

The Briefing Board



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September 2004

Christian Brothers University Mishandled Sexual Assault Complaint According To Federal Review Security on Campus, Inc. A Non-profit Organization with a mission to provide a safer campus for students.

Memphis, Tenn.-In the wake of charges that it failed to properly respond to a sexual assault complaint in the fall of 2002, a federal review conducted by the U.S. Department of Education has found that **Christian Brothers University (CBU)** did not have adequate response procedures in place and violated the civil rights of the victim in that case. According to the review, which was concluded in March of 2004 and recently obtained by the non-profit advocacy organization **Security On Campus, Inc. (SOC)**, CBU's policies and practices in place at the time didn't comply with **Title IX**, a federal law designed to prohibit sexual harassment and assault.

Sexual assault is a widespread problem on college campuses across the country, with as many as one in five female students being victimized during their undergraduate careers according to the U.S. Department of Justice. Because less than five percent of these students report their assault to the police, how colleges respond to these complaints is extremely serious according to crime victim expert S. Daniel Carter the Senior Vice President of SOC.

"Rulings like the one in the Christian Brothers University case are critically important because they make it clear to these schools that they have to take their response to sexual assaults seriously," Carter said. "Too often sexual assault victims are revictimized by a flawed process which then discourages reporting by other students thus endangering the rest of the campus by permitting sexual predators to roam the campus freely without any corrective action being taken."

The victim, Kate Paylor now a recent CBU graduate, also applauded the ruling, and hoped that it would send a strong message to CBU and other schools. "I hope my efforts will encourage greater awareness by the University of the vital role they play in dealing with sex crimes on campus," she said. "What happened to me should not happen to other female students."

Title IX, best known for requiring gender equity in collegiate athletics, is designed to eliminate discrimination on the basis of sex in any education program receiving Federal financial assistance. Sexual harassment is prohibited, as is sexual assault as an extreme form of hostile environment harassment. In order to comply with Title IX a school must respond promptly and effectively to eliminate harassment. In Paylor's case, the review found that the University's sexual harassment policies and procedures did not meet the requirements of Title IX.

The U. S. Department of Education's Office for Civil Rights Chief Attorney, Howard Kallem, wrote in a letter to CBU, "the University did not... have adequate complaint procedures in place. The procedures do not, as written, provide for prompt and equitable resolution of sex discrimination complaints, including complaints of sexual harassment and assault."

The OCR findings cited several inadequacies in the procedures: ineffective distribution of policies to students each year; no requirements for confidentiality; no statement of rights for the accuser; a lack of focus on the protection of the accuser; and a lack of training in sexual harassment for the President, Dean of Student Life, Director of Campus Security, and

Disciplinary Committee Members (who adjudicate student complaints of sexual harassment and assault).

OCR also determined that CBU failed to respond to Paylor's original complaint of assault as required by the Title IX regulations. In September of 2002 she had been the victim of a sexual battery, allegedly committed by one of her classmates in his residence hall room. She promptly reported her assault to campus security, but they closed their review without a full investigation when the accused student simply denied the allegations according to the OCR review.

OCR found several significant problems with CBU's response. According to the findings, the Director of Campus Security failed to consider pertinent evidence and did not prepare written documentation of his investigation. Paylor then reported the alleged sexual assault to the Office of Student Life which also failed to properly respond.

Kallem reports "OCR's investigation, including an interview with the Dean of Student Life, disclosed that [the Dean] was not familiar with the University's procedures or her role in them." OCR determined that the Dean "lacked adequate training in sexual harassment and in how to conduct an investigation."

Paylor's case eventually went to the University's Disciplinary Committee where she sought sanctions against the accused classmate. "The [Discipline] Committee made a decision in the classmate's favor. However, OCR has determined that they did not have a sufficient basis for this conclusion nor were adequate procedures followed to provide [Ms. Paylor] the due process protections inherent in the Title IX regulatory requirements."

CBU's policies allow the accuser to choose the desired sanction against the accused. Paylor had asked that the accused receive education about sexual assault and that he do community service. According to Kallem, "It was clear from our interviews that the committee members relied greatly on [Paylor's] desire for the student to be educated about issues regarding sexual harassment and have his punishment limited to community service rather than something harsher in concluding that she had not been harassed, when they had not been trained as to how to interpret its significance."

