

FOR IMMEDIATE RELEASE:

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Statement from NHCADSV in response to the Owen Labrie Case

The Coalition Comments on the Plight of Victims in Sexual Assault Cases

(Concord, NH) This morning, the Executive Director of the NH Coalition Against Domestic and Sexual Violence commented on the difficult situation that victims of sexual assault are faced with when they choose to report and engage in the criminal justice system.

Statement from NHCADSV Executive Director Lyn M. Schollett, J.D.:

Good morning. My name is Lyn Schollett, and I am the Executive Director of the New Hampshire Coalition Against Domestic and Sexual Violence. I have been an advocate against sexual violence for 20 years.

I stand here today in support of the young victim in this case, and to address some of the troubling themes that have arisen in the ongoing trial of Mr. Labrie.

Sexual assault is a traumatic and invasive crime. This young victim has shown extraordinary poise and resiliency as she has navigated a blameful community response, a criminal justice system that has failed to uphold the rights she is guaranteed as a crime victim, and modern day media exposure that has put the most excruciating details of the assault on display for the world.

In New Hampshire, the laws on consent are very clear: The age of consent is 16. When Owen Labrie targeted the young victim, identifying her on his Facebook page, he knew she was a freshman student. A freshman under the age of consent. Selecting her as part of his Senior Salute was nothing short of planned, predatory behavior.

Owen Labrie's position as a prefect gave him special responsibilities to look out for the welfare of younger students. He abused that trust and that authority. When an individual indicates by their words or their actions that they have not freely given their consent to sexual penetration, that is sexual assault. This young victim made her wishes clear to Owen Labrie by saying "No" not once, not twice, but three times.

Unfortunately, in this case as in many sexual assault cases, much of the focus of this trial and the media coverage has been on the behavior of the victim instead of the actions of the defendant. Victims' responses to sexual assault vary widely. Responses that may seem abnormal to many of us are expected and absolutely normal reactions to the traumatic experience of rape.

We know from neuroscientists and trauma experts that in times of extreme stress, and particularly when a person feels that they are in danger, the brain's fear response takes over.

According to the National Sexual Violence Resource Center, in addition to the “fight or flight” responses to danger, there’s a third “f” that is even more common: freezing. Up to 50 percent of rape victims experience this type of paralysis.

When this occurs, the amygdala, the part of the brain that is in charge of responding to danger, simultaneously floods other areas of the brain and body with different hormones, causing a shutdown so that the alarm system can take over. This biological response results in a person being unable to make decisions and respond in a way that many people would expect someone to respond to danger. Not only is the person unable to move, but they also may be unable to cry out or even speak. New Hampshire laws recognize this reality and specifically provide that a victim is not required to physically resist an assault to show that she didn’t consent.

The number one thing that rape victims want after a sexual assault is for their life to seem normal again. Victims have a deep need to regain control over their bodies and their lives. It’s common, even expected, for victims to initially move on with ordinary day-to-day activities like going to school or work, socializing with friends and even communicating with the rapist. This conduct doesn’t mean the victim wasn’t raped. Instead, it is her means of coping with the stigma of sexual assault and fear of being disbelieved, fear that is compounded when the rapist is in a position of power.

Sexual assault is an invasive and traumatic crime. Victims need and deserve protections for their privacy in the criminal justice system. The invasion of the victim’s privacy in this case has been compounded by modern means of communication. We are in a new era where information is disseminated instantaneously through Tweeting and live-streaming coverage. Without the benefit of a pause and an editor, salacious facts that otherwise would not be newsworthy are widely disseminated. In this case, even though she was a minor, the victim’s name has been broadcast repeatedly.

Victims, the press and our communities need more clarity from the courts about how to protect sexual assault victims while simultaneously insuring the fairness of a trial. In this case, messages from the court have been unclear about what types of communication from the courtroom are permissible. Local and national reporters have reached out to the Coalition for guidance on what is appropriate to publicize. We are calling on our courts and our lawmakers to provide more guidelines on how to balance adequate media coverage and crime victims’ need for privacy, especially when the victim is a child who was raped.

Intense and immediate media coverage can further traumatize victims of sexual assault. Most rape victims never report their assault, usually out of fear of judgement, ridicule or retribution. When other victims see the intense exposure that this minor victim faced in the courtroom and in the press, even more victims will likely choose not to come forward or seek help.

