

Dear Mr. Harki:

Our firm represents Old Dominion University. The following is the statement of ODU in response to your inquiries. We also attach two relevant University policies. While ODU's response to you obviously is not a confidential document, it does contain reference to the name of a person whom you have told us wishes to remain confidential.

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This responds to your e-mail of six days ago, May 20, to Giovanna Genard and others, asking about the time Blake Bailey spent at Old Dominion University as a visiting professor.

Like almost everyone else in the worlds of letters and academia, we read the published reports about Blake Bailey with shock, dismay, and disgust. We have followed the story as it developed after the publication of his biography of Philip Roth last month, in *The New Yorker*, the *New York Times*, *Vanity Fair*, *The New Republic*, *Slate*, and elsewhere. While we obviously have no inside information as to Mr. Bailey's activities before he came to ODU, or after he left, if those published reports are correct, he should be punished to the full extent of the law. Had we known, Mr. Bailey never would have set foot on the ODU campus.

But our investigation of the allegations you have related to us has found no basis to believe that Mr. Bailey engaged in similar conduct at ODU a decade or so ago. No report of any assault, attempted assault, or any other kind of sexual harassment was ever made by any of the people who are now making accusations a decade later. A number of those accusations are flatly false. And almost all the purported discussions you recite, involving complaints to ODU faculty and staff, are wrong. True, ODU heard some concerns from faculty and staff about Mr. Bailey while he was here – concerns about his teaching style, word choice, tenor, personality, even that he was a “creep” – but no one ever voiced a word to ODU about any occurrence of the type of assaultive non-consensual conduct for which he has been indicted in the press.

As you surely know, ODU is governed by federal law as to what information it can disclose about current and former students. We were distressed to learn that you called Dr. Jennifer Fish, Chair of Women's Studies at ODU, and demanded that she speak to you in detail regarding a student at ODU from a decade or more in the past. We would appreciate you refraining from similar attempts to encourage ODU faculty or staff, present or past, to violate federal law.

Notwithstanding, we can tell you that neither Dr. Fish, nor anyone else at ODU, ever received any complaint, formal or informal, from any student, regarding inappropriate touching by Blake Bailey, much less any complaint of sexual assault. Allegations that he was a “creep,” yes. Allegations that he was a rapist or serial sexual harasser, no.

And our use of the word “complaint” is not legal hairsplitting. The anti-discrimination and anti-harassment policies that were in place at the time are being provided to you. These policies, vetted and approved both by University Counsel and by the Office of Institutional Equity and Diversity, are rigorous and comprehensive. They provide for both a formal and informal process, at the choice of the complainant. While providing for multiple avenues of reporting, the policies are mandatory: “The Assistant Vice President for Institutional Equity and Diversity . . . must be advised of all complaints or reported incidents of sexual harassment.” That person during Mr. Bailey's time, Reneé Dunman, confirms that she had a discussion that could be characterized as a “complaint”: faculty member Bridgette Anderson. That discussion related to

what Ms. Anderson felt to be inappropriate comments to students, mentioned the hot tub incident, and came close to the start of Mr. Bailey's time at ODU. The other salacious incidents now being discussed -- harassment in a bar, sexual assault, a knife being drawn on Mr. Bailey, an attempted rape -- none of them were ever mentioned to Ms. Dunman (or anyone else at ODU) or made the subject of a "complaint," formal or informal, by Ms. Anderson, Ms. [REDACTED], or anyone else. Ms. Dunman called Mr. Bailey in for pointed and vigorous counseling.

That ODU is being called upon now to respond to very different memories a decade later is precisely what the reporting policy is intended to avoid. The policy requires reporting within two years so that ODU can act and address the complaints. With the sole exception of the informal conversation between Ms. Anderson and Ms. Dunman, not even one of the incidents related in your e-mail were reported to Institutional Equity and Diversity, as required. Every person who now claims they were abused had multiple avenues to report -- many of them friendly acquaintances on faculty and in the Administration, who hardly could have been suspected of potential retaliation. Nothing was reported, formally or informally, "confidentially" or not.

