

# Report of Comprehensive Investigation into Faculty Sexual Misconduct *College of the Holy Cross*

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*Summary of Findings and Conclusions*

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## **I. BACKGROUND AND IMPETUS FOR REVIEW**

During the 2018-2019 and 2019-2020 academic years, students and alumni from the College of the Holy Cross (the “College”) contacted the College – and the local media – to report sexual misconduct<sup>1</sup> involving two Holy Cross employees: James Christie, an artist-in-residence, and Christopher Dustin, a professor and former Dean of the Faculty.<sup>2</sup> In total, Christie was reported to have engaged in sexual harassment and other forms of sexual misconduct involving more than ten students between 1994 and 2018. Dustin was reported to have engaged in sexual harassment involving multiple Holy Cross students and one staff member between 1995 and 2018.<sup>3</sup> In addition, Dustin was reported to have engaged in a consensual sexual relationship with a student, and Christie was reported to have engaged in consensual sexual relationships with multiple students, each of whom later identified those relationships as exploitive and abusive given the impacts of power imbalances and grooming. The allegations against Dustin and Christie involved reports of pervasive and long-term conduct that raised critically important questions about how the behaviors could have occurred undetected for so long, whether others at the College were aware of the behavior and failed to take appropriate action in response, and whether there were cultural, structural, or organizational factors that contributed to the conduct. The confluence of these reports also raised fundamental questions of trust in the institution based on concerns about the nature of the College’s response to the reports.

In response to these allegations, the College engaged in significant efforts to address the reports, respond to community needs, prevent future recurrences, and strengthen the College’s Title IX program. The 2018-2019 and 2019-2020 efforts included, among other things, two external investigations/reviews,<sup>4</sup> a review by a Special Committee of the Board of Trustees, investment in resources and personnel within the Title IX program, development of a Diversity, Equity and Inclusion Plan as well as a Sexual Respect and Conduct Plan, the ENGAGE Summit in November 2018, a campus climate survey in the spring of 2019, expanded training for faculty and staff, and creation of a fund to

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<sup>1</sup> The term sexual misconduct is used interchangeably with the terms sexual abuse and sexual and gender-based harassment and violence.

<sup>2</sup> Christie and Dustin are now former employees. The media accounts regarding Christie referenced reports made to the College in the summer of 2018. The media accounts regarding Dustin referenced reports made to the College in the spring of 2017. Following the media coverage, the College received additional reports involving both Christie and Dustin.

<sup>3</sup> Dustin was found responsible for sexual harassment in some, but not all, of the complaints raised with the Title IX Office and investigated by external investigators engaged by the College. In September 2018, he was removed from his Dean of Faculty position. In January 2019, he was placed on administrative leave, and in September 2020, he was terminated for violating the College’s Duty of Honesty as set forth in the Sexual Misconduct Policy. Dustin has denied engaging in misconduct. In July 2021, Dustin filed suit against the College in connection with his termination. The College has filed a countersuit against Dustin.

<sup>4</sup> Those reviews included: an external review of culture, policies, and procedures relating to the prevention and reporting of sexual misconduct, and the safety and wellness of the College community, led by Phil Catanzano, an attorney with Holland & Knight LLP, in 2018-2019; and a review into whether certain College administrators had been aware of potential misconduct involving Dustin before appointing him to various leadership positions, led by Jim Keller, an attorney with Saul Ewing Arnstein & Lehr LLP, in 2019-2020.

provide counseling resources to survivors. In addition, throughout the 2018-2019 academic year, the College, through its former president, Rev. Philip L. Boroughs, S.J., communicated frequently with the campus community about these issues, acknowledged the misconduct, and apologized multiple times on behalf of the College. Despite widespread engagement with members of the community through these initiatives and communications, the College's efforts were not viewed as genuine, sufficient or effective by some campus community members, including survivors, students, alumni, and faculty.

In early February 2019, students staged a two-day sit-in at the College, Standing Up by Sitting In, to protest the College's response to incidents of sexual misconduct on campus.<sup>5</sup> Days later, the Academic Governance Council created an *ad hoc* Committee on Faculty Sexual Misconduct (the "*ad hoc* Committee"). The *ad hoc* Committee subsequently requested that the College engage an independent external investigator to conduct a comprehensive investigation.<sup>6</sup> In October 2019, the Faculty Assembly approved a motion requesting a comprehensive independent inquiry, and in November 2019, President Boroughs announced the creation of a new committee, the Comprehensive Investigation Advisory Group (the "CIAG"), which was formed to discuss the goals and focus for a comprehensive investigation regarding faculty sexual misconduct, the process for choosing an investigator for such an investigation, and the best method to communicate the findings. The CIAG was composed of three faculty members and three administration members, and was chaired by the Chair of the Audit and Institutional Risk Committee of the Board of Trustees. On March 31, 2021, the CIAG issued a report to the Board of Trustees with a recommended scope of investigation.

