

Date of Report: November 20, 2016
 Primary Investigator: January Boten
 Secondary Investigators: Rony Die
 Respondent(s): Aaron Lashua
 Incident No(s): 00010-002-2016

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SUMMARY OF INVESTIGATION

Involved Parties

Complainant: Sarah Ascher

- October 4, 2016: Met with investigators
- October 8, 2016: Emailed statement for review, no response
- October 25, 2016 Emailed initial report ready for review
- October 28, 2016: Reviewed initial report
- October 31, 2016: Submitted response to initial report
- November 11, 2016: Invited to review revised report
- November 13, 2016: Reviewed revised report
- November 15, 2016: Submitted final response
- November 25, 2016: Notified of hearing date

Respondent: Aaron Lashua

- October 10, 2016: Emailed charge notice
- October 15, 2016: Met with investigators; emailed statement for review, replied same day saying the report was accurate
- October 25, 2016: Emailed initial report ready for review

- October 27, 2016: Reviewed initial report and gave no response
- November 11, 2016: Invited to review revised report
- November 12, 2016: Reviewed revised report
- November 15, 2016: Submitted final response
- November 25, 2016: Notified of hearing date

Witnesses: Kelly Lin

- October 8, 2016: Called to request participation as a witness, agreed, emailed confirmation the same day
- October 12, 2016: Met with investigators; emailed statement for review
- October 13, 2016: Replied to statement review

Tunde Ola

- October 8, 2016: Emailed witness request
- October 11, 2016: Met with investigators; emailed statement for review, replied the same day

Date of Reported Incident

September 10, 2016

Reports Received From

Complainant

History of Investigation

On October 4, 2016, Sarah Ascher spoke with Dean Die and Dean Boten over the phone to report an alleged violation of the Student Code against Aaron Lashua, where Sarah Ascher was the complainant. Kelly Lin was named as a witness and the first person who spoke to Sarah Ascher after the incident took place. We discussed role of investigators. We asked if an advisor was present with Sarah Ascher and she said that Pat Morey from the Women's Resources Center was also on the line. We talked about her right to report the incident and to choose her level of participation as well as the right to not say anything. We explained the expectation of honesty and the retaliation policy. We also referred her to the resources on WeCare website. We talked about the difference in this process from the criminal process. We discussed why questions about alcohol are asked if it is applicable to the situation. We talked about the right to bring witnesses and supporting information. We shared that the information in file is private. We talked about the steps after the interview: that she would review notes, we would interview respondent and any witnesses, and put together an investigative report for both to review, give feedback, and right to review all reports and the right to appeal.

Sarah Ascher was emailed her statement for review on October 8, 2016. Sarah Ascher replied to Dean Boten on October 10, 2016.

Aaron Lashua was sent a charge notice with a no contact directive on October 10, 2016. Sarah Lashua was notified via email when the notice was sent.

On October 15, 2016, Aaron Lashua met with the investigators. Dean Danielle Die served as the secondary investigator. We discussed role of investigators. Kenny Importante served as an advisor. We explained the expectation of honesty and the retaliation policy. We talked about the difference from the criminal process. We discussed why questions about alcohol are asked if it is applicable to the situation. We talked about the right to bring witnesses and supporting information. Tunde Ola was named as a witness to the incident. We shared that the information in file is private. We talked about the steps after interview: that put together an investigative report for both to review, give feedback, and right to review all reports and the right to appeal.

Aaron Lashua was emailed his statement for review on October 15, 2016. Aaron Lashua replied on the same day.

On October 28, 2016, Investigators Die and Boten completed their initial investigative report and contacted the complainant and respondent to inform them of this fact and give them until November 7, 2016 to review and respond to that report. A list of members of the Subcommittee on Sexual Misconduct is included on top of the initial investigative report, giving the respondent and complainant the opportunity to challenge the objectivity of anyone on that list based on the existence of a prior relationship that could result in substantial bias.

Sarah Ascher reviewed the initial report on October 28, 2016 and submitted a response on October 31, 2016. Aaron Lashua reviewed the initial report on October 27, 2016 and submitted a response on November 7, 2016.