Of course, we cannot claim that Mr. Bailey's style and views were uniformly uncontroversial; they are the subject of extensive and often vehement comment in the press and on-line. On occasion, other faculty members were told by students and other members of the faculty that his classroom directions were odd, his assignments unusual, that some of his comments were perceived as misogynistic, or even that he was "creepy." Early in his time at ODU both the Chair of the English Department and, as mentioned above, the Assistant Vice President of Equity and Diversity met with Mr. Bailey separately and informed him, in no uncertain terms, that such conduct was unacceptable and placed his continued employment by ODU seriously at risk. As far as we can discern, there were no such complaints about Mr. Bailey after these discussions.

As you probably know, Mr. Bailey was a temporary appointee at ODU. He came to us eleven years ago, after concluding a visiting professorship with William & Mary in 2010. At ODU he filled the Mina Hohenberg Darden endowed professorship, which supports a visiting, one-year appointment for a writing faculty member. In addition to Mr. Bailey's reputation as a superb writer (including his then-recent Pulitzer nomination for his work on John Cheever), two factors commended him to us for that position. The first was his strength in nonfiction. At the time, ODU had a healthy crop of undergraduate and graduate students interested in nonfiction; our then-current faculty members on nonfiction were few, and his expertise was attractive. The second, quite frankly, was his proximity to campus. Unlike most other visiting professors at ODU, Mr. Bailey lived in Hampton Roads (and would not need, for example, to be housed and supported at University expense). Mr. Bailey was re-appointed for subsequent visiting terms and left us in 2016. There was nothing sinister about his departure: as a visiting professor he was expected to visit and then depart. Since then, a number of noted scholars have held the same visiting professorship.

There are a few specific allegations made or implications drawn from your inquiry that bear further mention. To be frank, when we have attempted to verify a great many of the assertions your sources have made, we have discovered a very different story. We would respectfully request that you attempt to confirm the accuracy of what you have been told, since much of it is inaccurate and misleading.

- 1. Bridget Anderson**

It appears that some of your sources discussed an incident during which Ms. Anderson, at that time a faculty member whom you identify as a Linguistics Professor, and Mr. Bailey (who was not in the same department), shared a hot-tub in an inappropriately intimate manner. This was at an off-campus, after-hours get-together at the time of an MFA retreat in Sandbridge in the Spring of 2010.

Contrary to what you have been told, it appears clear this incident was consensual. Ms. Anderson herself told it as a funny story for years afterwards. The incident was never the subject of a harassment complaint by Ms. Anderson, or by anyone else. And your sources also are mistaken about the aftermath.

- An eyewitness to the incident was present and has confirmed to us that it was consensual. In addition, after the incident, Professor Anderson remained in the hot tub with Mr. Bailey for about another two hours—after which they left for the beach together.
- We have also received confirmation from another former faculty member, of over 25 years' tenure, that the "hot tub" incident was consensual. This long-time ODU professor came out to the hot tub on the evening in question and found, surprisingly, that Anderson was in the hot tub with Bailey and two other men - and that Anderson was totally naked. It was clear to this faculty member that Anderson's interaction with Bailey in the hot tub was neither forced nor non-consensual. This faculty member also remembers Anderson flirting constantly with Bailey at the MFA retreat -- a retreat meant for a part of the English department with which Ms. Anderson was not involved. She somehow "wrangled" an invitation and spent her evenings with Mr. Bailey.
- Ms. Anderson lobbied intensively to be invited back to the same event the next year; she was.
- Far from being haunted or injured by the incident, Ms. Anderson bragged about it in social settings for years. Even as late as a departmental happy hour four years later, Ms. Anderson was laughingly admonished by her department Chair, "If you tell that hot tub story one more time, I'm leaving!" Undaunted, she proceeded to relate the story once again, as an "amusing anecdote."

Your sources suggested that Ms. Anderson complained to the late Department Chair Jeff Richards, from whence a complaint about this came to the attention of Charles Wilson, at the time incoming Dean of the College of Arts and Sciences. Not true.

- Although Ms. Anderson was one of Dean Wilson's nominees for a SCHEV award, and although he spoke with her often, Ms. Anderson never once complained to Dean Wilson about this incident, or indeed about any aspect of Mr. Bailey's conduct. Nor did he hear any such complaint second-hand from Professor Richards. Period.
- We have reached out to the Human Resources department manager for that time, who also has confirmed that she was unaware of any complaint (or mediation) involving Ms. Anderson and Mr. Bailey, alone or separately.
- Several other suggestions made by your sources, also involving Dean Wilson, are flatly wrong.

