

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE**

A.M., a minor, by and through her mother
SHAEL NORRIS

Plaintiff,

v.

CAPE ELIZABETH SCHOOL DISTRICT;
DONNA WOLFROM; Superintendent of Cape
Elizabeth Schools, JEFFREY SHEDD, Principal
of Cape Elizabeth High School; and NATHAN
CARPENTER, Vice Principal of Cape Elizabeth
High School,

Defendants.

Civil No. ____

DECLARATION OF CLARA PORTER

Pursuant to 28 U.S.C. § 1746, I, Clara Porter, declare as follows:

1. I am an expert in violence prevention and response, especially in prevention education and awareness programming (middle school through college), professional training, coalition building, designing systems for support and response, survivor support and advocacy, and community change.
2. My interest is in shifting cultural attitudes and behaviors to create climates that are safer, more inclusive, supportive and welcoming. I strive to engage all community members by helping them discover their stake in preventing violence and creating safer environments.
3. I hold a Masters of Social Work and extensive experience working with families, youth, adults, and people with disabilities. I am also a nationally certified self

- defense instructor with the National Women's Martial Arts Federation and the Center for Anti-Violence Education with 25 years experience in the field.
4. I currently serve as the Director at Prevention. Action. Change. (PAC) and am a past President of the Board of Directors for the Maine Women's Fund.
 5. PAC works to counter harassment, assault, and abuse through safety strategies, verbal and physical skills, increased confidence and awareness, and promotion of healing and growth. PAC strives to create safer spaces of learning and growth for people of all ages, physical abilities, and backgrounds. I have served as the Director at PAC since September 2003.
 6. In 2015, I served as the Executive Director at Sexual Assault Support Services of Midcoast Maine, an agency providing prevention education, crisis support, and ongoing services related to sexual violence in the Midcoast region of Maine.
 7. For over 10 years I have served as a support advocate for Sexual Assault Crisis and Support hotlines in Maine.
 8. From 2010 to 2013, I served as the Coordinator for the University of Southern Maine's Campus Safety Project, a federally funded university-wide program to promote healthy relationships and prevent and better respond to sexual assault and harassment, domestic and dating violence, and stalking in the campus community through education, policy and protocol work in compliance with Title IX of the Education Amendments Act of 1972.

9. Based on years of experience in the field, I know that sexual assault is pervasive, underreported, and carries lifelong consequences for survivors of all genders.¹ Laws against sexual assault are chronically under-prosecuted and under-enforced, with just 5 out of 1,000 perpetrators being convicted of any crime.²
10. More specifically, out of every 1,000 allegations of sexual assault, 230 are reported to the police, just 46 of those reports lead to arrest, and only 5 arrests lead to a felony conviction. In comparison, out of every 1,000 allegations of robbery, 619 are reported to the police, 167 reports lead to arrest, and 22 arrests will lead to a felony conviction.³
11. Given the well known reality that established processes for reporting and response often do not provide justice for sexual assault—survivors, activists, and allies often resort to alternative outlets to speak out against rape and sexual assault.⁴
12. According to recent data, about 10% of high school students experience sexual violence, with females (15.2%) experiencing higher rates than males (4.3%).⁵
13. In Maine specifically, 11 percent of Maine students said they had been forced to have unwanted sexual contact, with even higher rates for students who identified as female (16 percent) and transgender (39 percent).⁶ Nine percent of Maine

¹ One in four girls and one in six boys will be sexually abused before they turn 18 years old Sexual Assault in the United States, NATIONAL SEXUAL VIOLENCE RESOURCE CENTER, Get Statistics, <https://www.nsvrc.org/node/4737>. One in five women are sexually assaulted on college campus, and more than 90% of them do not report their assault. *Id.*

² The Criminal Justice System: Statistics, RAINN, <https://www.rainn.org/statistics/criminal-justice-system>.

³ The Criminal Justice System: Statistics, RAINN, <https://www.rainn.org/statistics/criminal-justice-system>.

⁴ Social media provides one—but by no means the only—outlet for such speech, including the #MeToo, #TimesUp, and #WhyIDidn'tReport hashtags on Twitter.

⁵ Youth Risk Behavior Surveillance, United States, 2017, Centers for Disease Control and Prevention, June 15, 2018, available at <https://www.cdc.gov/healthyyouth/data/yrbs/pdf/2017/ss6708.pdf>.

⁶ Adolescent Sexual Health in Maine, 2017 Maine Integrated Youth Health Survey, <https://data.mainepublichealth.gov/miyhs/files/Snapshot/MIYHSSexualHealthInfographic2017.pdf>.

students have been physically hurt by a dating partner on purpose in the past year.

Id.