On November 11, 2016, Dean Die and Dean Boten completed a revised investigative report and contacted the complainant and respondent to inform them of this fact and to give them until November 20, 2016 to review and respond to that report. Sarah Ascher reviewed the revised report on November 13, 2016 and submitted a response on November 15, 2016. Aaron Lashua reviewed the revised report on November 12, 2016 and submitted a response on November 15, 2016.

Dean Boten completed the final investigative report with the assistance of the secondary investigator Dean Die; the report included the proposed statement of fact, proposed responsibility determinations, and a written rationale for both. A panel of three members of the Subcommittee on Sexual Misconduct was assembled, Dean Brown was named as the advisor, and the final investigative report was distributed to this panel. Dean Boten emailed the parties on November 25, 2016 to notify them that December 5, 2016 would be the date of the hearing.

Alleged Violations

For Aaron Lashua

Violation charge statement from original charge letter: It is alleged that you raped another student on September 10, 2016.

The investigation looked into possible violations of the following provisions of the Student Code:

- 1-302(b) Conduct that violates the University's sexual misconduct policy, including:
 - (1) Sexual assault, as defined by § 1-111(c) (2) of the Student Code

[§ 1-111(c)(2) Sexual assault is any sexual activity that does not involve the knowing consent of each person, including (A) any form of sexual penetration without consent; and (B) any intentional or knowing touching or fondling by either person, directly or through clothing, of the sex organs, buttocks, or breasts of either person for the purpose of sexual gratification or arousal of either person without consent.]

[§ 1-111(c)(3) Consent is informed, freely and actively given, mutually understandable words or actions that indicate a willingness to participate in mutually agreed upon sexual activity. A person can withdraw consent at any time. There is no consent when there is force, threats, intimidation, or duress. A person's lack of verbal or physical resistance does not constitute consent. Consent to past sexual activity with another person does not constitute consent to future sexual activity with that person. Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person. A person cannot consent to sexual activity if such person is unable to understand the nature, fact, or extent of the activity or give knowing consent due to circumstances including without limitation the following: (A) the person is incapacitated due to the use or influence of alcohol or drugs; (B) the person is asleep or unconscious; (C) the person is under the legal age to provide consent; or (D) the person has a disability that prevents such person from having the ability or capacity to give consent.]

Standard of Proof

In order to determine that a student has violated the Student Code, the standard of proof required is a preponderance of the information, i.e., the information demonstrates that it is more likely than not that the conduct occurred.

INCIDENT NARRATIVE

Sarah Ascher and her roommates, Kelly Lin, Becky McCaughey, Yulisa Shipley and Carmen Trad had a party at their house on September 10, 2016 to celebrate a home football game weekend. The five women started the day with a Champagne and Pancakes breakfast around 8am. Ascher consumed about three champagne glasses of champagne and ate two large pancakes. (Appendix B)

Friends started to trickle in to the house throughout the morning. (Appendix B)

A friend of Lin's, Joe Englehart, was stationed at the door starting around 10am collecting money and handing out solo cups for beer. Englehart sent a text to several friends around 11am saying they should come to the party. This text was sent to Aaron Lashua. (Appendices B and C)

Lashua arrived at the party around noon. Lashua had brought with him a flask filled with Jack Daniels whiskey and he alternated between drinks from the flask and beer. (Appendix C)

Starting around 2pm a group had formed in the living room dancing and singing. Both Lashua and Ascher were in this group. Lashua and Ascher did not previously know each other but were laughing and singing near each other in the living room. (Appendices B, C and E)

1 Around 3pm Ascher went into her bedroom to take a nap. Ascher had drank one or two cups of beer
2 throughout the afternoon. She said she was buzzed but not drunk when she went to take a nap. The
3 party was still going on, but there were less people there at that time because the football game was
4 starting at 3:30pm and some people at the party left to go to the game. (Appendix B)