The President of the University later upheld the decision of the Disciplinary Committee when Ms. Paylor appealed. According to the OCR, "[The President] stated that he listened to the tape of the committee hearing, but then decided that he could not—and did not want to—attempt to reconstruct what happened during the investigation and hearing."

The University may not discriminate against any individual because she has made a complaint under the laws OCR enforces. However, the OCR discovered that Paylor was "asked to sign a statement containing several conditions that could be reasonably construed as retaliatory... OCR raised several concerns with the University regarding the content and timing of this letter."

In its letter to CBU, "OCR has determined that the University's policies and procedures regarding sex discrimination and sexual harassment should be revised to ensure that they provide for prompt and equitable resolution of such complaints." In a Commitment to Resolve, CBU's Vice President for Student Life agreed to revise its policies and develop an annual training program regarding issues of sexual assault and harassment. Under this agreement policies were to be revised, and sexual harassment training implemented by September 15, 2004.

Continued page 4

CCUPCA TRAINING CONFERENCE
APRIL 6,7,8, 2005
EMBASSY SUITES
SOUTH LAKE TAHOE, CALIFORNIA

April 5, 2005

TUESDAY

6PM-9PM

Board Meeting

APRIL 6, 2005

WEDNESDAY

8:00-9:00

Registration

9:00-10:00

Welcome, Introductions, Announcements

10:00-12:00

Breakout Sessions

Community Colleges,

CSU/UC

Private Colleges and Universities

12:00-2:00

Lunch-Hosted

Speaker: Catherine Bath, Executive Director

Security on Campus

“Alcohol on Campus”

2:00-4:00

Legal Updates

Clery

Catherine Bath

Sex Offenders Registration (PC 290)

Sally Miller

5:00-7:00

Hosted Hospitality Session

APRIL 7, 2005

THURSDAY

Vendor Display

8:00 –4:00

8:30-9:00-

Registration

9:00-9:30

Announcements-Introductions

9:30-11:30-

Panel Discussion

Campus Police and Student Health Center

Rene Twigg, Director of Health Services

California State University, Long Beach

Patti Smith, Director Student Health Services

Riverside City College

Lori Brault-President Health Services Association

California Community Colleges

Randy Powell, Director Counseling Services

11:30-1:00

Lunch-Hosted

Weapons of Mass Destruction and Campus Safety

Erroll Southers, Deputy Director

Governor's Office of Homeland Security

1:00-3:00-

Suicide Prevention-QPR (Question, Persuade, Refer)

Gary Stanoff, MFT

Vacaville Police Dept.

3:00-5:00

Parking Issues

Cindy Campbell-Moderator Cal Poly San Luis Obispo

Legal Update-Mary Houghton, California Public Parking

Association

Citation Management-Mary Houghton

New Technology

Parking Structure Design

5:00-7:00-

Hosted Hospitality Session

7:00-9:00

Dinner and Awards Presentation

April 8, 2005

Friday

9:00-11:00

Business Meeting

New Legislation

Elections

Board and Officers

Conference Fee;

\$225.00

Includes: 2 lunches, 1 dinner, 2 hosted receptions

HOTEL INFORMATION

EMBASSY SUITES

RESERVATIONS

1-800 -EMBASSY

GROUP CODE

CCU

California College and University Police Chiefs Association
TRAINING BULLETIN
COURTROOM BEHAVIOR-FIFTEEN WAYS TO LOSE YOUR CASE
 By Honorable Edward T. Wright, Mayor of Brentwood, Mo.



There must be at least a hundred ways for a police officer to lose his case in court. I have chosen the easiest fifteen ways, based on my observations during ten years as a city prosecutor, twelve years as a municipal Judge and fifteen years as a defense lawyer.

1. WALK INTO COURT LOOKING LIKE A BUM.

This will confuse the Judge and Jury, for they may think you are the defendant. There is no valid reason for a Jury giving less weight to the testimony of a witness who makes a poor appearance---but they do.

2. IF YOUR CASE HAS A WEAK POINT, DON'T TELL YOUR LAWYER.

Surprise your lawyer during trial. This always adds excitement and gives the defendant another chance to go free. Had you told your lawyer of the weakness, he might have prepared for it.

3. IF THE DEFENDANT PLEADS "NOT GUILTY," TAKE THIS PERSONALLY.

How dare this ordinary civilian question your word! Let the Judge and Jury know that from this point it is a personal battle between you and the defendant and that you'll testify to whatever is necessary to obtain a conviction.