On May 18, 2021, the Executive Committee of the Board of Trustees, with the endorsement of the full Board, approved a Comprehensive Investigation into Faculty Sexual Misconduct. Richard Patterson, former Chair of the Board, wrote the following message to the community about the Comprehensive Investigation:

*[T]here is more work to do and questions remain about how misconduct was able to occur on our campus and, if there were people who were aware of questionable behavior, why it may not have been reported. The Board agrees with Fr. Boroughs' assertion in October 2019 that in order to move toward healing and rebuild trust we must understand and reckon with our past.*

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*We also recognize the importance of this investigation to faculty, especially as it is intended to provide the basis for the restoration of trust between the faculty and administration. We believe the approved investigation will provide the best way to build trust, and will also offer another avenue to study whether and how cultural, structural,*

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<sup>5</sup> <https://hcsfire.com/2019/02/04/holy-cross-students-stage-sit-in-outside-presidents-office-demand-more-action-regarding-sexual-misconduct-allegations/>.

<sup>6</sup> The request was initially denied, and a Special Committee of the Board (the "Special Committee") was created to evaluate the issues raised by the *ad hoc* Committee. In August 2019, the Special Committee determined that there was no need for an additional external investigation based on the information known at that time.

*and organizational factors contributed to faculty sexual misconduct at Holy Cross and to recommend additional appropriate measures going forward.*<sup>7</sup>

Following the authorization of the comprehensive investigation, the College created the Comprehensive Investigation Oversight Committee (the “CIOC”) to identify and interview potential independent investigators and oversee the ensuing investigation, along with President Vincent Rougeau and the former Board Chair.<sup>8</sup>

In November 2021, following a careful search and vetting process led by the CIOC, and based on the CIOC’s recommendation, the College engaged Cozen O’Connor’s Institutional Response Group to conduct an attorney-client privileged external investigation into whether and how cultural, structural, and organizational factors contributed to instances of faculty sexual misconduct.<sup>9</sup> Importantly, Cozen O’Connor had no prior relationship with the College and a foundational principle of our legal practice is that we do not engage in civil litigation – either for or against educational institutions. We acknowledge the perception of institutional bias that may exist because we were engaged by the College. We can affirm, however, that we have been given full autonomy and independence in determining how to conduct the investigation, what documents to review, and whom to interview. Our observations, findings, and recommendations are wholly our own, reached without interference or direction by the College.

## **II. SCOPE OF REVIEW**

The scope of our investigation is set forth in the May 1, 2021 Comprehensive Investigation into Faculty Sexual Misconduct document approved by the Board of Trustees. In relevant part, the scope is defined as follows:

- “[T]he focus of this investigation shall be on cultural, structural and organizational factors” that contributed to faculty sexual misconduct, and
- “[T]he goal of this investigation is to provide the College with information that will support meaningful and significant evidence-based actions to improve culture, restore trust, acknowledge accountability, and decrease student vulnerability as related to faculty sexual misconduct.”

Between January 2022 and August 2022, we engaged in extensive document review and interviews with

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<sup>7</sup> May 18, 2021 Board of Trustees Letter to Faculty and Staff. <https://www.holycross.edu/comprehensive-investigation-oversight-committee>.

<sup>8</sup> The CIOC is composed of two trustees selected by the Board Chair, two tenured faculty members selected by the Academic Governance Council, and two administrators selected by the President, as follows: Nancy E. Andrews Ph.D, Associate Professor, Classics. Gender, Sexuality and Women’s Studies; Nancy R. Baldiga CPA, Professor, Economics and Accounting; J. Christopher Collins, Esq. ’80, Member of the Board of Trustees, Of Counsel, Mirick O’Connell; Michele C. Murray Ph.D, Vice President for Student Affairs and Dean of Students; Donna Murphy O’Brien ’77, Member of the Board of Trustees, President, Strategic Visions in Healthcare; and, Daniel P. Ricciardi ’06, Assistant Treasurer. Michael Baughman, of Troutman Pepper, served as a legal advisor to the CIOC.

<sup>9</sup> We are deeply appreciative to members of the Institutional Response Group who contributed greatly to this investigation, including Devon Turner Riley, Cara Sawyer, Adam M. Shapiro, and Lauren G. Smith. Their partnership was invaluable.

more than 75 students, staff, faculty, and alumni regarding issues attendant to faculty sexual misconduct. Twenty-one of these interviewees reported experiencing sexual misconduct while at the College over a period of more than 60 years. We provided multiple opportunities for community feedback, including through in-person engagement, individual interviews by Zoom, and an anonymous online survey created by Cozen O'Connor to expand participation and engagement. The College disseminated information about the investigation widely, including through a dedicated webpage, which linked to relevant documents about the investigation. Among the individuals we interviewed were the President and other members of senior leadership; administrators and staff; individual faculty members; members of the Academic Governance Council; members of the *ad hoc* Committee; the current and former Speakers of the Faculty; members of the Dean's Advisory Group; the Grievance Procedures Committee; faculty from Gender, Sexuality, and Women's Studies; students from the Feminist Forum or who serve as Relationship Peer Educators; and 26 alumni spanning the last seven decades, including three alumni who described misconduct by Dustin and four alumni who described misconduct by Christie. Many of the campus community members we spoke with exhibited the sobering impacts of longstanding grief, trauma, anger, and disappointment. At the same time, in their meetings with us, many members of the community were hopeful and optimistic that this process would result in improvements to prevent future harm to students. The review process has been a humbling opportunity to receive information and engage with the community.