5
6 Ascher said that sometime between 4pm and 8pm she woke up and there was a guy on top of her
7 having sex with her. She recognized the man as the same man she was dancing and singing with earlier
8 in the afternoon. Ascher said she told him to stop when she realized what was happening and at first he
9 did not stop. Ascher said that she became louder in telling him to stop and at one point he looked at her
10 and she got away and ran out of her room wearing only an oversized t-shirt. Ascher said that while she
11 was trying to tell her roommates what had happened the man left the house out a back door. (Appendix
12 B)

13
14 Aaron Lashua said that he drank the entire flask of Jack Daniels Whiskey and 5 or 6 glasses of beer
15 throughout the afternoon. He described himself as about a "7" on a 1-10 scale with 1 being totally
16 sober and 10 being very drunk. (Appendix C)

17
18 Lashua said that he continued dancing in the living room for most of the afternoon but he felt a strong
19 connection with Sarah Ascher and started to ask friends about her when he noticed she was gone.
20 Specifically, Lashua talked to Tunde Ola who was playing the music. Ola told Lashua that Ascher lived in
21 the house. (Appendices C and E)

22
23 Lashua said that once he found out that she lived there, he walked through the house looking for
24 Ascher. When he opened the door to Ascher's room and saw her sleeping there, he said he laid down
25 next to her and was playing with her hair and then he said he kissed her. (Appendix C)

26
27 Lashua said even though he can't remember if she opened her eyes he does remember that she kissed
28 him back. Lashua said that they started making out more and eventually had sex. Lashua said that
29 Ascher was participating in the sex by holding on to him. Lashua said that in the middle of this Ascher
30 changed and told him to stop. At that point Lashua felt like Ascher was mad and even though Lashua
31 didn't understand why Ascher was mad he liked her and didn't want to make her more upset so he left
32 and went back to his room in Wassaja Hall. (Appendix C)

Appendix A: Incident Description/Summary of Champaign Police Department Report

IR#: 00010-002-2016
Date/Time of Incident: September 10, 2016 between 4:00pm and 8:00pm
Location of Incident: 512 First Street Champaign, Illinois 61820
Additional Info:
Students Involved: Aaron Lashua
Victims/Complainants: Sarah Ascher
Other Witness(es): Kelly Lin, Tunde Ola
Police Report #:

Incident Description

Sarah Ascher spoke with investigators Boten and Die on October 4, 2016 over the phone to report that she was sexually penetrated without consent by Aaron Lashua at her apartment on September 10, 2016. The investigators reviewed her options, verified that she did not speak with the police about the incident, and as such, there was no accompanying police report, and that she did wish to participate in an investigation with the university. Her statement is included in Appendix B: Complainant Interview. Ascher did not want a no contact directive at this time.

Appendix B: Complainant Interview: Sarah Ascher

Meeting Date: October 4, 2016
 Primary Investigator: January Boten
 Secondary Investigator: Rony Die
 Complainant Advisor: Pat Morey

DISCLAIMER: These notes are not verbatim and should not be read as a transcript of the interview. They constitute our best effort to capture all of the information discussed.

[Discussed role of investigators, asked about advisor, right to report incident and choose level of participation, right to not say anything, expectation of honesty, retaliation policy, resources on WeCare website, difference from criminal process, why questions about alcohol are asked if it is applicable, right to bring witnesses and supporting information, FERPA, information in file private, steps after interview (review notes), interview respondent and any witnesses, and put together an investigative report for both to review, give feedback, and right to review all reports and appeal.]

Dean Boten: Please tell us why you are here today.

Sarah Ascher: I am here because I was sexually assaulted. I figured out by talking to my friends that the guy that did it is Aaron Lashua, but I didn't even know that at the time.

Dean Boten: Will you describe what happened that day?

Sarah Ascher: It was a game weekend so my roommates, Kelly Lin, Becky McCaughey, Yulisa Shipley and Carmen Trad and our friends had champagne and pancakes pretty early. We were excited because it was a game day. We always were really into game days even though we don't have tickets or anything. Anyway, we were having fun with our friends that morning. Our neighbors had a party the night before, so they brought over the rest of their barrel and once the champagne was gone people started drinking that.

At first it was just our friends there but then there were a few people I didn't know, but they seemed cool so it was fine at that point. Everyone was just having a good time drinking and listening to music.

