TUESDAY, FEBRUARY 16, 1993
10:30 - NOON

CONCURRENT SESSION ONE

A Campus Case Study: A Plaintiff’s Attorney, College President, University Attorney, Dean of Students, Judicial Officer, Information Officer, Risk Manager, Newspaper Reporter, and Law Enforcement Officer Respond to a Socratic Inquiry into How a Campus Reacts to Violent Sexual Assault

Faculty:

INTERROGATOR: George K. Rahdert

PANEL: Justin C. Johnson
George M. Shur
Dr. Milton O. Jones
Becky Robertson
Larry Bolles
Michael D. Shanahan
Dr. E.T. "Joe" Buchanan
James Harper
Kathy M. Van Nest
A CAMPUS CASE STUDY:
HOW A CAMPUS REACTS TO VIOLENT SEXUAL ASSAULT - A SCENARIO FOR DISCUSSION

PRESENTED BY:

INTERROGATOR: George K. Rahdert

PANEL: Justin C. Johnson
       Plaintiff's Attorney

George M. Shur
University Attorney

Dr. Milton Jones
College President

Becky Robertson
Dean of Students

Larry Bolles
Judicial Officer

Michael D. Shanahan
Law Enforcement Officer

Dr. E.T. "Joe" Buchanan
Information Officer

James Harper
Newspaper Reporter

Kathy M. Van Nest, CPCU
Risk Manager

Presented at the Stetson University
College of Law Conference:

14th ANNUAL NATIONAL CONFERENCE ON
LAW AND HIGHER EDUCATION: ISSUES IN 1993
Sheraton and Key Resort Hotel
Clearwater Beach, Florida
February 14-17, 1993
SEPTEMBER 19XX

Jayne Jones is a 19 year old student at State University beginning her sophomore year. She resides in a dormitory suite which consists of four bedrooms, each housing one female resident, with a study area and bathroom, shared by the four residents. University rules require students to live on campus until their junior year.

For three years, Jayne has been committed to an exclusive dating relationship with Richard Smith. Richard also attends State University, and is entering his senior year. They have discussed living together. During the summer just ended, Richard was employed in an internship program in marketing research with a corporation in another state. Richard and Jayne did not see each other for three months.

During this period of separation, Jayne met Rob Burt. Without telling Richard, she began dating Rob, and the two developed a strong emotional and personal relationship. Jayne shared with Rob that she had met Richard when she was a junior in high school and that Richard was her first "boyfriend". She confided in Rob that Richard was extremely "jealous" and had been the primary advocate of an increasingly serious relationship. Jayne and Rob decided that they would discuss the matter with Richard when classes began in the Fall term.

When Jayne arrived on campus the day before "Upper Division Orientation", she saw a message on her dorm room door that Richard had called to say that he was returning that night and that she should meet him at his off-campus residence around dinner time, following the orientation the next day. Jayne decided not to meet Richard and, instead, called Rob asking that he accompany her to an orientation social, on campus, sponsored and presented by the University’s Division of Student Affairs and the Office of the President.

When Jayne did not appear at Richard’s house by 5:00 PM, Richard decided to go to the orientation social. There, he saw Jayne with Rob. Seeing the two holding hands enraged Richard, and he rushed up to them grabbing Jayne by the arm and jerking her away from a "surprised" Rob. He rushed outside the room, "dragging" Jayne with him. Outside he shook her and loudly accused her of cheating on him while the two were apart. As she demanded,
loudly, to be released, the commotion attracted about a dozen students, an Assistant Dean of Students, and a campus security officer. The officer instructed Richard to "Let her go!", and Richard did so. The Assistant Dean, Dr. Green, then asked what the commotion was about. Richard responded in a loud, hostile tone, that "...It's nobody's business." About this time, Rob appeared, and Richard rushed toward him, screaming expletives, and demanding that "...You had better leave my fiance alone, or you'll be sorry." The officer told Richard to "...settle down, and don't make trouble for this young lady". He firmly instructed Richard to "...go home and cool off".