The scope of the investigation also included a confidential and privileged review of relevant documents; a review of the College's current culture relating to issues of faculty sexual misconduct, including cultural or other structural issues that might have discouraged individuals from reporting or the College from addressing those issues; and a fact-gathering process to collect new or additional information about the context of prior incidents to the extent they inform our analysis of the current culture regarding faculty sexual misconduct at the College.

Our review necessarily included a backwards look to understand and learn lessons from the past that can inform the future. At the same time, our review was not a reinvestigation of prior incidents, nor did we seek to retread ground that had already been fully investigated by the College or prior external investigators. We presume that the conduct involving Christie, Dustin,<sup>10</sup> and other faculty or staff occurred as reported, and it was not our role to make determinations of responsibility, nor was it our role to assess or evaluate whether College administrators or fellow faculty members were aware of potential misconduct by Christie, Dustin, or others. Rather, we gathered this information to inform our recommendations, which seek to "improve culture, restore trust, acknowledge accountability, and decrease student vulnerability as related to faculty sexual misconduct."<sup>11</sup>

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<sup>10</sup> Dustin denies that he engaged in misconduct and has filed a lawsuit against the College contesting his termination. Our review did not make a finding that Dustin engaged in misconduct, but considered information shared with us as true to the extent that it informs our understanding of cultural, organizational, and structural factors.

<sup>11</sup> May 1, 2021 Comprehensive Investigation into Faculty Sexual Misconduct, which set forth the scope of this investigation as approved by the President and the Board of Trustees. <https://www.holycross.edu/comprehensive-investigation-oversight-committee>.

### III. INVESTIGATIVE APPROACH AND PROCESS

Cozen O'Connor conducted this investigation with a commitment to open-ended exploration of the issues and sought to follow the facts wherever they led. The review process integrated investigative protocols to support a neutral, impartial, and thorough investigation and to report the information gathered in the investigation to the CIOC and the College in an objective, organized, synthesized, and dispassionate manner. Cozen O'Connor sought to gather all relevant information and rigorously tie our findings and observations to available contemporaneous documents and witness interviews.

Throughout the investigative process, we met with the CIOC, sometimes on a biweekly basis (every two weeks). Our meetings have been one of the notable aspects of this process, and the members of the CIOC were tremendously collaborative, respectful, and engaged. Their commitment to this comprehensive investigation, to the College, and to reinforcing good process and the integrity of this review guided every step of this investigation and we feel a solemn responsibility to uphold the CIOC's faith in us and in this process. Throughout the investigation, we shared detailed and comprehensive updates about information learned in interviews (without personal attribution), aggregate themes, and our overall observations based on the information we gathered. We also addressed important questions about process, including how to seek the greatest level of engagement with the community, how to remove actual or perceived barriers to participation in the investigation, developing and publishing the online survey, and developing a trauma-informed, sensitive rollout and communications plan designed to minimize harm in the delivery of the final report.

We shared similar updates with the President, former Board Chair, and Chief of Staff, albeit less frequently than with the CIOC. We can affirm that the President and Board, through their engagement and approach, recognized the autonomy of the CIOC and deferred greatly to their input, judgement, and feedback. While we were engaged by the College, this was ultimately an incredibly collaborative and, we believe, transformational committee process that reflected the best aspects of communication, trust, and collaboration necessary for shared governance to be successful. We are humbled to have been entrusted with the faith of the committee members and remain deeply appreciative of their commitment to preventing future harm to students, providing an environment free from discrimination and harassment, and always holding those goals as the true north of their work.

As we gathered information and spoke with campus constituents, we heard many deeply held convictions or perceptions that, in some instances, have led to entrenched positions and perhaps some reluctance to re-engage with one another given their past experiences. In our fact gathering, we intentionally do not speculate about intent underlying the actions of administrators or faculty. We presume good will and follow the information and inferences based on concrete actions. We stand firmly, however, on the recognition that in the context of an institutional response to sexual and gender-based harassment and violence, there is no one constituency who holds a monopoly on caring for survivors – these issues impact many, some more directly and more acutely, and others more peripherally in the support of those directly impacted. We also recognize that in an organization based on shared governance, administrators, faculty, and the Board must work in partnership to confront sexual and gender-based harassment and violence.<sup>12</sup> Shared governance requires drawing upon others'

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<sup>12</sup> "Shared governance refers to the joint responsibility of faculty, administrations, and governing boards to govern colleges and universities. Differences in the weight of each group's voice on a particular issue should be

strengths across disciplines and roles, and successful team building requires the perspectives and subject matter expertise of a diverse set of administrators, faculty members, students, alumni, and Board members.

As the College moves forward, in our opinion, the most significant obstacles relate to trust, candor in communications, and the ability for campus constituents to engage with one another in ways that seek to build relationships and shared understanding, rather than question one another's underlying motives and intent. In the report, we have carefully sought to balance a chronicling of the antecedents to trust based on the perception of the College's response between 2018 and 2021 with a specific focus on the current culture, climate, and context. We also sought to address the issues in an informed and nuanced manner that does not treat campus constituents as monolithic – for example, assuming that all faculty share the same views and perspectives as those who have been most vocal or involved, or that all administrators approach the issues in the same manner. We sought through our review to listen to all with an earnest intent to understand their experiences – and to reflect, with care and compassion, those experiences in this report. We hope that our writing does justice to the candor and courage of the individuals who met with us during the review.