For the 1 in 5 women who will be sexually assaulted in their lifetime, help is available. Crisis centers throughout New Hampshire and throughout the country stand ready 24 hours a day to respond to victims, their families and loved ones – and anyone who may experience trauma as a result of following this case.

What this young victim has been through is unfortunately not remarkable—what *is* remarkable is the fact that she was able, at the age of 15, to come forward, bravely state her case, and in so

doing, stand up for all victims. It is our hope, whatever the outcome of this case may be, that the courage and resilience she has shown continues to help her move forward in her life.

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Lyn M. Schollett, J.D., has spent 20 years advocating against sexual assault and domestic violence. Prior to becoming Executive Director of NHCADSV, Lyn spent 16 years as General Counsel for the Illinois Coalition Against Sexual Assault (ICASA). In her capacity at ICASA, she helped draft, secure passage of, and implement the first standalone protective order for rape victims in the nation. Schollett drafted, lobbied and testified before the Illinois General Assembly on numerous landmark legislative initiatives ranging from creating a civil cause of action for gender-based violence to ensuring that health care providers convicted of a sex offense lose their license to practice. Schollett is dedicated to serving victims in their quest for healing and justice.

We'd like to remind the community that confidential help is available 24 hours a day, and that you don't need to be in crisis to call. In NH, please call the 24-hour Statewide Sexual Assault Hotline at 1-800-277-5570. Nationwide, RAINN's 24-hour hotline is 1-800-656-HOPE (4673).

For more information, please contact Amanda Grady Sexton at (603) 548-9377

About the Coalition

NHCADSV is a statewide network of 14 independent member programs committed to ending sexual violence, domestic violence, and stalking, through direct services to victims, community education, and public policy advocacy. The NHCADSV and its 14 member programs do not discriminate based on gender, age, health status (including HIV-positive), physical, mental, or emotional ability, sexual orientation, gender identity/ expression, socio-economic status, race, national origin, immigration status, or religious or political affiliation. For more information visit www.nhcadsv.org

NEW HAMPSHIRE LAWS PERTINENT TO LABRIE SEXUAL ASSAULT TRIAL

MISDEMEANOR SEXUAL ASSAULT: RSA 632-A:4

NH recognizes that a child under the age of 16 cannot legally consent to a sexual act. The term “Statutory Rape” refers to situations where an adult engages in an act of sexual penetration of a child under 16 years of age.

The issue of consent is not relevant to the charge of statutory sexual assault because the minor cannot legally consent under any circumstances. The offense is a misdemeanor when the age difference between the actor and the minor is 4 years or less.

The jury will consider 3 counts of misdemeanor statutory rape, alleging intercourse, cunnilingus, and digital penetration.

The maximum penalty for a Class A misdemeanor is 12 months incarceration and a \$2,000 fine.

AGGRAVATED FELONIOUS SEXUAL ASSAULT: RSA 632-A:2

The defendant also faces the more serious charges of Aggravated Felonious Sexual Assault [AFSA]. A person is guilty of AFSA when the person engages in sexual penetration with another under specific circumstances, including:

- (i) When the actor through concealment or by the element of surprise is able to cause sexual penetration with the victim before the victim has an adequate chance to flee or resist.
- (m) When at the time of the sexual assault, the **victim indicates by speech or conduct that there is not freely given consent** to performance of the sexual act.

The victim is not required to physically resist the sexual assault. The jury need not infer consent based on a victim’s failure to physically resist a sexual assault. RSA 632-A:6

The victim's manner of dress at the time of the sexual assault shall not be considered to infer consent. RSA 632-A:6, III-a.

At any time, the victim has a right to indicate by speech or conduct that she is not freely consenting. A person who causes sexual penetration or continues to engage in sexual penetration after the other person has indicated that consent is not **freely given** is guilty of AFSA.

The maximum penalty for Aggravated Felonious Sexual Assault is 10 to 20 years imprisonment.

Certain Uses of Computer Services Prohibited: RSA 649-B:4

I. No person shall knowingly utilize a computer on-line service, internet service, or local bulletin board service to seduce, solicit, lure, or entice a child or another person believed by the person to be a child, to commit any of the following:

(a) Any offense under RSA 632-A, relative to sexual assault and related offenses.

The indictment alleges that the defendant utilized e-mail and/or Facebook in order to seduce, solicit, lure or entice the victim in order to engage in a sexual act with her in violation of RSA 632-A.

This offense is a class B felony. The maximum penalty for a class B felony is 3 ½ to 7 years imprisonment.