- Dean Wilson never received a single student complaint about Mr. Bailey.
- Contrary to your source's suggestions, Dean Wilson never met together with Ms. Anderson and Mr. Bailey. In fact, Mr. Bailey never once was even in Dean Wilson's office. Your suggestion (that "Anderson and Bailey met with Wilson. Anderson was required to go to counseling because of the incident. Bailey received no punishment.") is completely false.
- Dean Wilson did not send Ms. Anderson to counseling. Dean Wilson did not even know, until he was asked about the story your sources are feeding you, that Ms. Anderson ever went to counseling. He certainly did not, as your e-mail suggests, punish Ms. Anderson by sending her to counseling for complaining about Mr. Bailey.
- .As mentioned above, Ms. Anderson did, on the other hand, discuss Mr. Bailey with René Dunman, ODU's Assistant Vice President of Equity and Diversity – the person to whom complaints of harassment or discrimination were supposed to be reported. There is no truth to the suggestion that Dean Wilson told Anderson not to speak to Ms. Dunman about Mr. Bailey. Ms. Dunman did admonish Bailey sternly about his comments and about the perceptions they might create.
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- Nor did Ms. Anderson raise her concerns with others in the administration with whom she spoke frequently.
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- For example, Ms. Anderson would often come to the office of Mike Pearson, who was on the Creative Writing faculty for 32 years and Chair for a decade. Although Ms. Anderson used her frequent visits to complain loudly and at length on a number of topics, never did she so much as mention to Professor Pearson any issue she may have had with Mr. Bailey, be it hot tub, knife, or misogyny in general
- Janet Katz was the Assistant Dean of Arts & Letters during Mr. Bailey's time at ODU. Dean Katz notes that she never received any complaint about Mr. Bailey from anyone, faculty, staff or student. The only concern ever expressed to her was from Dr. Heller, department Chair, who noted that one student had expressed (again, non-specific) criticism of Mr. Bailey's teaching style.
- Professor Dana Heller, Chair of the Department of English during the early part of Mr. Bailey's time at ODU, became aware in some form of the "hot tub incident" and, informally and at second-hand, of some concern voiced by a woman who believed she had been harassed by Mr. Bailey at a bar off campus. Although that second instance was never reported to Professor Heller (nor, so far as we are aware, to anyone), Professor Heller called Mr. Bailey on the carpet; reminded him that he lacked tenure and assured him he could be terminated. Mr. Bailey swore his innocence, although he also apologized for any awkwardness caused by the situation. That was the last time Professor Heller heard any complaint about Mr. Bailey's conduct for the remainder of her time as Department Chair.
- Contrary to what you may have been told, neither Dr. Heller nor Dean Wilson had any discussion with Ms. Anderson about any allegation that Mr. Bailey attempted to kiss her in her

office in the Summer of 2011. Our investigation has disclosed no other indication that Ms. Anderson told anyone about this allegation. Contrary to what you have been told, Professor Pearson was not asked, either by Dr. Heller or by Dean Wilson, to talk to Mr. Bailey about this incident: neither Dr. Heller nor Dean Wilson was told by Anderson about this incident, and Professor Pearson confirms this never occurred.

- Your sources seem to believe that James Wright, Senior Associate University Counsel, intervened with Ms. Dunman to prevent Mr. Bailey from being fired. False. This meeting (or discussion, or intervention) never occurred. Mr. Wright had and has no authority to intervene in determinations of this kind and is emphatic that he did not. Ms. Dunman confirms that this simply did not occur; she neither thought of nor recommended the termination of Mr. Bailey for any form of misconduct. Neither Ms. Dunman nor Mr. Wright had anything to do with Ms. Bailey's eventual departure.
- Mr. Bailey left ODU when his status as visiting professor was not renewed. Visiting professors are just that: temporary visitors. He had been at ODU for several years, and it was time for another visiting professor to be appointed. Among those to hold this position over the past few years is Joe Jackson, an outstanding author and former writer for The Virginian-Pilot.