14. Most rapes and sexual assaults go unreported.⁷ Several barriers to reporting sexual assault include:

- (1) not having proof that the incident occurred;
- (2) fear of retaliation by the perpetrator or their peers;
- (3) fear of hostile treatment by authorities;
- (4) uncertainty that the authorities would consider the incident serious enough;
- (5) not knowing how to report the incident; and
- (6) desire to prevent family and others from learning about it.⁸

15. Additional barriers to reporting include that “[v]ictims may not define the event as sexual assault or report the incident because they are embarrassed, are reluctant to consider someone they know as a rapist, or do not understand the legal definition of sexual assault.”⁹

16. The same factors that lead to widespread under-reporting of sexual assault can also lead to victims initially submitting a report, but then withdrawing it.

17. Although sexual assault victims rarely report their assault to an authority figure, they are likely to tell “someone they know about their victimization experience.”
Id. at 2-10. Often victims find an advocate or ally to share their story.

18. School policies and practices play a key role in determining whether or not students feel comfortable coming forward to report sexual assault and feel supported enough to pursue claims through the entire process. Awareness about

⁷ Rape is the most under-reported crime, with 63% of assaults not reported to police. NATIONAL SEXUAL VIOLENCE RESOURCE CENTER, Get Statistics, <https://www.nsvrc.org/node/4737>.

⁸ The Campus Sexual Assault (CSA) Study at 2-9, National Institute of Justice (December 2007), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/221153.pdf>.

⁹ *Id.* (citing Pitts, V.L., & Schwartz, M.D. (1993). Promoting self-blame in hidden rape cases. *Humanity and Society*, 17(4), 383–98, 1993)).

the prevalence of sexual assault is also important in encouraging students to report. Student activists who raise awareness of sexual harassment and assault in their local communities help to ensure that students will feel more comfortable reporting sexual assault. In my experience, when you raise awareness, increased reports follow. An important caveat, however, is that if a school has not done the foundational work of writing effective policies and protocols and providing response training to *all* staff, there is no appropriate mechanism to support students throughout the process. This could lead to reports and investigations being handled ineffectively, resulting in backlash and, even more seriously, in a drop in reporting.

19. Disciplining someone for raising concerns about sexual assault sends precisely the wrong message to survivors and allies.
20. Survivors and allies already have too many reasons to keep silent—many of which are societal and cultural.
21. Adding the risk of potential discipline will discourage students from engaging in important speech and undermine the safety for students in our schools.
22. The issues raised by A.M., including the need for improved policies on investigating sexual harassment and assault, increased support for reporters and victims, and clearer mandatory reporting guidelines, are important issues being addressed nationwide.¹⁰

¹⁰ See, e.g., Considerations for School District Sexual Misconduct Policies, White House Task Force to Protect Students from Sexual Assault (Sept. 2016) <https://www.justice.gov/archives/ovw/page/file/900716/download> (emphasizing the importance of having a separate sexual misconduct policy, defining consent, and recommending a vetting process with key stakeholders); Tierney Sneed, High Schools and Middle Schools Are Failing Victims of Sexual Assault, U.S. News & World Report (March 5, 2015).

23. “The data underscore the need for a change in attitudes toward rape and sexual assault. Out of the 80 percent of incidents that went unreported, 26 percent of respondents said they didn't report because it was a personal matter, according to the report. Another 20 percent didn't report for fear of reprisal.”¹¹
24. Anti-violence activists tend to define the terms “rape” and “rapist” broadly, as including a broad range of acts participating in, or contributing to, nonconsensual sexual activity. For example, in January 2012, the Department of Justice, Director of the Office on Violence Against Women, issued an updated “definition of rape,” as “[t]he penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.”¹²
25. Rape also includes situations in which consent is provided early on in an interaction, but later withdrawn, or in which consent is provided for certain acts but not others.
26. “Rape” does not have a legal definition in Maine law, which instead uses the term “gross sexual assault.”
27. I understand that Cape Elizabeth High School has suspended A.M. for writing on a sticky note in bathroom that “There’s a rapist in our school and you know who it is.”

<https://www.usnews.com/news/articles/2015/03/05/high-schools-and-middle-schools-are-failing-victims-of-sexual-assault>.

¹¹ Lindsey Cook, Student Victims Less Likely to Report Rape, U.S. News & World Report (Dec. 12, 2014), <https://www.usnews.com/news/blogs/data-mine/2014/12/12/student-victims-less-likely-to-report-rape>.

¹² <https://www.justice.gov/archives/opa/blog/updated-definition-rape>.

28. It is my opinion that if the discipline against A.M. is upheld, students of all genders will be deterred from speaking out about sexual assault in their community. Sexual assault is already chronically under-reported, and allowing a school to retaliate against a student acting as a good-faith advocate for survivors of sexual assault will discourage even more students from speaking out. That will make the educational setting more dangerous and less accessible to those most at risk.
29. I am providing this declaration in my personal capacity, not as a representative of Prevention. Action. Change.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on October 13, 2019

/s/ Clara Porter
Clara Porter