Dean Green accompanied Jayne back to the dormitory. Jayne confided in the Dean that she (Jayne) was afraid of Richard. She told the Dean that Richard had repeatedly warned her not to see "other guys...", especially during their period of separation, and that this was not the first time he had "...been physical with..." Jayne when he was upset with her. The Dean told Jayne to refuse to see Richard for a few days, and to see Dr. Abbie Normale in the University's Counseling Center for suggestions as to how to cope with Richard’s reaction to the "breaking off of the relationship." The security officer returned to his office where, after speaking with the Assistant Dean by phone, he filed an incident report as to the verbal and physical altercations and noted his action.

Jayne went to her room at about 7:30 PM. She said nothing to her "suitmates", none of whom were at the orientation social. At 11:00 PM, Jayne went for a walk. At 11:30 PM Richard called Jayne's suite phone number. Jayne's suitmate, Sally O'Mally, answered the phone and spoke to Richard. He appeared normal to Sally, as he told her that he needed to see Jayne "urgently". When Sally replied that Jayne was out on a walk, Richard told Sally to leave Jayne's door unlocked and that he would come over and wait for her in her room. He asked to be alone with Jayne and explained to Sally that he wanted to ask Jayne to marry him. Sally was excited and said that, although, "... letting you into Jayne's room is technically against dorm rules, I think this is great and I'll leave the door unlocked, and I'll get the other girls to go out for a soda so you two can be alone." Sally unlocked Jayne's room from the inside, and "briefed" Jayne's other suitmates of the plans. They left and went out to a pub off campus.

When Jayne returned and entered her room, Richard was waiting. He displayed a gun, and warned her not to make a disturbance. Frightened, she complied and accompanied him, at his direction to his car. Richard drove Jayne
to his house, where he engaged in forcible sexual intercourse with her, telling her that he loved her and that she should come to her senses and reaffirm their relationship.

Motivated by her desire to get out of Richard’s house, Jayne told Richard that she needed to get back to her room because her mother was going to call to see if she had gotten settled in for the new term. Richard drove Jayne back to her dormitory and dropped her off at the entrance. Inside her room, Jayne told Sally what happened. She secured Sally’s promise not to tell anyone of the incident.

The next day, Jayne went to see Dean Green and disclosed the above scenario, and her concern that Richard frightened her now more than ever. She said she did not know what to do. She was insistent however, that she did not want her parents to know of the incident, since her parents had disapproved of the relationship from the beginning and would likely make a huge fuss and possibly remove her from the University if the matter were disclosed to them. Moreover, Jayne explained to Dean Green, she did not want to have Richard arrested or prosecuted, because of their past romantic relationship. She stated that she simply wanted him confronted "...within University procedures", and kept away from her, under threat of University sanction. Dean Green made a memo of the conversation and told Jayne to give her some time to discuss the matter with Dr. John Just, the University’s Student Judicial Officer.

Before calling Dr. Just, Dean Green called the Assistant District Attorney for the local jurisdiction, asking about the services of that Office in advising rape victims. Refusing to respond to a hypothetical, the Assistant District Attorney asked for the name of the victim so that an interview could be scheduled. Dean Green declined, offering that the student had asked for confidentiality. The Assistant District Attorney insisted that the Dean was obliged by law to disclose the victim’s name, so that the crime could be investigated.

In the mean time, Sally had confided in a close friend, who was a student intern with the City newspaper, that a female friend had been the victim of an acquaintance rape. The student intern passed on the disclosure to the education reporter at the City newspaper, suggesting that the newspaper could develop a story about acquaintance rape and its increasing incidence at the University. The City newspaper’s Editor was interested, and assigned a reporter to visit the
campus. The reporter secured an appointment with Dean Green, and asked for the name of the recent victim of a date rape which had been reported to him by a confidential source.

Dean Green declined to name Jayne, and indicated that it was not possible to discuss any specific instances of student misconduct absent consultation with legal counsel (Dean Green knew that there had been twelve reports from female students of acquaintance rape within the past year). The Dean demanded to know the reporter’s source. The reporter refused, and indicated that he intended to do a story on the problem of acquaintance rape at State University, with or without the University’s cooperation.

After thinking about the incident a few days, Jayne decides to tell her parents what has happened. She visits her home and discusses the matter with her parents. The family decides to pursue possible civil action against the University.