2. [REDACTED]

We understand that Ms. [REDACTED] is not to be named in your story. We understand that she says she was the victim of "unwanted advances" in a bar by Mr. Bailey.

- Contrary to what your sources have told you, Ms. [REDACTED] did not discuss this incident with Luisa Igloria, the chair of the MFA program at the time. Ms. Igloria, the current Poet Laureate of the Commonwealth of Virginia, confirms that she was never the recipient of any specific complaint about Mr. Bailey from Ms. [REDACTED].
  - Ms. Igloria was one of Ms. [REDACTED]'s thesis advisors, knew Ms. [REDACTED] well, and considered herself close to Ms. [REDACTED]. If there were anything Ms. [REDACTED] needed to complain about, there is no reason to believe she would not have been full and frank with Ms. Igloria.
  - Ms. Clark, one of your witnesses, also was one of Ms. Igloria's thesis advisees, and never came to her with any specific complaint about Mr. Bailey.
  - Ms. Igloria did receive a few non-specific, general student complaints about Mr. Bailey; again, all these related to the tone and tenor of his comments or his teaching style; nothing at all was said about any assault, attempted assault, sexual harassment, or confrontation off-campus at a bar. None of these non-specific concerns rose to the level of any reportable incident, whether of sexual harassment or otherwise.
- Your sources also say that Ms. [REDACTED] "took the incident" to Dr. Heller, Chair of the English Department. As noted above, Dr. Heller did become aware, very early in Mr. Bailey's time at ODU, of an incident at which Mr. Bailey reportedly bothered someone in a West Ghent bar called Cruzers. This may be the incident to which Ms. [REDACTED] refers. However, according to Dr. Heller, Ms. [REDACTED] did not speak to her directly. Dr. Heller heard about it second-hand, and to the best of Dr. Heller's recollection no one ever made a report of the incident to anyone. Nevertheless, this incident led directly to Dr. Heller's meeting with Mr. Bailey in her office, where

he swore his innocence and apologized for the awkwardness of the situation. Dr. Heller reminded him that he did not have tenure and his employment was at risk, and he assured Dr. Heller that nothing similar would ever occur again. Dr. Heller notes that she heard no further negative complaint about Mr. Bailey, from anyone, at any time in her tenure as Chair.

### **3. Jennifer Fish/Stephanie Sugioka/ Others**

Your sources suggest that Ms. Sugioka, a departmental lecturer, reported “her concerns” to Ms. Dunman, and that according to Ms. Sugioka Ms. Dunman then “read the riot act” to Mr. Bailey. The timeframe of this allegation is unclear, although it seems to fit around 2013-2014 in your e-mail. This assertion, again, is simply not true. As discussed above, Ms. Dunman had a meeting with Mr. Bailey early in his tenure, when Ms. Anderson complained to her about the tone and tenor of his teaching and mentioned the hot tub incident. We do not know what your source means by referring to Ms. Sugioka’s “concerns,” but again no one reported anything to Ms. Dunman or anyone else in Equity & Diversity. ODU received no complaint, formal or informal, after Mr. Bailey’s early discussions with Ms. Dunman and Dr. Heller.

Ms. Sugioka’s description of her discussion with Jennifer Fish also has been misrepresented. It is correct that at least one student came to Dr. Fish, Chair of Women’s Studies, to discuss Mr. Bailey’s approach to writing and a belief he was “creepy.” Again, none of the salacious allegations you discuss were raised: no hot-tub incident, no pick-up lines at bars, no assault or attempted assault, no knife, no attempted rape, no attempted kiss, nothing. The single person who approached Dr. Fish asked her to keep the complaint confidential, and to take no action on it. Dr. Fish honored the person’s request for confidentiality. This was not a subject of discussion between Dr. Fish and the Dean, and had nothing to do with sexual harassment, much less sexual assault.

The suggestion that Mr. Bailey’s criticism of Ms. Davis’ writing was sexually abusive, or that Ms. Argento was abused by Mr. Bailey crossing his legs in his office during a discussion of her thesis, denigrates and delimits the critical social problem of sexual abuse. Nevertheless, if either of these individuals felt they were treated inappropriately or harassed, they could have made a complaint. ODU would have investigated and taken appropriate action. No one complained.