#### **IV. IMPACTS ON SURVIVORS<sup>13</sup>**

We would be remiss if we did not acknowledge the longstanding and lifelong impacts of trauma on individuals who shared their lived experiences with us. During our review, 19 alumni and two faculty members described to us incidents of sexual and gender-based harassment and violence involving College faculty and staff.<sup>14</sup> We spoke with one alumnus from the 1960s, three alumni from the 1970s, one alumnus from the 1980s, seven from the 1990s, one alumnus from the 2000s, and six alumni from the 2010s. Their accounts related to both historical allegations of conduct from the 1950s to the 1990s, as well as the reported conduct involving Christie and Dustin, which reportedly persisted until more recently. We also heard accounts related to the conduct of former athletics coaches. Together these accounts help illustrate aspects of the College's history and culture which inform our observations and conclusions. Individuals who reported being harmed by faculty or staff affiliated with the College shared their personal narratives and experiences with us. The reported incidents shared by alumni dated back

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determined by the extent of its responsibility for and expertise on that issue.” See, FAQs on Shared Governance, American Association of University Professors, <https://www.aaup.org/programs/shared-governance/faqs-shared-governance>.

<sup>13</sup> While our practice is to use the more neutral term “complainant” in written policies and procedures, investigative reports, and Title IX communications, we recognize that our role here is distinct in that we were not charged with investigating or determining the credibility of reported conduct. As such, we adopt the use of the term “survivor” in this report, which accepts reported experiences as true and focuses instead on evaluating and understanding culture, institutional responses, and solutions.

<sup>14</sup> Consistent with our scope, contemporaneously with this report, we are sharing information about any new reports we received during our investigation with the College's Title IX and Equal Opportunity Office (“Title IX Office”) for further actions, including investigative or other remedial actions as needed. Where we have the permission of the individual witness to do so, these referrals include identifying information. Where we do not have permission to do so, the narratives are shared in a de-identified way. In many instances, the accounts we received have previously been reported to the College.



to 1959 and generally fell into the following categories: overt sexual harassment and sexual violence towards women within the years after the College became co-educational; extensive grooming<sup>15</sup> and boundary crossing; sexual abuse and exploitation of students by faculty in positions of power; same sex (male on male) sexual abuse; instances of reported misconduct in Athletics; and an insufficient response by the College to reports of sexual misconduct. The individuals who shared with Cozen O'Connor their experiences of sexual misconduct at the College give voice to the very questions we were asked to evaluate.

One alumnus from the 1970s who disclosed grooming and sexually inappropriate contact with a faculty member, expressed appreciation for this process and for the College's continued outreach to inquire about alumni experiences:

*I was really surprised to hear that they were interested in things that took place in the past . . . . If it wasn't for President Rougeau's [February 3, 2022] letter, which I thought was incredibly inviting, I probably wouldn't be talking to you. It's not a big story. I didn't get raped. I didn't have some of these horrible things. I definitely did feel dirty, as growing up a Catholic, I felt hugely dirty . . . . I never thought I would have the opportunity to relate my little tidbits to anybody.*

The full report centers the experiences of individuals impacted by sexual and gender-based harassment and violence as foundational to understand the cultural, structural, and organizational factors that may have contributed to faculty sexual misconduct. We have a deep appreciation and gratitude for those who chose to engage with us, especially after having engaged in multiple prior reviews at the College, as well as for those who did not participate in this review but for whom we had the benefit of reviewing College records or otherwise learning of their accounts and experiences. We recognize that the decision to participate in a review of this nature is a deeply personal and individual decision and hold space for those who may have been harmed, but have not chosen to disclose that harm, either to the College or to others.

We heard many firsthand accounts that spoke to the direct loss of educational opportunities; negative impacts on mental and physical health; disruption to future employment and personal or professional relationships; feelings of guilt, shame, or isolation; and struggles with suicidality. The report details those impacts through the survivors' own words. Above all, what came through each of the interviews, individually and collectively, is the depth of the pain, grief, anger, and disruption experienced by survivors, and, at the same time, a continued faith in and loyalty to the College for many. While some expressed deep anger that may not be absolved through any action of the College, all shared the hope that future students would not be subjected to the same experiences and an optimism that the current leadership of the College is positioned to drive necessary cultural change. The nature of these impacts and the potential for restoration of trust and relationships suggests that a restorative approach might be helpful, particularly for a College whose faith is often demonstrated through pastoral care and whose

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<sup>15</sup> "Grooming" is a term of art typically used in the evaluation of child abuse that refers to those behaviors designed by an offender to break down the normal barriers that might exist between the offender and the potential victim, in order to support or facilitate sexual victimization. The use of the concept of grooming has also been applied to other relationships that involve power imbalances, including in the context of sexual harassment of undergraduate and graduate students by faculty or staff. A more extensive definition is provided in the full report.

mission values *cura personalis* – care for the whole person (mind, body and spirit) and a dedication to promoting human dignity.

