exonerated by the university hearing board, the clandestine secretive committee known as the Emergency Evaluation and Action Committee (EEAC) refused to readmit our son back to the university. The salient points of what followed are indicated below:

- Refused readmission after being exonerated of sexual misconduct and sexual invasion charges.
- Told by the university that he would need to agree to and submit the results of a psychological evaluation as a condition of his readmission.
- Told by the university that he would have to agree to provide at his expense a "risk assessment" as a condition of readmission.
- Told by the university he would have to agree to meeting with a caseworker within the Dean of Students office as a condition of readmission.
- Told by the university that he was not allowed to be in contact with the ex-girlfriend as long as he is a student at UNC.

Clearly the university wished to punish our son for reasons we can't possibly fathom even though his innocence was proven beyond any doubt. One has to seriously question a system that prevents a student in good standing that submitted himself to an intensive 20-hour long hearing and was EXONERTED of the sexual assault charges he faced. How is this even possible and is this not a blatant form of discrimination?

Due to the fact that the university denied our son admission for over a year, thereby enacting an indefinite suspension, we were forced to hire an attorney to gain his readmission. That no one in the university administration, all the way up to the Chancellor had a problem with denying readmission to a student whose case was adjudicated by their own university hearing board is beyond reprehensible.

To add insult to injury, upon our son finally gaining readmission, he was "welcomed" back on campus by epithets and threats. His ex-girlfriend orchestrated demonstrations and made such identifying statements to the media (of which there were over 200 media stories that appeared in a two month period) as "my long-time ex-boyfriend is a rapist" and that his return to campus is "re-victimizing" her. Our son required friend's to escort him to class because of threats of violence against him made by online bloggers. I don't think our family slept a night during that semester without fearing for our son's safety and many a night we cried ourselves to bed.

Banners and posters proclaiming that students should "Stand by" the ex-girlfriend and "Intimidate Rapists" were plastered across the campus. The University stood idly by doing nothing to stop this "lynch-mob" dangerous behavior. When our son complained about how the constant harassment was effecting his ability to progress academically he was told he could file a complaint with the honor court.

With no place else to turn to quell the epithets being directed toward him on campus, our son filed a complaint with the student honor court and his ex-girlfriend was charged with an honor code violation for directing harassment and intimidation against him. Caving in to pressure from feminist activists demanding that the honor court proceeding against his ex-girlfriend be terminated, the university

Chancellor stepped in and tossed the charge out, something that has never happened in The University of North Carolina at Chapel Hill's over 100 year old legacy of student governance.

Today, our son who was once a happy and outgoing young man is a shell of his former self. He suffers from PTSD, anxiety and severe depression. He has thoughts of suicide. He rarely goes out. He no longer enjoys dating and actually is fearful of developing any kind of meaningful relationship with any woman. In a word, he is withdrawn.

Our entire family is still hurting. The community in which our children were raised is divided with some families that were once friends continuing to believe the vicious lies circulated by our son's ex-girlfriend and her family. Others are clearly on the side of truth. Nonetheless, the community we live in is no longer the same and for our part, we shun public events altogether.

We know that sexual assault is a real issue and we support putting rapists behind bars where they belong. We fear that many other families will endure the same pain and suffering that we have all to satisfy a political witch hunt to appease feminists by sacrificing innocent young men on the altar of our universities and colleges. Surely, we can and must do better as a nation.

Thank you again for providing us the opportunity to tell our story. Please tell our Senators that we must make the handling of sexual assault at institutions of higher learning fair for everyone. We support legislation that would remove sexual assault cases entirely from university administrators and put the process in the capable hands of the criminal justice system.

Sincerely,

The Parents of John Doe