ODU declines to enter into a dialogue on the twenty questions that follow your two pages of allegations, because those questions are themselves predicated on the allegations – the salient portions of which are false.

In sum, what it appears you have been told is a distorted version of events from long ago, almost all of them off-campus, and none of them – none of them – made the subject of any contemporaneous reporting or complaint, despite ample opportunity for complaint and discussion. Most of the purported interaction with ODU faculty and staff is falsely characterized. The most salacious of the incidents – the “hot tub” – was consensual, indeed sought-after. Some complaints were indeed made, informally and outside the reporting system, about Mr. Bailey’s teaching style and attitude. So be it: if a student does not feel comfortable with stark or blunt criticism of their writing style, perhaps a career as a writer is not a good fit. But no one ever -- ever – complained to ODU about “grooming,” attempted rape, “attempted kissing,” or any of the other incidents highlighted. And it beggars belief that an attempted rape

of a faculty member by another faculty member would remain unreported for more than half a decade.

ODU only knows what it reads in the papers about the pre-ODU and post-ODU activities of Mr. Bailey; if those reports are accurate, he is deplorable. But no similar conduct occurred at any time while Mr. Bailey was a visiting professor at ODU.

END OF ODU STATEMENT

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Questions sent to ODU

- What was ODU's policy on reporting sexual assault and harassment in 2010? How has that changed from then to now?
- Under what conditions should an ODU professor report allegations of sexual assault and harassment to the Office of Equity and Diversity?
- Based on the timeline above, did Wilson, Heller and Igloria follow ODU's policy as it was written at the time?
- Many of the women who say they were victimized by Bailey feel guilty, though they went to ODU administrators, for not having done more to alert the university to his behavior. Did they follow ODU's procedure for reporting allegations of sexual assault and harassment? What more should they have done to follow ODU's policy and spark an investigation?
- When was Bailey a writer in residence? For the 2009-2010 school year. Was it just the first semester of 2010?
- Did he hold the Mina Hohenberg Darden Chair in Creative Writing from Fall of 2010 through 2016? Please provide precise dates if possible.
- Was Bailey on a series of one-year contracts at the university?
- Has the University received notice of any lawsuit regarding Blake Bailey's time at ODU where the institution, Bailey or individual ODU employees are named? If so, please provide the date and jurisdiction of the lawsuit and a case number.
- Several of the people who were victims of Bailey or witnessed Bailey victimizing others said that they had the impression that it did not matter if people complained about Bailey harassing and assaulting women, that the university wanted to keep him as long as it could. Do you have any response to this?
- When was Renee Dunman made a vice president? What was her title in the Office of Institutional Equity and Diversity prior to that?

- Many of the women interviewed for this story want the university to release any and all investigations on Bailey. Will the University release its investigation into Bailey?
- According to Anderson, Dunman recommended Bailey be terminated following her 2013 investigation but that ODU attorney James Wright decided instead to give him a warning. Sugioka says she was told he would be allowed to finish up his contract but that he would not be back the following year. What role did Wright play in the decision to keep Bailey on the faculty?
- Were the allegations outlined here or otherwise found in the investigation found to be false?
- Why was Bailey allowed to remain on the faculty after so many women had brought forth allegations?
- Do students tie professors hands when they discuss allegations of sexual assault and harassment but do so in confidence? Are professors not supposed to take those incidents to the Office of Equity and Diversity? I ask this because Sugioka had also talked to the head of the Women's studies department, Jennifer Fish, who told her that some students had come to her about Bailey harassing them. "Jennifer had actually gone up and reported this to the Dean and had basically been told that nothing would be done about it," Sugioka said. Because a student wouldn't come forward with a specific accusation, Sugioka said Fish told her the university couldn't do anything. Fish said she could not speak about the incident because it was told to her in confidence by a student.
- Does Jay Wright have any response to the allegation that it was his decision to give Bailey a warning?
- Does President John Broderick have any response to the allegations above?
- Did he know about the allegations detailed above or others involving Bailey?
- Does he have any comment on the concerns voiced by the women who spoke out in this story that ODU did not do enough to protect them and stop Bailey's actions?
- Does President Broderick believe the allegations against Bailey were handled appropriately by the university?