## **V. NATIONAL CONTEXT**

The issues addressed in this report are not unique to Holy Cross. Across higher education, there has been a disconnect between expectations of care and support for campus community members and the comparative experience of navigating an increasingly complex compliance framework as it relates to sexual and gender-based harassment and violence. We recognize that the issues related to sexual and gender-based harassment and violence are nuanced and complex. Discussions about these issues can be both fraught and challenging. Nationally, we have witnessed cultural change across multiple dimensions, and, as a country, we are learning to embrace the tension and friction that arises as we grow and evolve. For some, cultural change cannot come quickly enough; for others, cultural change engenders fear, anxiety, and resistance. While we may all share a commitment to eradicating sexual and gender-based harassment and violence, we may not all agree on how to achieve that goal – nor do we all trust that the individuals with whom we are in community or discussion are motivated by the same positive, aspirational goals. To add to the complexity, the demands of legal and regulatory compliance frameworks often taint administrators, boards, and staff with the perception of institutional bias, namely that they are presumed to favor reducing institutional liability by silencing survivors. That assumption often stands in the way of forward progress, meaningful collaboration, and effective partnerships.

In addition, high profile cases over the past decade have brought attention to the issues of predation on campus. We have seen numerous examples of faculty or staff across the country who have been found responsible for engaging in significant sexual misconduct with students for decades. The *Chronicle of Higher Education* and *Inside Higher Ed* are replete with headlines regarding instances of pervasive and persistent abuse. These cases have raised important questions nationally about how long-term abuse could occur in the context of values-based, mission-driven institutions. In response to these incidents, on the micro level, individual institutions have been evaluating gaps in policy, oversight, and training that may have contributed to an environment where abuse could go undetected, unreported, or undeterred; on a macro level, higher education as an industry has been seeking to identify effective practices, applying principles of enterprise risk management, and building compliance frameworks that seek to prevent, monitor, and detect abuse.

Higher education is not alone in the shifting foundational principles governing institutional and cultural responses to sexual and gender-based harassment and violence. Similar seismic shifts have occurred in many sectors of our community, including in the corporate world, religious institutions, child-serving institutions, and non-profits. The popularization of the #metoo movement has helped to drive change as well, as has civil litigation, legislative initiatives, and enforcement priorities. As we turn to the specific context at the College, it is important to consider the lessons learned, not only from other educational institutions, but also from the faith-based context and corporate America. This broader contextual understanding is part of the drive towards a *care-compliance continuum* that recognizes the need for supportive measures, resources, and care for the individual, as well as the formal legal structure with appropriate checks and balances to ensure that key elements of effective practices are set forth in policy, resourced in action, and monitored for effectiveness and sustainability.

## **VI. UNDERSTANDING HOW PERSISTENT OR PERVASIVE HARASSMENT MAY HAVE OCCURRED**

One of the core questions in this review was how reported faculty sexual misconduct could have occurred in the Christie and Dustin cases, as well as in other instances of misconduct reported to us. Importantly, we are not making findings as to causation, as causation lies directly at the feet of the individuals who perpetrated the abuse. Instead, the question we sought to answer was whether there were cultural, structural, or organizational factors that might have contributed to instances of faculty sexual misconduct, or more broadly, might have contributed to an environment where faculty sexual misconduct can occur. The answer to this question is, of course, multi-faceted and complex, particularly where many incidents happened over a long span of time. If there were a simple rubric to understand how to prevent sexual and gender-based harassment and violence, these forms of misconduct would be eradicated.

We recognize that these issues sit at the intersection of many aspects of College culture, organizational dynamics, and structure. Issues of sexual and gender-based harassment and violence do not exist in a vacuum; rather they are part of a broader institutional ecosystem that shapes the environment wherein abuse can occur, the mindset around reporting considerations, the framework for responses, and the potential for institutional accountability.

### **A. Information Learned from Historical Cases**

In addressing the question of the context in which the misconduct reportedly occurred, we incorporate information learned from our privileged review of all prior reports involving faculty members as respondents that are currently maintained in the Title IX Office, and information shared by alumni regarding their lived experiences with Dustin, Christie, and other College faculty or staff respondents over time. Based on our review of the files and the accounts of alumni who spoke with us, we identified the following relevant factors:

- gaps in awareness or knowledge, both in earlier times, when alumni described a vastly different understanding than exists today of social norms and mores regarding relationships between students and faculty members, and in the present day
- issues relating to power dynamics, including actual and perceived power imbalances, the impacts of tenure, and perceptions of exceptionalism
- the impacts of grooming, which blurs boundaries, creates a cognitive distortion about the nature of the interactions and relationship, and serves as an effective deterrent to reporting
- actual or perceived retaliation
- the perception that boundary violations were openly known and accepted by others, such that survivors believed the conduct was perceived by others as appropriate
- the nature of the College's response to reports, particularly if the perception or reality of that response was negative.

