

At the Faculty Senate meeting on December 4, 2015, the Senate passed the following resolution:

*The Temple University Faculty Senate drafted, passed, and proposed to the Temple Board of Trustees, the first Temple University Anti-Sexual Assault Policy in 1992.*

*Temple was the first U.S. college or university to prohibit sexual or romantic relationships between faculty members and faculty members' students.*

*Temple's Sexual Harassment and Sexual Assault Policies were strong statements of ethical standards, not just law.*

*Temple's Sexual Harassment and Sexual Assault Policies were and are applicable to all members of the Temple University community, including Trustees.*

*The actions of then Temple University Trustee, Cosby, assaulting a then-Temple University employee, Andrea Constand, violated both Temple University's Anti-Sexual Harassment and Anti-Sexual Assault policies.*

*Temple University Trustee, now Chair of the Temple University Board of Trustees, O'Connor, nevertheless, provided legal representation to Trustee Cosby, was fully aware of the facts of the Constand's case, including the availability of ten other women who experienced similar assaults [now over 30], and tape recorded admissions by Cosby. O'Connor was bound by the Temple University Sexual Harassment and Sexual Assault Policies. He also violated these policies.*

*THEREFORE, the Temple University Faculty Senate*

- 1. Condemns the actions of then-Trustee Cosby and then-Trustee, now Chair, O'Connor:*
- 2. Calls upon President Neil Theobald to include as a majority of a Committee drafting new No Sexual Harassment, No Sexual Assault and No Stalking Policies, nominees of the Temple University Faculty Senate and students.*
- 3. Calls upon President Neil Theobald to adopt and implement the proposal of his own Committee to form a single office to oversee and implement Temple University's Sexual Harassment and Sexual Assault Policies.*
- 4. Calls upon the Board of Trustees to revoke the honorary degree(s) given to Bill Cosby by Temple University.*

In the following letter to the Herald, Professor Marina Angel, who made the original motion, offers some additional comments. Professor Angel recently received the Association of American Law Schools (AALS) Ruth Bader Ginsberg Lifetime Achievement Award for research, service, and teaching. It will be presented at the Section on Women in Legal Education Luncheon during the AALS' Annual Meeting in NYC in January.

## **Bill Cosby – The Gift that Keeps on Giving**

*By Marina Angel, Professor of Law*

Shock of Shocks! My Motion condemning Cosby and O'Connor was made and seconded at the September Representative Senate Meeting. It passed unanimously, with no abstentions, at the December 4 Faculty Senate Meeting. Senate President Tricia Jones kept delaying a final vote all Fall Semester.

At 3 pm on Thursday, December 3, I sent an email to the Senate Officers and the Faculty Senate Steering Committee (FSSC) that the next day, Friday December 4, I would move to suspend the rules and bring up my Motion, which I amended to add a section calling on President Theobald and the Board of Trustees to quickly withdraw Cosby's Honorary Degree.

Another Shock of Shocks! On the evening of Thursday December 3, a few hours after my email to the Senate Officers and the FSSC, the Administration through Temple's General Counsel sent an email to Senate President Tricia Jones that the Temple Anti-Sexual Harassment/Anti-Sexual Assault Policies apply to the entire Temple community, including the Trustees. The Administration and Senate President Tricia Jones had been fighting this fact. At the November Representative Senate Meeting, an Amendment to my Motion, purportedly by the FSSC but clearly drafted by a junior and not very bright member of General Counsel's Office, attempted to gut my Motion, including the part that said the Trustees were bound by Temple's Anti-Sexual Harassment/Anti-Sexual Assault Policies.

I was told years ago by several activist faculty members that Temple monitors faculty activists' emails. It may come as a shock to most Faculty that Temple has a legal right to do so when Temple supplies our email accounts and our work computers. It is less clear that Temple has the right to monitor emails on a non-Temple, personal email account even if it is on a Temple computer. Given the timing of General Counsel's email admission, it is now clear to me that Temple does monitor some email accounts. It is also clear that "they" (the powers that be now at Temple) are prepared to withdraw Cosby's Honorary Doctorate and to have O'Connor resign from Temple's Board of Trustees – probably on a slow news day during Winter Break.

President Peter Liacouras told me "back in the day" that Cosby gave Temple \$50,000 but a lot of good free publicity. Cosby gave his wife's alma mater in Atlanta, Spelman College, \$25 million.

Temple has garnished a great deal of positive publicity locally and nationally from its winning football and other teams. All that good publicity will go down the drain when then-Trustee Cosby is indicated in January 2016 and later tried for his 2005 felony sexual assault committed against then-Temple staff member and Manager of Temple's Women's Basketball Team, Andrea Constand.

