



The University of  
**Montana**

**Office of the President**  
The University of Montana  
Missoula, MT 59812-3324

Office: (406) 243-2311  
FAX: (406) 243-2797

DATE: March 22, 2012

TO: UM Campus Community and Missoula Community

FROM: Royce C. Engstrom, President *Royce C Engstrom*

SUBJECT: Sexual Assault Report

This report has two purposes: 1) to bring to a close the Special Investigation surrounding sexual assaults that have occurred over approximately the last one and one half years; and 2) to articulate campus changes in education, policy, and protocol regarding sexual assault.

In December 2011, as a result of reported sexual assaults, we put two actions into motion. First, as is required of the University by Federal Law and University Policy, we launched a Special Investigation with the objective of identifying and removing assaulters from campus through the Student Conduct Code. Federal regulations require such an investigation in addition to any criminal investigation conducted independently by law enforcement. We contracted with an outside investigator, Diane Barz, to assist in the investigation. Ms. Barz submitted two reports, one in December 2011 and one in January 2012, both of which have been made public. This present memorandum will finalize the Special Investigation.

Second, I issued a directive to the Cabinet asking various members to report back to me by the end of February with changes in education, policy and protocol, and the Student-Athlete Conduct Code. All of those reports were submitted on time and are available on the President's Office website at <http://www.umt.edu/president/sexualassault/default.php>. The reports form the basis for the actions described below. In addition, in February 2011, well before the most recent incidents were reported, I asked the University Council on Sexual Assault (UCSA) to examine progress made toward recommendations from earlier years. The UCSA filed an extensive report with me in February of the current year which provided guidance to this present memorandum. Finally, as a campus, we held multiple forums of various types since last December, including campus and community forums, some of which were student-designed and led, some of which involved other campuses. We provided two reports to the Montana Board of Regents. All of those conversations have provided direction for this report.

### **The Special Investigation**

The Barz report addressed a total of nine allegations of sexual assault. The investigation surrounding all nine has now been completed. As a result, four of those cases resulted in Student Conduct Code action against a total of eight students. While we will not make public the names and specific sanctions associated with the cases, five students are no longer enrolled at the University and three students are appealing. Three cases have been brought to a close without action taken because of lack of evidence of assault. Two cases were not pursued by the victims, and without their involvement, those investigations have been suspended. At this point, while there may be appeals in progress through the Student Conduct Code, the investigation itself is

closed. Two other cases of reported assault have become public. In one case, the perpetrator fled the country. He will not be allowed back to the University and federal authorities have been notified. The other case is pending in the Student Conduct Code process. Some of the cases have involved or may presently involve law enforcement investigation outside of the University. In those cases, the University has cooperated fully with authorities and will continue to do so.

The closure of the Investigation does not mean that we will be a campus free of sexual assault. As with most college campuses, sexual assault is a serious and ongoing issue. We must build upon the hard lessons learned over the past several months and move forward with three primary objectives: 1) to do everything possible to eliminate sexual assault from our University; 2) to care for victims of sexual assault as effectively and compassionately as possible; and 3) to remove known sexual assaulters from our community. The following sections summarize the actions we have or will put into effect to meet those objectives.

### **Education**

As a University, our primary weapon against sexual assault is education. A full catalogue of both existing and new efforts is included in the special report on education can be found on the previously mentioned website. Among the notable changes to our educational efforts are the following:

- We will require an online tutorial on sexual assault of all students registering at the University starting Fall 2012. The online tutorial will be developed and completed over the course of the summer along with a system for insuring that it is taken by all students. The tutorial will be brief and direct, covering definitions of sexual assault, the absolute intolerance of sexual assault on this campus, resources available for victims, and reporting structures.
- Through a new cooperative project with the City of Missoula through the Mayor's office, we have launched an effort to educate students and citizens of the reporting venues available in the instance of sexual assault. The project will carry an emphasis on calling 911, referring students to confidential support services, and the role of the Student Conduct Code.
- The University has strengthened its partnership with the community's First Step Resource Center by adding a member to its Advisory Board and several new members to its Multidisciplinary Team (MDT).
- An intensified series of forums and discussions regarding sexual assault has already started and will be maintained. The series has included the *Men Can Stop Rape* program with its development of a *Men of Strength* group to engage our male students more fully in prevention efforts. Additionally, our students have held two on-campus discussions and participated in a Montana University System forum this semester. Those forums, designed and delivered by students, will continue with assistance from the Missoula-based office of the National Coalition Building Institute (NCBI). A new documentary, *Miss Representation*, will be shown as a tool designed to help women see themselves as leaders.