### **B. Institutional Culture, Values, and Mission**

The College's mission provides a foundational platform to foster a culture free from discrimination and harassment. Many tenets of the College's mission are aligned with the goals of a caring, empathetic organization that seeks to protect its constituents by establishing and zealously guarding clear behavioral expectations and professional boundaries, promoting permission for reporting and speaking

up, and holding individuals accountable for conduct that violates College policy. We believe that adhering to the College's mission with fidelity and integrity is the roadmap for the path forward. Emphasizing humility, empathy, and collaboration – in a way that incorporates a nuanced understanding of individual responsibility and accountability, the impacts of our actions on other individuals, and our own individual responsibilities to set and perpetuate culture – can help drive a shift from blame to accountability, from divisiveness to collaboration, and from conflict to care and responsiveness.

At the same time, we observed challenges in culture stemming from the impact of clergy sexual abuse in the Catholic Church, remnants of patriarchy and clericalism, exceptionalism, and issues related to sexual orientation. Some alumni, faculty, and staff members identified as a continuing concern the College's patriarchy and clericalism – the idea that a few individuals hold power and authority while others exercise deference to those who are in power. Other alumni, faculty, and staff members described the College as an institution that is susceptible to exceptionalism – the idea that the institution or its faculty, as a whole, are special or outside the norm of elite academic institutions. Individuals we spoke with expressed a concern that the College's exceptionalism creates the space for faculty members to act in manners that may not fall within professional boundaries and contributes to an environment where potential grooming behaviors may be excused by others because the faculty members in question are viewed as special in some regard. In addition, the concept of exceptionalism demands heightened expectations for care, the values behind institutional responses, and importantly, the communication of those values in the College's action.

One additional aspect of culture was implicated by our review: student, staff, faculty, and alumni perceptions of the College's approach to sexual orientation, gender, gender identity, and gender expression. Many community members perceived a continued disconnect between traditional Catholic teachings regarding homosexuality, the College's stated approach, and the lived experiences of College students and alumni, especially as those experiences have manifested over time. Some individuals who identify as LGBTQIA+, particularly alumni, still report considerable shame based on their interactions with the College or the Catholic Church. The College has been explicit in its values in this regard: "Holy Cross is committed to ensuring everyone, regardless of their sexual orientation, gender identity, and gender expression, feels supported in our community. We strive to provide a safe and affirming community for all LGBTQIA+ (lesbian, gay, bisexual, transgender, queer/questioning, intersex, asexual/aromantic) individuals."<sup>16</sup> Despite this commitment, we heard from many male alumni who identify as gay or bisexual that their sexual orientation – in the context of the College's culture – created heightened vulnerability for abuse by faculty and staff who took advantage of their naiveté and youth and exploited pre-existing barriers to reporting.

### **C. Structural and Organizational Factors**

Over the past decade, the College, like many educational institutions, has shifted from a relational framework to a more structured operational framework as expectations for higher education institutions have shifted. The College's human resources, compliance, and legal frameworks have evolved into more professional models over time, and the current administration is diligently working to build on prior efforts to continue to shift from a family model to a business model of operations. The College has also engaged external consultants to help address needed organizational change, including

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<sup>16</sup> <https://www.holycross.edu/lgbtqia-community>.

an organizational assessment by Deloitte, as well as consulting related to shared governance, roles and responsibilities, and structural gaps by a higher education shared governance expert.

These shifts in operational frameworks have evolved more quickly as the College has had to confront high profile examples of misconduct that have raised questions about institutional responses. Permitting the operational and structural issues described herein to go unaddressed can increase the potential for faculty sexual misconduct to occur and create spaces for predation to occur. Without appropriate organizational and structural safeguards, individuals can push the limits or test boundaries in ways that are not recognized or reported by peers because of personal relationships, the effects of grooming, and insular loyalty. Further, in the absence of effective structures, when issues are reported, individuals in positions of power may discount or downplay those reports for the same reasons. A more rules-based approach with bright lines and clear standards for professional interactions and boundaries can help enhance institutional responses and minimize the impacts of personal biases.

#### **D. Relationships between Faculty and Administrators**

We were tasked with providing recommendations for evidence-based actions to improve culture, restore trust, acknowledge accountability, and decrease student vulnerability as related to faculty sexual misconduct. The process of restoring trust necessarily begins with understanding the genesis of the breakdowns in trust. The breakdown in trust between faculty and administrators has been longstanding and well documented, separate and apart from issues related to faculty sexual misconduct. During our review, we heard examples of negative or counter-productive interactions between campus community members. We also observed positive examples of such collaboration, including the CIOC and the Faculty Grievance Committee, appointed to draft grievance procedures for non-protected class concerns. The lessons that emerged from our understanding of past discord, as well as the models for effective engagement, include the need for campus community members to approach one another with humility and respect, to listen to and be open to learning from one another, and to identify shared goals and approaches to reach those goals. We understand that for some, the breakdown of trust is still raw and palpable, and the factors that have led to distrust hindered the efficiency of processes because of the additional investment of time needed for bridging differences and building relationships. Those efforts are critical, even when they slow the process of doing the actual work. Ultimately, perpetual and reciprocal mistrust that is left to breed will not provide a framework or opportunity for disrupting the cycle without committed efforts by all parties to engage openly and in good faith. Rebuilding this trust is crucial to the achieving culture change and effectively implementing the recommendations.