The press has reported for some months that the Montgomery County District Attorney's Office has been quietly gathering evidence and interviewing witnesses against Cosby. Cosby, just as quietly, has been checking out local criminal defense attorneys. The election is now over; the current Montgomery County First Assistant District Attorney, Kevin Steele, has been elected District Attorney. Steele's TV election ads focused on Cosby and portrayed Steele as an advocate for victims. We can soon expect an indictment of Bill Cosby because the Statute of Limitations on his felony sexual assault of Andrea Constand runs out sometime in January 2016. The post-indictment publicity will be fierce and the later trial publicity will be even worse. There are now over 50 women available to testify in a criminal prosecution to similar conduct by Cosby. The only other potential criminal case against Cosby within a Statute of Limitation is that of a California woman who was fifteen when he assaulted her.

Temple University's Board of Trustees must act quickly to disassociate Temple University from Cosby by revoking Cosby's Temple University Honorary Doctorate and by having his lawyer, the Chair of Temple University's Board of Trustees, Patrick O'Connor of Cozen O'Connor, step down.

When Andrea Constand's charges against Cosby, who was then a member of Temple University's Board of Trustees, became public in 2005, Temple did not even investigate. Temple University's Anti-Sexual Harassment/Sexual Assault Policy, whose pertinent provisions were in effect then and now, cover the actions of Temple Trustees, both Cosby and O'Connor. Cosby admitted under oath at a deposition where he was represented by O'Connor that he doped Andrea Constand and other women with Quaaludes and that he engaged in "digital vaginal manipulation" while Constand was unconscious. Then Trustee, now Chair O'Connor was aware of all the facts since he chose to represent Cosby, the abuser, not Constand, the victim.

O'Connor continues to represent Cosby to this day. On Thursday December 4, the local and national press reported O'Connor filed an appeal to "reseal" Cosby's damning deposition. The facts in the deposition have been widely reported, so the attempt to "reseal" is an attempt to make the deposition unavailable at Cosby's upcoming Montgomery County criminal trial, the California criminal trial, and all the civil cases against him by women he defamed. The appeal will fail on legal ground. The federal judge who ordered the unsealing this past summer is highly respected and does not get reversed on appeal.

Let me get two legal issues out of the way. One, Cosby's sworn testimony at the deposition is admissible at his trial. It is "an admission against interest," like a confession to the police, only it is stronger, because his words were spoken after an oath had been administered and his lawyer, Patrick O'Connor, was present. It is no longer merely alleged that he sexually assaulted Andrea Constand. He admitted under oath that he did.

Two, no lawyer is obligated to take any client who walks in the lawyer's door. A lawyer can decline to take a case for any reason, including that the person can't afford the lawyer's fees. That is not an issue with Cosby; he could afford to hire any lawyer that he wanted. O'Connor chose to represent Cosby, his fellow Temple Trustee abuser, against Andrea Constand, then the Temple staff member victim. This was a clear conflict of interest for O'Connor under the Temple Ethic/Conflict of Interest Policy for Trustees. O'Connor continues to represent Cosby when it is clear that his upcoming trial of a then-Temple Trustee of a then-Temple staff member will drag Temple's name through the mud.

Over fifteen colleges and universities have revoked Honorary Doctorates they awarded to Cosby, including Brown, Fordham, and Tufts. Pennsylvania schools that have revoked his Honorary Doctorates include Drexel, Franklin and Marshall, Haverford, and Lehigh. Other Pennsylvania schools currently reviewing the issue of revocation include Carnegie Mellon, Gettysburg, and the University of Pittsburgh. Haverford College involved students, faculty, staff, administrators, alums, and its Board of Managers in its discussions. Such open and inclusive discussion and decision making does not occur at Temple.

Respected *Inquirer* investigative reporter, Chris Mondics, wrote months ago, "much of the resulting damage to Temple, the lurid headlines and the tarnishing of its image, can be traced to the [Temple University] board's inaction." To quote someone, I don't remember who, "You ain't seen nothing yet." It is only going to get worse as the Montgomery County indictment comes down and a long involved criminal trial of Cosby, a Temple alum and then-trustee, for the felonious sexual assault of Andrea Constand, a then-Temple staff member, unfolds.

Temple should cut its losses now by revoking Cosby's Honorary Doctorate with a strong statement as to the impropriety of his conduct, and it should remove O'Connor from its Board of Trustees. ♦