ADDENDUM TO:

A CAMPUS CASE STUDY:
HOW A CAMPUS REACTS TO VIOLENT SEXUAL ASSAULT - A SCENARIO FOR DISCUSSION

PRESENTED BY:

Becky Robertson
Associate Dean of Students
Embry-Riddle Aeronautical University
Daytona Beach, FL

Presented at the Stetson University College of Law Conference:

14th ANNUAL NATIONAL CONFERENCE ON
LAW AND HIGHER EDUCATION: ISSUES IN 1993
Sheraton Sand Key Resort Hotel
Clearwater Beach, Florida
February 14-17, 1993
Embry-Riddle Aeronautical University
Administrative Policies and Procedures Manual

SEXUAL ASSAULT POLICY

Effective Date January 18, 1992

Policy 6.1

Page 1 of 2

Purpose and Scope of the Sexual Assault Policy

To establish a policy and definition concerning sexual assault. This policy applies to all employees and students.

Policy

1. It is the policy of Embry-Riddle Aeronautical University that no student or employee may threaten the health and safety of a member of the University community, of any person on University property, or at a University sponsored or supervised activity, through the commission of sexual assault, including acquaintance rape.

2. Definition - The University recognizes and adopts the Florida State Statute, Arizona State Statute, and any State statute or military statute/regulation as appropriate for the particular location. Additionally, Embry-Riddle Aeronautical University acknowledges acquaintance rape in its definition of sexual assault. Acquaintance rape is defined as forced, manipulated or coerced sexual intercourse by a friend or an acquaintance. It is an act of violence, aggression and power in which a victim, under protest, is forced to have sex through verbal coercion, threats, physical restraint and/or physical violence.

3. Consideration and Rights to be Afforded to ALL Campus Community Members who are Victims of Sexual Assault:
   a. The right to have all sexual assaults against them treated with seriousness; and the right, as victims, to be treated with dignity.
   b. The right to have sexual assaults committed against them investigated and adjudicated by the duly constituted criminal and civil authorities of the governmental entity in which the crimes occurred; and the right to the full and prompt cooperation and assistance of campus personnel in notifying the proper authorities.
   c. The right to be free from pressure that would suggest that the victim: (i) not report crimes committed against them to civil and criminal authorities or to campus law enforcement and disciplinary officials; or (ii) report crimes as lesser offenses than the victim perceives them to be.
   d. The right to be free from suggestions that sexual assault victims not report, or under-report, crimes because --
      (1) victims are somehow "responsible" for the commission of crimes against them;
      (2) victims were contributorily negligent or assumed the risk of being assaulted; or

6.1-1
(3) by reporting crimes they would incur unwanted personal publicity.

e. The right to the full and prompt cooperation from campus personnel in responding to the incident.

f. The right to access counseling services established by the University, or other victim-service entities.

4. Consideration and Additional Rights to be Afforded to Campus Community Members who are Victims of Sexual Assaults which occur on University Property:

After campus sexual assaults have been reported, the victims of such crimes shall have:

a. The right to require that campus personnel take the necessary steps or actions reasonably feasible to prevent unwanted contact or proximity with alleged assailants.

b. The right to be informed of the disciplinary proceedings as well as the outcome of such proceedings.

c. The same right to assistance, or ability to have others present, which is afforded to the accused during any campus disciplinary proceedings.

5. Disciplinary Action: In addition to any criminal or civil actions which may be pending or in process, the University reserves the right to pursue separate disciplinary action. Persons found responsible for sexual assault may expect disciplinary actions up to and including dismissal from the University.

6. The specific procedures for responding to sexual assault cases for a particular campus may be found in the procedures section of the Administrative Policies and Procedures Manual.

Interpretation: VICE PRESIDENT, ADMINISTRATION

ROBERT A. JOST

6.1-2
Embry-Riddle Aeronautical University
Administrative Policies and Procedures Manual

SEXUAL ASSAULT PROCEDURE

Effective Date January 13, 1992

Responding to Sexual Assault Cases for Daytona Beach Campus
(Please see page 6.1-4 of this document for Prescott Campus Procedure.)

1. **Immediate Response**: A number of University personnel are willing and able to assist victims of sexual assault. Two of the following personnel will assist a victim as soon as there is knowledge of an incident: Director of Counseling, Director of Health Services, Director of Housing, Assistant Director of Housing, Safety Department Director, Dean of Students, Associate Dean of Students, Administrative Secretary-Dean of Students Office, or the Manager of Employment and Employee Relations in the event that a faculty or staff person is involved. The individuals listed comprise The Campus Sexual Assault Response Team. Names and phone numbers of the team members are attached to this procedure.