I had been up late the night before over at my neighbor's so I was pretty tired and decided to take a nap so I could still go out that night. I went into my room and fell asleep pretty quick so I really must have been tired.

All of a sudden I woke up and there was this guy on top of me, you know, having sex with me. I didn't know what his name was at that point. I told him to stop and he just kept going so I said it louder and then suddenly he looked at me like he was surprised. I took that as my chance to squirm away and I ran out into my living room. I only had on my ex boyfriend's big t-shirt when I ran out of my room, but I didn't care. I just wanted to be away from him.

When my friends went back to look for him he wasn't in my room anymore. He must have left out the back door.

Dean Boten: You said that you didn't know his name at that point. Do you know his name now?

1 Sarah Ascher: I did figure out his name. My roommate Kelly's friend Joe had invited him. Joe said his
2 name was Aaron Lashua and they were in a group for AG ED 260 together and he thought it would be
3 cool just to invite the group over since they had just gotten done with a big project that week.

4 **Dean Boten: How did you figure out that Aaron was the guy who was in your bed?**

5 Sarah Ascher: Well, right before I went to take a nap there was a whole group of us dancing in the living
6 room and Aaron was there and I noticed he had on a green Red Sox hat. I thought that was weird so I
7 remembered it. So I when I told my roommates that it was that guy they figured out his name for me
8 pretty fast.

9 **Dean Boten: You mentioned that you were drinking that day. What did you drink and how much?**

10 Sarah Ascher: Umm, I had 3 glasses of Champagne with the two pancakes I had for breakfast. Then I just
11 had 2 cups of beer that I drank pretty slowly before I went to go take a nap. I was a little buzzed but I
12 for sure was not drunk when I went to bed, just really tired.

13 **Dean Boten: Is there anything else you would like to tell us?**

14 Sarah Ascher: I don't think so.

15 Explained next steps, asked if she was ok receiving summary of notes, she said yes, went over the next
16 steps of the process with speaking to others, preparing an initial report, and that he and she would be
17 able to respond to it, and would be notified when they were ready and participation was her choice.
18 The final report would go to a committee who would make the decision. Full procedures listed in
19 Appendix D on our website, the link was in the attachment to the original email. Stated that we would
20 send her the decision letter with information to appeal when the decision was made.

Appendix C: Respondent Interview: Aaron Lashua

Meeting Date: October 15, 2016
 Primary Investigator: January Boten
 Secondary Investigator: Rony Die
 Respondent Advisor: Kenny Importante

DISCLAIMER: These notes are not verbatim and should not be read as a transcript of the interview. They constitute our best effort to capture all of the information discussed.

[Discussed role of investigators, asked about advisor, right to report incident and choose level of participation, right to not say anything, expectation of honesty, retaliation policy, asked about no contact (did not want one at this time), difference from criminal process, why questions about alcohol are asked if it is applicable, right to bring witnesses and supporting information, FERPA, information in file private, steps after interview (review notes), interview respondent and any witnesses, and put together an investigative report for both to review, give feedback, and right to review all reports and appeal.]

Dean Boten: Please tell me what happened on September 10, 2016 from your point of view?

Aaron Lashua: I was eating brunch in the Ike and I got a text from my buddy Joe to head over to this party. Joe and I were in a group together for AG ED 260 and we had just finished a big project this week. I stopped back in my room and then headed over there. I got there around noon.

I didn't really know anyone other than Joe there so I went in the living room where they were playing music. I ended up dancing with that Sarah girl. She was singing the songs and looking right at me. I thought we were cool.¹ I left to go to the bathroom and when I came back she was gone.

So I started asking around about where she went and someone told me that she lived in the house. I found her room right away. I was kind of tired too so I laid down next to her. She was actually really cute so I played with her hair for a little bit and then kissed her. She totally kissed me back, so then we were making out and before I knew it we were you know, having sex. I didn't expect that to happen at all that day. I know she was into it though because she was kind of hugging me during it.

Anyway, all of a sudden she just totally got weird. She said to stop, so I did. She looked really mad all of a sudden. She ran out of her room. Since she was mad, I decided to just leave. I didn't want any problems.