4. WHEN OPPOSING COUNSEL WANTS YOU TO BECOME ANGRY—COOPERATE.

Answer "No" to his sly little question. "Didn't you really arrest the defendant because you don't like him?" After fifteen minutes of baiting by the attorney, get really mad and tell them what you really think of the lousy so-and-so you arrested.

5. DON'T WORRY ABOUT THE FACTS.

Any misinformation you give on direct examination will be straightened out on co-examination. The defendant's lawyer will be very happy to help this Jury conclude that either you know nothing or you by covering up the truth.

6. BE ABSOLUTELY POSITIVE ABOUT EVERYTHING.

Even if you don't know the exact distance, don't get the Judge or Jury think you're stupid. This will make a good impression, unless the defendant's lawyer takes the trouble to prove you are wrong.

7. IF YOU'RE POSITIVE THAT YOU DON'T KNOW—GUESS.

Such testimony is not admissible as evidence but the judge might make an exception for you. If the Judge won't even let you finish a sentence you started with "I guess...", just sit there and pout.

8. DON'T MAKE NOTES AT THE TIME OF THE ARREST.

See how much fun it is to test your memory. In criminal cases you often are called upon to testify at more than one trial. Without notes you can break the monotony by giving a different version at each trial.

9. IF YOU DO MAKE NOTES, DON'T REVIEW THEM BEFORE THE TRIAL.

The Judge will be very patient with you while you try to figure out what you wrote and your confusion might elicit the Jury's sympathy.

10. APPEAR TO BE VERY "COCKY."

Some people expect police officers to throw their weight around and you mustn't disappoint them. Often a Juror studies the officer on the witness stand in hopes of detecting a similarity with the bully who gave him a traffic ticket.

11. ACT AS THOUGH YOUR JOB DEPENDS UPON A CONVICTION.

This will remove the unbiased atmosphere that often prevails when a professional person is testifying. Members of the Jury will pay less attention to your testimony, but as taxpayers they will know you are trying.

12. GET ROUGH WITH THE DEFENDANT AT TIME OF ARREST.

In traffic cases this will often cause the defendant to plead "not guilty," and at least open the door to making the officer look like the culprit. Being courteous to motorists reduces the number of times an officer gets involved in courtroom battles.

13. IGNORE THE LAW OF SEARCH AND SEIZURE.

A motion to suppress may be sustained and you "won't even have to testify at the trial". Why bother getting a search warrant, just to satisfy some constitutional requirements?

14. TELL MORE THAN THE QUESTION CALLS FOR.

The opposition may find out all sorts of things. If you ramble too far, the Judge keep reminding you to merely answer the question.

15. ARGUE WITH THE JUDGE AND OPPOSING COUNSEL.

Why be bound by silly rules of evidence and courtroom procedures? If you fail to heed the Judge's warning, he may hold you in contempt of court and the Jury will think he's a sorehead. The Jury dislikes an argumentative witness, but you can step down with all the glory of a martyr.

If an officer follows any one or more of these suggestions, he should have no trouble losing his case. If an officer prefers winning cases, he should walk into court and look like and act like a professional witness, proud to be a member of one of the most important professions in America. He will present his evidence in a professional and unbiased manner and the Judge and Jury can soon tell that he has properly prepared himself for trial. If he does lose his case, he will blame no one, but will leave the courtroom with the satisfaction of having performed his duty properly and proud to live in a nation where he would rather see ten guilty men go free than have one innocent man convicted.

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Serving Education since 1982

Visit us on the web
www.ccupca.com

**CCUCPA
OFFICERS AND DIRECTORS**

CCUCPA's mission is to assist colleges and universities in providing a safe and secure learning and work environment for all students, staff and community.

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NEWSLETTER BY
INSTITUTE FOR CAMPUS SAFETY

FROM THE WATCH COMMANDER

Continued from Page 1.

Two other Christian Brothers schools have also come to the attention of the U.S. Department of Education in recent years. In 2002, St. Mary's College of California was accused of improperly reporting campus crime statistics and omitting required sexual assault policies from an annual report given to students. In June of this year, SOC asked the Department to review LaSalle University's sexual assault policies after a female basketball player claimed she was raped by a men's basketball player and then was allegedly discouraged from reporting by coaches. Federal reviews in both cases are still ongoing.