2. **Delayed Reports**: Victims often delay disclosing information to others about their sexual assault. When a delayed report occurs and the victim is a student, he/she may be referred to the Counseling Center for personal counseling and assistance in reporting the assault to the proper authorities.

3. The senior Student Affairs staff member responding to a call for assistance will insure that the considerations and rights to be afforded victims of sexual assault, as detailed in the University Sexual Assault Policy, are met. An effort should be made to have two members of the Response Team, with one being the same gender as the victim, respond to the victim as soon as possible. This will allow one member to provide support and counsel, while the other member contacts appropriate individuals or agencies as needed.

4. All victims of sexual assault will be assisted in contacting appropriate legal authorities or service agencies (see below). Depending on the nature of the situation (i.e. physical and mental condition of the victim, and immediacy of incident) and with the input of the victim, one or more of the following entities must be contacted as soon as possible but prior to the response team members leaving the assault victim:

   a. **The Rape Crisis Center - Phone #258-RAPE - 258-7273 - 24 hours**

      The Center provides immediate medical attention and counseling. This includes the collection of personal physical evidence, and blood tests for sexually transmitted diseases. Counseling is available after the incident on an on-going basis.

   b. **Victim Advocate Office of State Attorney’s Office**

      - Phone #239-7720 (Monday through Friday 8 a.m. - 4:30 p.m.)
      - Carol Polzella (Direct Line - 254-4679)
The State Attorney's Office will dispatch a representative to meet with the victim, and determine if a crime has been committed. The representative will assist in the preservation of evidence and in directing the victim to appropriate victim assistance.

c. Police Department - Phone #911

The responding police officer will investigate the incident, collect any evidence and refer the victim to the Rape Crisis Center and medical attention. An immediate police notification is important so that if the victim wishes to press criminal charges, the evidence at the scene may be preserved.

d. Hospital - Halifax Medical Center, 303 N. Clyde Morris Blvd., phone #911, in cases of serious physical injuries for emergency transport.

5. The responding Sexual Assault Response Team Members will assist the victim as needed in obtaining medical treatment, counseling services, and in dealing with the legal authorities.

6. The senior responding team member will inform the Dean of Students or his/her representative, of the incident and actions taken. The Dean of Students or his/her representative will determine:

a. Additional actions which may be undertaken to assist the victim in dealing with the aftermath of the incident. For example, contacting faculty members to ask for extensions to complete work assignments and, serving as a resource for continued support.

b. The need to notify additional University personnel (i.e.: University Officers, Campus Provost, Public Relations, Risk Manager, etc.).

c. Procedure for further investigation of the incident and possible disciplinary action.

d. The need to notify the Manager of Employment and Employee Relations of the circumstances in the event an employee is involved in an incident.

**Interpretation:**

DEAN OF STUDENTS

__________________________________________

DANIEL J. KELLY, Ed.D.
DAYTONA BEACH CAMPUS
SEXUAL ASSAULT RESPONSE TEAM MEMBERS

HOUSING OFFICE-Ext. 6555
Sonja Taylor, Director of Housing
Tim Rupe, Asst. Director of Housing

HOME TELEPHONE NUMBERS
767-1416
767-8481

COUNSELING CENTER-Ext. 6035
Linda Bloom, Director of Counseling
788-7122

DEAN OF STUDENTS-Ext. 6326
Dr. Daniel J. Kelly, Dean of Students
Dean Becky Robertson, Associate Dean of Students
Gail Sullivan, Administrative Secretary
1-738-3665
756-4997
760-6266

SAFETY DEPARTMENT-Ext. 6480
Kevin Mannix, Director of Safety
756-5664

HEALTH SERVICES-Ext. 6036
Maureen Bridger, Director of Health Services
676-2264

HUMAN RESOURCES-Ext. 6145
Irene McReynolds, Manager of Employment & Employee Relations
255-4263
Responding to Sexual Assault Cases for Prescott Campus

1. Notification of Embry-Riddle Aeronautical University Crisis Team if assault occurs to a student living in University Managed Housing:
   
a. Resident Assistant is notified of assault to victim.
   
b. Resident Assistant calls Director of Housing or Designate.
   
c. Director of Housing calls Dean of Students (or Acting Dean of Students).
   
d. Dean of Students calls Director of Counseling Services.
   
e. A member of the Crisis Team (named above) contacts Claudia Thomason, Coordinator of the Yavapai County Victim Witness Programs, at the Yavapai County Attorney’s Office 771-3347 (work) 8:00 a.m. - 5:00 p.m. or 772-9928 (home) after 5:00 p.m. or during weekends.