Dean Boten: When you started kissing Sarah was she awake?

Aaron Lashua: I mean I guess she was asleep at first but then she was for sure kissing me back. I don't know if she opened her eyes at all or not.

Dean Boten: When you had sex with Sarah how did she communicate with you that she wanted to be having sex?

¹ Sarah Ascher's response to the report notes that she did not feel a connection with Aaron Lashua and has no idea why he would think that they had a connection since they never spoke to each other.

1
2 Aaron Lashua: I could just tell while we were kissing that is what she wanted. And she was holding on to
3 me, like hugging me, so it really felt like she was into it.
4

5 **Dean Boten: Was there a point when Sarah communicated to you that she did not want to be**
6 **engaging in the sex or the kissing?**
7

8 Aaron Lashua: Like I said before, she changed in the middle and said to stop and I stopped right away. I
9 feel like I listened to her as soon as she told me to stop.
10

11 **Dean Boten: How much did you have to drink that day?**
12

13 Aaron Lashua: Well, I brought a flask with me with Jack Daniels and I drank that and probably 5 or 6
14 beers.
15

16 **Dean Boten: How intoxicated would you say you were on a 1-10 scale with 1 being totally sober and**
17 **10 being very drunk?**
18

19 Aaron Lashua: I guess I was like a 7.
20

21 **Dean Boten: Tell me more about when you left. Why did you leave the way that you did?**
22

23 Aaron Lashua: I mean I just felt like she was suddenly mad. It was her house. I liked her. I didn't want
24 any problems with anyone and I saw the door down the hall and just left. I mean, I didn't think she
25 wanted me there anymore. Honestly I felt kind of dumb that she was reacting that way and didn't want
26 to talk to anyone else about it.
27

28 **Dean Boten: Is there anything else that you want to make sure is noted in the report?**
29

30 Aaron Lashua: I just feel like this whole thing is being blown out of proportion. I didn't hurt her. I just
31 thought she was pretty and she seemed like she liked me when we were dancing in the living room.
32 Seriously, I feel like I listened to her when she said to stop. I don't know why this has turned into this
33 huge thing.
34

35 **Dean Boten: Is there anything else?**
36

37 Aaron Lashua: No. I am done.
38

39 **Explained next steps of the process with speaking to others, preparing an initial report, and that she**
40 **and she would be able to respond to it, and would be notified when they were ready. The final report**
41 **would go to a committee who would make the decision. Full procedures listed in Appendix D on our**
42 **website, the link was in the attachment to the original email. Stated that we would send him the**
43 **decision letter with information to appeal when the decision was made.**

Appendix D: Witness Interview: Kelly Lin

Meeting Date: October 8, 2016

Primary Investigator: January Boten

Secondary Investigator: Rony Die

DISCLAIMER: These notes are not verbatim and should not be read as a transcript of the interview. They constitute our best effort to capture all of the information discussed.

Dean Boten: You are here as a witness to an incident that took place on September 10, 2016 at your house involving your roommate Sarah Ascher. Please tell me what you know about this incident.

Kelly Lin: We had a few people over because it was a game day. Mostly it was all our friends or at least friends of friends. Generally, everyone was having a good time until Sarah came running out of her room kind of hysterical.

She only had on this big tshirt and people were still there partying. I went in her room with her and she put on some pants. She didn't want to be in her room though, so we went out on the porch to talk.

She told me that she had been raped. She said she went in her room to take a nap and woke up with some guy on top of her. She said she recognized him from the party, but she didn't know him at all. She said that when she realized what was happening she freaked out and told him to get off of her and she slid out from under him and that is when she ran out into the living room.

He must have left out of the back door because when we went back to her room, which was pretty quick, there was no sign of anyone.

She was crying and I really didn't know what to do. I remember in FYCARE they told us to say, I believe you, so I just kept saying that. It was really hard to hear her be so upset.

Dean Boten: Did you know the guy she said did this?

Kelly Lin: I don't know him, but Sarah said he had on a green Red Sox hat and I told my friend Joe who had been at the door selling cups that day that we were trying to figure out who the guy was wearing that hat and he knew his name. He said it was Aaron Lashua. He said he didn't know him all that well either, but he had invited him because they had a class together or something. I don't know. I just can't believe this happened in our house.