It is a truism to observe that while the members of the College community all share a commitment to eliminating sexual and gender-based harassment and violence, they do not all agree on how to achieve that goal. As a community, the College is experiencing a shift in societal expectations about professional mentoring and advising relationships between faculty and students, which are viewed as central to the Holy Cross experience. In the midst of this cultural change, some have expressed a desire to hold onto practices that have been rewarding and led to the development of appropriate, professional relationships, and, as such, have demonstrated a reluctance to embrace more protective approaches that might inhibit those relationships. At the same time, there is growing recognition that guidelines for professional boundaries are necessary in order to guard against the potential for abuse and to protect individuals in the context of a power differential.

## **E. Policy Frameworks and Organizational Considerations**

We identified the following considerations regarding policy frameworks and organizational considerations, many of which were also identified by the College's previous or concurrent external reviews:

- the absence of written policies and procedures governing professional boundaries, which can lead to inconsistent and unclear expectations and standards about professional boundaries and impede efforts to prevent, track, monitor, and impose accountability for misconduct
- gaps in reporting by faculty and staff and reluctance to embrace responsible employee reporting
- some departments with unprofessional working environments, bullying, and incivility, which, if left unchecked, can contribute to an environment where the quality and nature of interpersonal interactions are not valued and reporting is decreased
- challenges in the College's Title IX responses, which were a function of turnover and instability in the office prior to 2020, gaps in documentation, and the relatively nascent Title IX structure
- challenges in institutional identification and ownership of issues
- gaps in supervisory structures and oversight mechanisms that allowed individuals to operate outside the lines of normal supervisory structures
- limited mechanisms to oversee the conduct of tenured and non-tenured faculty
- insufficient documentation practices, along with a lack of centralized reporting
- the structure and the role of department chairs as it relates to faculty conduct reporting and monitoring
- diminished expectations for participation in ongoing professional development, particularly for those in leadership roles.

## **F. Broader Framework Regarding Sexual and Gender-Based Harassment**

In the history of higher education, the legal compliance framework related to sexual and gender-based harassment and violence is relatively nascent and has evolved significantly over the past 11 years. The College was delayed in its response as compared to peer institutions, many of whom moved more quickly to strengthen their Title IX programs or build one where none existed. Notably, the College did not have a functional and effective Title IX Office until 2015. Although the College had policies governing harassment dating back to 1992, and prohibited consensual relationships between faculty and students in 2004, the Title IX framework was new to the College, as was the role of a dedicated Title IX Coordinator. As the College built out its first Title IX Office, there was significant confusion on campus about the role of the Title IX Coordinator. Some misunderstood the role of the Title IX Office and believed it should have been an advocacy resource for survivors, as opposed to a neutral and impartial office tasked with prompt and equitable responses that seek to eliminate, prevent, and address reports of sex discrimination. In addition, the Title IX Office experienced significant instability between 2015 and 2020. During that timeframe, the College had five individuals who served in the role of Title IX Coordinator, some of whom served in an interim capacity. These Title IX Coordinators had the significant task of introducing and building a Title IX Office that was new to the College, that complied with the complex and ever-evolving legal and regulatory framework, and that meaningfully responded to incendiary and public allegations of historical abuse.

A common misperception we hear across the country is that Title IX offices are legalistic, not caring, compassionate, or empathetic.<sup>17</sup> We heard the same perception at the College. This perception is driven, in part, by the procedural rigor required in the current Title IX regulations, a factor not unique to the College; however, this perception at the College may have been exacerbated given the confluence of “professionalization” efforts across the campus. Individuals uniformly reported that community stakeholders deeply cared about the issues related to Title IX, but the misunderstanding of the Title IX Office’s core functions may have inhibited its ability to effectively serve the community. While that is not our experience or understanding of the function of a Title IX Office, overcoming that misperception requires concerted and sustained engagement with the campus community to demonstrate care and responsiveness, build relationships and trust, and reinforce the role of the office as a true report, resource, and response office.

Despite its late and difficult start, the College has taken significant efforts in recent years to implement Title IX functions with fidelity to core legal requirements and effective practices. With some stability now within the Title IX Office, the College’s current Title IX Coordinator has been able to focus on building community awareness of the Title IX Office’s functions. Added resources have allowed the College to expand the Title IX Office, which now includes the Title IX Coordinator along with two investigators and an Assistant Director of Prevention and Education. The College has also made efforts to streamline the reporting process and increase awareness. Specifically, the College created a centralized reporting webpage called Make a Report, for reporting concerns relating to, among other issues, sexual misconduct, bias incidents, students of concern, and academic integrity. The College also invested in EthicsPoint to serve as an anonymous reporting portal. Additional initiatives are detailed in the full report. Ultimately, the effectiveness of the Title IX Office will impact its perception on campus. A positive perception can help to engender trust, foster increased reporting, and drive a culture and climate of accountability and responsibility. A negative perception can deter future reporting. Importantly, the College’s Spring 2022 climate survey reflects a high level of trust and confidence in the College in terms of how sexual misconduct reports are handled, with an increase in confidence since 2019.