Contact: S. Daniel Carter
(865) 691-6468
<http://www.securityoncampus.org/>

ATTORNEY GENERAL OPINION

The San Diego Community College District requested an Attorney General Opinion regarding non-sworn security officers:” May a security officer employed by a community college dis-

trict exercise the powers of a peace officer on behalf of the district?” The AG answered no in Opinion No 02-908 issued June 30, 2003. Go to <http://caag.state.ca.us/opinions/> for a complete opinion. Or contact Chief Dave Worden< San Diego CCD for the history of this decision .

Department of Defense Non-Lethal Weapons and Equipment Review: A Research Guide for Civil Law Enforcement and Corrections, Center for National Security Studies. This report reviews law enforcement and corrections officers can use to protect suspects, prisoners, and themselves. The report contains descriptions and photographs of such devices as batons, high-intensity lights, restraint systems, and obscuring smoke devices. The report also contains background information on the U.S. Department of Defense's nonlethal weapons programs. 72 pp. Grant 2001–LT–BX–K009; NCJ 200516. The full abstract can be found at http://www.ncjrs.org/rr/vol5_2/1.html.onlethal weapons and technologies that

DIRECTORY

For a limited time CCUCPA will provide a complete list of California College and University Chiefs in an Excel format for free. The directory and many other CCUCPA services will soon be available to PAID MEMBERS only. For a free directory e-mail

pmullendore@campussafety.net

**Celebrate your successes
with your peers. Send info to
909-337-1058
or e-mail
pmullendore@campussafety.net**

CCUPCA AWARDS

Members of the educational law enforcement community deserve to be recognized for their outstanding actions and achievements. To recognize these individuals CCUPCA has established the following awards.

AWARD OF VALOR

AWARD OF MERIT

AWARD OF DISTINCTION

CERTIFICATE OF APPRECIATION



AWARD OF VALOR

Purpose: The Award of Valor is intended to recognize an officer who distinguishes themselves with conspicuous bravery, heroism, or other outstanding action and under circumstances where the officer was fully aware of the scope of the action and the threat to physical safety.

Eligibility: Recipients can be anyone who is in a law enforcement-related job (either sworn or non-sworn) within the organization. It is not necessary that the recipient be a member of CCUPCA.

Nomination: Any member of the department employing the nominee can make the nomination. The department head must support the nomination. The executive of a college or university or any member of the CCUPCA Board of Directors may nominate department heads. Nominations must be submitted to CCUPCA by December 15 of the calendar year.

AWARD OF MERIT

Purpose: The Award of Merit is presented to any person affiliated with educational law enforcement who by their act or acts, tangibly and conspicuously further the cause of educational law enforcement by outstanding or superior conduct. The performance of such act or acts shall be motivated solely by the desire to benefit the educational law enforcement community without thought of personal gain.

Eligibility: Recipients can be anyone who is in an educational law enforcement-related job (either sworn or non-sworn) within the organization. It is not necessary that the recipient be a member of CCUPCA.

Nomination: Any member of the department employing the nominee can make the nomination. The department head must support the nomination. The executive of a college or university or any member of the CCUPCA Board of Directors may nominate department heads. Nominations must be submitted to CCUPCA by December 15 of the calendar year.

AWARD OF DISTINCTION

Purpose: The Award of Distinction is presented for an outstanding act or accomplishment by a educational law enforcement individual (sworn or non-sworn), individual out-side educational law enforcement, organization or business for an action, activity or service that performs a great service to the educational law enforcement community.

Eligibility: Any individual or organization that meets the above description.

Nomination: Any member of CCUPCA or educational law enforcement agency may make nominations. Nominations must be submitted to CCUPCA by December 15 of a calendar year.

CERTIFICATE OF APPRECIATION

Purpose: The Certificate of Appreciation is presented to an educational law enforcement individual (sworn or non-sworn), individual out-side educational law enforcement, organization or business for an action or service which enhances the image of CCUPCA and/or the educational law enforcement profession.

Eligibility: Any individual or organization that meets the above description.

Nomination: Any member of CCUPCA or educational law enforcement agency may make nominations. Nominations must be submitted to CCUPCA by December 15 of a calendar year.

GENERAL INFORMATION

We are interested in your recommendations on who should receive these honors for the coming year. We encourage you to nominate a colleague who is deserving of recognition or work towards your own professional achievement.

Awards will be presented during CCUPCA's Annual Training Conference in South Lake Tahoe. Download an Awards Nomination application by right-clicking on the link and choosing "Save Target As..." or contact CCUPCA to receive an application at -

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