

# University of San Diego botched dormitory rape case, lawsuit alleges

By Kate Morrissey

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**A** former University of San Diego student is suing the school, saying she was drugged, choked and raped in her dorm room and the school mishandled the investigation.

The student, who requested that she be identified only by her nickname “Niki,” reported that she was attacked in February 2014.

“I thought the people at the school would be willing to help me,” said Niki, who was a student athlete. “I thought that they’d be there for me and do what they could to make me feel somewhat safe, and they treated me like I was the one who had done something wrong.”

USD spokeswoman Pamela Gray Payton said that the private Catholic university does not comment on open investigations or pending litigation. She said, however, that the university disputes the description of events by Niki’s attorney.

“One of our most cherished values at USD is our commitment to the dignity of each human being,” Payton said. “Sexual violence in any form is antithetical to our mission, and we take very seriously our obligations under Title IX.”

The year Niki reported the attack, USD reported six rapes on campus. By comparison, the much larger San Diego State University reported 12 rapes on campus in 2014.

Niki was hanging out with her new roommates and their friends in her dorm on Feb. 8, 2014, according to court papers. One of the friends offered to make her a mimosa, Niki recalled.

“When he gave it to me, after drinking a little bit of it, I started to feel very dizzy, very weak,” she said in a telephone interview. “It was getting hard to move.”

Niki said that her roommates went to bed shortly after, and that’s when the man choked and raped her.

She said that as soon as she was able to move again, she fled her dorm room and called a friend for help. In a nearby campus parking garage, she met with an officer from the university’s Department of Public Safety.

Niki said she told the officer she was drugged and raped and that she wanted him to call the police. He arranged for an ambulance to take Niki to the hospital.

The officer who wrote the report went to Niki's dorm. From there, according to Niki's lawyer, Carla DiMare, the university botched the investigation.

At Niki's dorm, the officer let himself in and found a naked man asleep in Niki's bed, according to his report. He asked the man what Niki had had to drink that night, and the man answered Four Loko, a malt beverage.

The officer noticed a nearly full can of Four Loko and asked the man if that was Niki's drink, according to the report. The man said no, she had actually had wine and whiskey, the report said.

Two more public safety officers arrived at the dorm. One asked the man if he had sex with Niki. He said, "Yes," the report says.

That officer then gave the man a ride home.

There is no mention in the report of the officers asking follow-up questions or collecting evidence, such as to test the drinks for drugs, or of trying to keep the man from contaminating the crime scene.

Asked about the apparent omission, Payton said, "the Department of Public Safety responded immediately and in a manner consistent with its protocols."

According to court filings by USD, the public safety officers were only aware that Niki might have been drugged when she left in the ambulance. Only later did the hospital inform the university that she said she'd been sexually assaulted, the filings say.

A San Diego police officer came to the hospital to see Niki around 5:19 a.m., according to a police report. Niki's mother said the call to police was made by the hospital. Court filings from the university assert that the SDPD "was notified."

DiMare said that the delayed call to police and the lack of evidence gathered by the university public safety officers hamstrung the investigation.

The district attorney's office decided not to proceed with charges, according to an email written from the police detective to a university public safety officer.

"They definitely believe her that the assault occurred; however, they feel they don't have enough to prove the allegation beyond a reasonable doubt... As you know, [he] admitted to the sex acts, but denies it was forced. It is unfortunate there was not some justice for the victim," the May 1, 2014, email from Det. Tracey Barr says.

The police department did not respond to a request for comment.

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