Since August 2018, the College has created many new policies and internal operating protocols where none existed before. Those policies include the development of a Historical Claims Process to address reports of sexual and gender-based harassment and violence by alumni; the Committee on Remedies, Education, and Community Healing (“REACH”) to provide counseling resources to alumni impacted by sexual violence; the Youth Protection Policy; and, most recently, the Policy on Travel with Students. The College is also developing a Naming Review Policy to address the rescission of honorifics and awards where there is credible evidence of sexual or gender-based harassment and violence.

## **VII. RECOMMENDATIONS**

As described above, the College has already engaged in significant efforts over the past four years. We do not catalog all of those efforts in this report. Our recommendations seek to support, enhance, and expand the College’s actions to prevent sexual and gender-based harassment and violence, and to respond to reports in a way that demonstrates care and empathy and seeks to promote accountability

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<sup>17</sup> We have heard this same perception during nearly every external Title IX audit we have conducted over the course of the past year.

and responsibility. Our recommendations also seek to narrow the trust gap created by the revelations of faculty sexual misconduct at the College. Trust is built on a foundation of steady engagement and communication with representative constituents over a sustained period of time in a manner that demonstrates character, candor, care, competence, and collaboration. In that regard, the way these recommendations are implemented is as important as the recommendations themselves.

The College's prevention efforts must be pan-institutional to be effective. As reflected in our observations in the report, the cultural, structural, and observational factors contributing to an environment where sexual misconduct can occur are complex and multi-faceted, and every campus community member plays an integral part in prevention. To be successful, campus constituents must recognize the shared responsibility among organizational power structures, including senior leadership, the Board, and the faculty, and work to create safe environments that foster gender equity, promote accountability (perceived and actual), encourage bystander engagement, provide permission and support for reporting, and reinforce prohibitions against retaliation.

Informed by this review, our recommendations fall into five main categories: **restorative approaches** to address the harms of the past; **preventive work** to reduce the potential for sexual misconduct through enhanced educational programming; strengthening of institutional **structures, policies, and practices** to shift the conditions that may have allowed misconduct to occur; steps to foster **increased reporting**; and effective practices to enhance **responses to reports** when misconduct occurs. We also offer a sixth category of recommendations designed to ensure that the **process for implementing the recommendations** has the appropriate hallmarks of trust, accountability, visibility, and sustainability.

## VIII. ENGENDERING TRUST AND MOVING FORWARD

We observed deep commitment across students, faculty, staff, and alumni to work together to better prevent and respond to all forms of sexual misconduct in a manner that is consistent with the College's mission, and that deep faith in the College that can be drawn upon to support growth and learning as individuals and as a community. Despite this commitment, there is still a need for ongoing communication and restorative initiatives to help the College community foster increased trust. Engendering trust starts with every individual action, and with each of us holding ourselves accountable to ourselves and one another. In some regard, the passage of time has helped to repair some relationships. Nonetheless, the responsibility for moving forward as an institution is a shared one, wherein administrators, faculty, the Board, and students all play a vital role in preventing sexual and gender-based harassment and violence. While the College can provide the framework in terms of policies, procedures, and practices, as well as educational programming, achieving cultural change must be a community effort.

Because the survivor voices feature so strongly in this report, we close with the perspective of an alumnus and survivor of abuse by Christie who was directly involved with the College at the time the allegations about Christie and Dustin became public:

*So much of the cultural ethos to the College is the invitation to reflection . . . the individuals are being asked to reflect in this process, faculty are pointing the finger at the admin and saying you have to reflect, everybody else has reflected, who is asking the faculty to reflect? For this process to be complete, that has to be a part of it . . . they*



*also need to engage in their own reflection, how have they as a body, a member of this larger institution, taken stock of themselves.*

We are optimistic that this reflection has begun, as demonstrated through the positive engagement between faculty and administrators over the past year. We harken to the perspective of a faculty leader who shared their own growth and perspective on the current dynamics between faculty and administration:

*I personally have experienced a great deal of shifting around trust around my own idea of misunderstanding. . . . Over the last couple of years, my understanding has shifted to be more diffuse. I have less blame for particular institutional actors that two years ago I would have been very quick to blame. If you do enough talking and listening, the narrative becomes more complex; things that were portrayed to me by other faculty as clear instances of bad actors by administrators now look a lot more grey. I think there has been more shifting to more curiosity around how this could have happened – and some more of that complexity of being able to think a little bit more broadly about what is it about this community that may have contributed to providing a safe haven for some folks to do bad deeds.*

The faculty member observed, “We have some key new leaders and what I have seen some of them do in the past year – to listen and try to understand as best they can and to be willing to try something different, that has been huge – being willing to say, explicitly and implicitly, nope, we are moving in a different direction.” Another faculty member who has been a fierce advocate for survivors shared their perspective about this investigative process, noting, “People are optimistic. They feel heard . . . and we are hopeful.”

We are exceedingly grateful to the many students, alumni, faculty, and staff invested in this work – and to the many who are committed to continuing to build trust, develop collaborative relationships, and reinforce community, care, and compassion for one another.