Dean Boten: Is there anything else that you think it would be helpful for me to know?

Kelly Lin: Not really. It just was bad. It is still kind of bad at our house. That is all really though.

Dean Boten: What do you mean when you say it is bad?

Kelly Lin: I guess I just mean that she cries a lot and she sleeps on the couch because she doesn't want to be in her room.

Appendix E: Witness Interview: Tunde Ola

Meeting Date: October 8, 2016

Primary Investigator: January Boten

Secondary Investigator: Rony Die

DISCLAIMER: These notes are not verbatim and should not be read as a transcript of the interview. They constitute our best effort to capture all of the information discussed.

Dean Boten: You are here today to serve as a witness to an incident that took place on September 10, 2016 between Aaron Lashua and Sarah Ascher. Tell me about what happened.

Tunde Ola: I don't know a lot. I am friends with the girls but I also kind of know Aaron and he told me he wanted me to come here and talk to you. He is actually a pretty good guy. I was in the living room running the playlist that people were dancing to. Aaron wanted me to tell you that I saw him dancing with Sarah and they both looked like they were having a good time.

At some point, I am not sure when, Sarah was gone. Aaron came up to me and was like, where did that girl go I was dancing with and I was like oh, that's Sarah. She lives here. He didn't say much else to me and just walked off.

Next thing I knew about any of it, Sarah comes running into the living room looking for Kelly just wearing this huge shirt and looking really shaken up. That's really all I know about it.

Dean Boten: You said that Aaron asked you to talk to me. Did he tell you about what happened at all?

Tunde Ola: Um, he just said that Sarah was saying stuff happened that didn't happen and he needed someone to have his back. I don't really know him like that to have his back but I can't see him doing anything bad.

Dean Boten: Is there anything else I should know for my report?

Tunde Ola: I don't think I know anything else helpful.

Appendix F: Complainant Response to Initial Report

Received on: October 31, 2016

Dear Dean Boten,

I would like to respond to Aaron's interview. I have no idea what he is talking about regarding this connection he felt like we had with each other. He was a total stranger to me that day. We did not have a conversation. We happened to know some of the same lyrics to songs but most people in the room did. He is imagining that I did something to make him feel like we were "cool." I assure you we were not and certainly are not now.

Even if I did know him, I certainly did not consent to have him violate me while I was sleeping.

Thank you for your help,

Sarah

Appendix G: Complainant Final Response

Received on: November 15, 2016

Dear Dean Boten,

I would like the committee to know that this incident absolutely violates the student code. I want to highlight to areas of his interview that support this.

The first is that he never had any indication I was awake while he was kissing me or when he chose to violate me completely. He said starting on page 9, line 41, "I mean I guess she was asleep at first but then she was for sure kissing me back. I don't know if she opened her eyes at all or not." What kind of person crawls into bed with a STRANGER and then starts kissing them when they are not awake? This makes no sense at all.

Secondly, he knew I was mad when I woke up. On page 10, line 23 he said, "I mean I just felt like she was suddenly mad." Of course I was mad! I don't know why he doesn't admit that what he did was wrong and he should have never come in my room.

Thank you for looking at my case carefully.

Respectfully,

Sarah Ascher

Appendix H: Respondent Final Response

Received on: November 15, 2016

Dear Dean Boten,

I just have a few things I want the committee to know. First of all, I am a good person. I volunteer on the weekends. I have a younger brother that looks up to me. I am not a rapist.

I study all the time. I barely go out. This event was one of the few times all semester where I let myself have a good time.

I met a girl. I liked her. She was pretty. I didn't mean to hurt her. I thought she liked me. I do not think I did anything that doesn't happen all the time. I am in college. People drink. People hook up.

I hate it that Sarah even thinks of me like this. I feel like it was all just a huge misunderstanding. I think if she really got to know me she would think of this all much differently.

I hope the committee can see that this was not as big of a deal as this is all turning into.

Sincerely,

Aaron Lashua

Junior