   A Victim Witness Assistant may also be contacted after 5:00 p.m. by calling the beeper which is voice activated. The beeper number is 771-4355. Call the number, give the number where you want the Victim Witness to return your call, say the number two times. A Victim Witness Assistant from the Prescott Policy Department will be sent to assist the victim.

   f. If ERAU Security has been notified or if they assisted with the assault victim, the Crisis Team should consult with Security, and relieve them of responsibilities.

2. Procedure for Assisting Sexual Assault Victim:
   
a. Introduce yourself and define your role. Assure the safety of the victim. [“You are safe now”, “It’s over now and you aren’t alone”. Ask, “How do you feel?”, “Are you hurting?”, “Can I get some tissues for you?”] You must determine if there was oral sexual contact before offering the victim anything to drink. If there was, no liquids should be taken until after the hospital has completed its exam.
   
b. All victims of a sexual assault will be assisted in contacting appropriate legal authorities or service agencies (see below). Depending on the nature of the situation (i.e. physical and mental condition of the victim, and immediacy of incident) and with the input of the victim, one or more of the following entities must be contacted as soon as possible but prior to the response team members leaving the assault victim:
SEXUAL ASSAULT PROCEDURE

Effective Date January 13, 1992

(1) The Victim Witness Assistant is reached by calling Claudia Thomason at home, 772-8928 (after hours or weekends) or at the office, 771-3347, between 8:00 a.m. and 5:00 p.m.; or

(2) Call the Beeper number 771-4356. It is a voice activated beeper. Give the number where you want to be reached. Say the number twice.

(3) Call the Prescott Police Department (911) and ask for a Victim Witness Assistant. A Victim Witness Assistant and a police officer will respond to the scene.

(4) Call 911 for transport to medical facilities in cases of serious physical injuries.

3. Assist the victim in obtaining medical treatment. The most important job you have is to encourage the victim to go to the hospital for his/her own health and safety regardless of his/her decision about reporting police involvement or the involvement of a Victim Assistant. The medical exam will determine injuries, screen for and provide prophylactic treatment against pregnancy and venereal disease. You can call the Emergency Room to let the staff know you will be bringing in a sexual assault victim and a rape kit will need to be done.

4. It may be helpful to explain the components of the exam so the victim knows what to expect. The medical staff will ask medical history questions such as when her last menstrual period was and when her last consensual sexual contact was. They may ask some basic questions about the assault to determine the extent of the examination required. The Emergency Room staff will take samples (pubic hair, semen, vaginal smears, combing of pubic hair) all necessary for the prosecution as evidence. Also, a photograph will be taken of the victim by the police. Prepare the victim for these tests as best you can. The County will pay for the rape kit testing.

   a. If there is no Victim Witness Assistant, you should stay with the victim throughout the examination at the victim’s request. Under no circumstances should a female accompany a male sexual assault victim during this phase of intervention nor should a male accompany a female sexual assault victim at this point.

   b. If the police are called, sit with victim during the police interview to provide support. It is important to be extremely careful to follow police procedures in this type of case because the victim herself/himself is very important evidence. It is imperative not to tamper with a crime scene, impair an investigation or tell the victim what to say or how to act.

   c. If the victim chose not to have a Victim Witness Assistant called through the Prescott Police Department but later decides to enlist the help of the Yavapai County Victim Witness
Assistant, he/she may call Claudia Thomason at 771-3347 anytime between 8:00 a.m. and 5:00 p.m. during the week, 772-8928 during the evenings or weekends, or you may call the beeper number, 771-4356.

d. The victim will be given information about the Victim Witness Program, the Victim Compensation Program and encouraged to seek professional counseling.

e. Claudia Thomason is our contact person at the Yavapai County Victim Witness Program through the County Attorney's Office. She encourages us to consult her for advice regarding any of our counselees.

**Interpretation:** DEAN OF STUDENTS

MARY JOHNSON