### **Student-Athlete Conduct Code**

We have developed and approved a new Student-Athlete Conduct Code. It is posted online and went into effect March 15, 2012. The Code will be distributed to all student-athletes at the

beginning of each season with a team session dedicated to discussion of the code. The new code has three new features:

- A newly created Athletic Conduct Team (ACT) is now charged with enforcing the policies within the Code and imposing penalties on students when the Code is violated. The Coaches are no longer involved in setting penalties, but they are responsible for implementing the sanctions determined appropriate by the ACT. Ultimately it is the responsibility of the Athletic Director to enforce the sanctions. The ACT is composed of the Athletic Director, the Senior Associate Athletic Director, and the Faculty Athletic Representative. Any Coach receiving knowledge of any infraction shall immediately report the infraction to the ACT, which will in turn report the infraction to the President.
- Infractions of the Code are clearly defined as Category I (most serious, including any felony such as sexual assault, other assault, felony DUI, etc.), Category II (misdemeanors and other offenses that bring embarrassment to team or University), and Category III (disorderly conduct, underage possession of alcohol, violation of University policies, inappropriate conduct that brings embarrassment to the team or University).
- A penalty schedule is defined for each Category. A Category I offense results in dismissal from the team upon the first offense. Sanctions for other categories depend upon the nature and repetitiveness of violation. Offenses that also violate the University Student Conduct Code will be immediately referred to the Dean of Students.

### **Protocol and Communication**

Legal Counsel for the University has clarified the legal considerations that apply to sexual assault within the Montana University System: Federal Title IX, the Montana Human Rights Act, the Montana University System student privacy statutes, FERPA, and the Federal Clery Act related to reporting. In addition, the Federal Government's "Dear Colleague" letter of April 2011 increased expectations. As a result of studying those frameworks, the following policy changes will be put in place at The University of Montana:

- The first change codifies current practice, stating that the Student Conduct Code applies off-campus as well as on-campus to all assaultive behavior, and it will be applied regardless of whether criminal charges have been filed. The Student Conduct Code will also now reflect the direction of the Dear Colleague letter that a "preponderance of evidence" apply to alleged sexual assaults processed through the Student Conduct Code, a lesser standard than the "clear and convincing" standard previously required.
- Mandatory reporting of sexual assault by employees will be required except where statutorily prohibited, primarily applicable to University health care professionals including the Sexual Assault Resource Center (SARC). This change does not require that the employee report the victim's name absent the victim's consent and it does respect victim privacy and confidentiality concerns at all times. The reporting must be made to the University Title IX Coordinator.
- When a sexual assault is reported, the following team will be immediately convened: Title IX Coordinator, Dean of Students, Director of Public Safety, Vice President for External Relations, Vice President for Student Affairs, UM Legal Counsel, and the President. That team will determine how to move forward with respect to action with both the alleged victim and the alleged perpetrator, possible Clery Act notification, communication with law enforcement agencies, communication with the campus, and communication with the media. Contact between UM Public Safety and the Missoula

Police Department will be conducted immediately according to the Memorandum of Understanding in place between the two organizations. In addition, the Office of the Mayor and where applicable, other public officials, will be contacted and provided with information permitted under the privacy constraints of the University.

### **Resources**

Financial resources will be directed into two areas beginning fiscal year 2013. One additional patrol officer will be added to Public Safety with the express direction that patrol in the Residence Hall areas will be increased at night, including weekends. Through the Office of the Vice President for Student Affairs, financial resources will be added to support the enhanced educational programming described above and the production of additional materials for distribution and posting around campus.

### **Closing Comments**

The events of the past few months have delivered a critical message to the University. We have learned much that will help us to be a safer community, fostering a learning environment in which our students can fulfill their dreams. Now we must focus on the goal of eliminating sexual assault from our campus. I will expect and hold accountable every member of my administration and indeed every member of the campus as a whole to do his or her utmost to address that goal.