

Comprehensive Investigation into Faculty Sexual Misconduct

May 1, 2021

In response to calls for an investigation into incidents of faculty sexual misconduct at Holy Cross, and after review of the Report to the Board of Trustees from the Comprehensive Investigation Advisory Group dated March 31, 2021, the Board of Trustees and the President of the College authorize the investigation described herein.

Preamble

“...the College should lead all its members....to seek justice within and beyond the Holy Cross Community.”

---College of the Holy Cross Mission Statement

Seek justice, promote justice. Our commitment to justice is woven into the fabric of campus life. From everyday conversations to invited lectures we strive to understand justice and our obligations to the harmed and vulnerable. Highly publicized cases of sexual misconduct on this campus have highlighted the need to examine what structural and cultural elements we have erected that allowed predatory behavior to coexist in our community. The undeniable courage of the victims of sexual misconduct, who came forward to speak their truths, demand an authentic response. With everything to lose and almost nothing to gain these alumni spoke out to protect the next generation of Holy Cross students. They were motivated by love for this community, our community. In our shared grief and disappointment we must not hesitate or offer platitudes. We must act. This is what it means to live the mission. As Fr. Boroughs boldly offered in his address of October 2019, “...we must reckon with our past. Only with this understanding and acknowledgement can we move toward healing.” In this document we propose a close examination of how faculty sexual misconduct was able to occur on our campus in our quest for information and truth. We also specifically outline a commitment to minimize further traumatizing survivors. We recognize they have repeatedly told their stories and the responsibility now falls to outlining a responsive investigation.

---Report to the Board of Trustees From the Comprehensive Investigation Advisory Group Preamble

Focus

This investigation shall be informed by the Report to the Trustees dated March 31, 2021, and shall focus on whether and how cultural, structural and organizational factors contributed to instances of faculty sexual misconduct at Holy Cross.

Goal

The 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.

Investigator

The investigation shall be conducted by an attorney who is an expert in this field, who has not previously worked with Holy Cross, who understands the complexities of the issues and who has been trained in trauma-informed investigations. The individual shall demonstrate a sensitivity to the privacy rights and well-being of all persons involved in the investigation.

Scope

The scope of the investigation shall be three-fold, as follows:

First, the investigator shall undertake a confidential and privileged review of the following:

- facts and materials compiled by Attorneys Catanzano, Keller and Baughman in the course of their investigations and reviews of matters related to faculty sexual misconduct;
- faculty and staff campus climate surveys of 2019;
- materials provided to the *ad hoc* Committee on Faculty Sexual Misconduct and the Comprehensive Investigation Advisory Group;
- materials from the ENGAGE Summit and student sit-in of February 2019; and
- other documents identified by the investigator as relevant to the purpose of this investigation, including information from more recent Title IX investigations.

Second, the investigator shall review the College's current culture relating to issues of faculty sexual misconduct, paying particular attention to cultural or other structural issues that might have discouraged individuals from reporting or the College from addressing those issues.

Third, the investigator shall take new accounts from individuals who are willing to provide additional context of prior incidents. The investigator shall consider such accounts to the extent they inform the investigator's conclusions as to the current culture regarding faculty sexual misconduct at the College.

As stated, the focus of this investigation shall be on cultural, structural and organizational factors. The investigator shall not be authorized to investigate any specific instances of misconduct, whether new or in addition to those that may be included in the materials defined above. This investigation shall not re-examine allegations of sexual misconduct, determine whether sexual misconduct did, in fact, occur, or provide detailed information about any specific cases in a public report. Any new or additional allegations of misconduct must be addressed by the appropriate personnel in accordance with College

procedures, including, but not limited to, referral to the Office of the Director of Title IX and Equal Opportunity.

Questions For Investigation

- How was the faculty sexual misconduct referenced in the Report to the Board of March 31, 2021 able to occur on campus?
- Did people know of the alleged behavior, and if so, why did they fail to report or appropriately respond to the allegations? Were there faculty members or other persons on campus who suspected faculty sexual misconduct and did not report it?
- Were there any reports of misconduct that were downplayed, misunderstood or mishandled?
- Was there a fear of retaliation? Is there any evidence of retaliation against faculty members for reporting past incidents of faculty sexual misconduct?
- Was there a culture where sexual misconduct was accepted in certain areas of the College?
- Did individuals leverage the power and privilege of their position and authority to place members of the community at risk of sexual misconduct?
- Were certain individuals given preferential treatment in that their actions relating to incidents of sexual misconduct were protected by other individuals or not subject to oversight?
- Did administrative structures, practices or policies, or lack thereof, contribute to the occurrence of sexual misconduct and to the institution's inability to identify or address these issues?
- Did faculty and staff practices and policies, or lack thereof, contribute to the institution's inability to identify or address these issues?
- Are procedures and policies for hiring and evaluating faculty, staff and administrators adequate to identify potential or prior sexual misconduct?

Structure

The investigator shall actively seek and accept information from all College constituencies. The investigator shall make use of existing materials as much as possible to avoid further negative impacts on individuals who have participated in prior inquiries.

Members of the community including faculty, staff, administrators, students and alumni shall be instructed how they may contact the investigator directly.

The investigation shall maintain the attorney-client privilege and protect confidentiality of all parties.

Committee Oversight

The investigator shall be retained by the College, and report to the President, the Board Chair and a new Comprehensive Investigation Oversight Committee (“CIOC”). The CIOC shall be 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. An attorney shall also support the CIOC. The CIOC shall maintain the confidentiality of information presented during the course of the investigator’s work.

The investigator shall provide the CIOC with an investigative plan and a proposed budget for approval. The CIOC shall:

- Participate in interviews of prospective investigators and prepare a recommendation to the President and Board Chair;
- Meet with the investigator to hear periodic updates regarding the progress of the investigation;
- Generally oversee the investigator’s work and budget, subject to the policies set forth in this document, and
- Update the community on the progress of the investigation with non-privileged information.

Findings and Report

The investigator shall present and discuss the investigation’s findings with the CIOC. The President, Board Chair and CIOC shall discuss with the investigator the preparation of a report and ways to inform the College community as to key findings and recommendations.

The investigator’s report shall be the independent work of the investigator. The President, Board Chair and CIOC are committed to making a transparent report of the outcome of this work to the community while balancing legitimate confidentiality and legal considerations. As the focus of this investigation is on cultural, structural and organizational factors rather than specific instances of misconduct, the expectation is that a report shall not include confidential information.

The investigator and CIOC may refer to the Harvard University Report of January 2021 (referenced in the Report to the Board) as a helpful model for the report to be issued in this investigation.