

Task Force on Sexual Abuse

REPORT

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THE OHIO STATE UNIVERSITY

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Introduction and Task Force Charge

Convened in the fall of 2019 by Ohio State University President Michael Drake, the Task Force on Sexual Abuse was charged with “compiling a background summary of known instances of sexual abuse that have occurred at institutions of higher education, with particular emphasis on those instances that have become known within the last 10 years.”¹ The Task Force was asked to distill and categorize common elements or themes that emerge from that historical summary, focusing specifically on identifying and understanding the particular challenges and cultural barriers that may exist in college departments of athletics or in the clinical medical enterprise that could affect sexual abuse reporting.

The Task Force had three additional charges to be drawn from that study of recent events:

- i) Identifying educational tools and practices for enhancing a culture of awareness and compliance;
- ii) Identifying best practices focused on assisting reporting and developing pathways to action on college campuses; and
- iii) Identifying best practices regarding sustainable mechanisms for support and recovery.

The Task Force conducted its work in two parts. First, it studied publicly reported instances of sexual abuse at institutions of higher education reported in the last ten years. To do so, the Task Force used Lexis/Nexis and Google to identify such cases perpetrated by a coach, physician, professor, priest, or other university affiliate against two or more survivors. The precise methodology and search criteria the Task Force used are set out in Appendix A, and the definitions used to identify cases are set out in Appendix B. A bibliography of the materials reviewed as a result of the search criteria and from which the summary was drawn is included as Appendix C. The Task Force used the results of that study to create a historical summary in the form of organized bullet points, which set out patterns and elements found in the identified cases. That summary appears below (*see* pp. 3-8).

In the second part of its work, the Task Force held a series of three roundtable discussions, in which nationally recognized experts engaged in fields related to sexual violence in higher education joined with the Task Force for presentations and conversation regarding the crucial issues higher education must address with regard to sexual abuse as set out in the Task Force’s charge. The historical summary was shared with the guest speakers in advance of the roundtable discussions. Summaries of those roundtable discussions are included below as the second part of the Task Force’s report (*see* pp. 11-50). Several themes emerged from each roundtable discussion, and two themes in particular were a point of emphasis at each session. These themes are described in the summaries of each roundtable, but a list of the themes appears in the introduction to the roundtable summaries (*see* pp. 9-10).

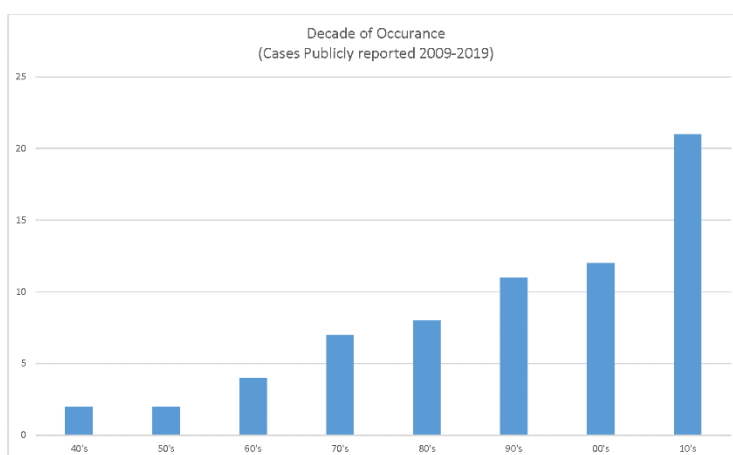
¹ The membership of the Task Force is set out in Appendix E.

Summary of Instances of Sexual Abuse in Higher Education Institutions that Became Known in the Past 10 Years

Cautionary Word: The Task Force’s information about these incidents is taken exclusively from public reports—in most cases media reports, though the materials also include some court decisions and some reports from independent investigations paid for by the affected university (all of the sources are listed in Appendix C). Inevitably, some media reports will contradict each other and, more importantly, such public reports, while highly useful for identifying known instances, have the potential to contain inaccuracies. In addition, many public reports recount allegations or otherwise contested “facts,” so that the publicly available details of “what happened” almost always fall short of the level of certainty of a court order or a universally agreed upon description. The Task Force did not conduct its own independent investigation of any of these incidents or make factual assessments independent of these public reports. Such an effort was both beyond the Task Force’s charge and not reasonably feasible. This inherent uncertainty must be kept in mind in considering the bullet point summary.

Summary of Reported Cases

- We found 31 cases that met our search criteria.
- The cases that became publicly known in the past decade reported abuse in every decade from the 1940’s until the present:



- Of the 31 cases, the alleged abuser was reported to have operated in the following contexts:
 - Medicine (seven cases)
 - Sports (four cases; including two of the seven in medicine)
 - Religious leader (four cases)
 - Faculty member outside of Medicine/Sports/Religious leader (16 cases)
 - Nonfaculty administrator (two cases)
- The alleged abusers' actions often lasted for many years:
 - In 81% of the cases, the alleged abuse covered five+ years.
 - In 42% of the cases, the alleged abuse covered 10+ years.
- The number of abuse survivors varied substantially across incidents.
 - The numerical range of survivors according to public reports, went from two to 700+.
 - The mean of the reported number of survivors was 61, and the median was 10.
- In most instances of these cases of multiple-victim abuse, public reports identify fewer than ten people as having been subject to the abuse. An estimated number of survivors has been reported in 30 of the 31 cases. In 60% of the cases the number of reported survivors was fewer than ten. In 27% of the cases the number of reported survivors was greater than 25, and in 13% (four cases) it was greater than 100.
- Not surprisingly, the reported length of abuse was greater in the cases involving more survivors:
 - Of the eight cases with 25 or more reported survivors, all lasted at least five years and all but one (88%) lasted ten years or more.
 - Of the cases with fewer than 25 reported survivors, only five (16%) lasted as long as ten years.
- The reported cases of abuse on the largest scale in terms of number of survivors were overwhelmingly in the medical and athletic contexts. Of the eight cases with more than 25 survivors, five involved medicine and three involved athletics. Only two of the eight involved neither, and in one of those, the abuse occurred outside of the United States; the other case was in the religious context.
- The abuse incidents were consistently gender specific. The perpetrators were always male, 100%. The survivors included men and women with great frequency, but not within the same case. In 12 cases (40%), the survivors were uniformly male; in 18 cases, the survivors were uniformly female, and in one case they were female or gender non-conforming. There were no reported cases with both male and female survivors.
- Males were more frequently victimized as children, females as adults (over 18).

- In 67% of the cases involving males, the survivors were children.
- Where the targets of abuse were female, only one case (5%) included children.

Reporting and Pathways to Action

- University investigation usually stopped the alleged abuse.
 - In all but three of the cases, public reports indicate that the alleged abuse did not continue once there was a university-level investigation.
- The initial reports of abuse, however, were usually *not* enough to stop the alleged abuse.
 - According to published reports, the initial report stopped the alleged abuse in only 35% of the cases.
- Initial reporting of abuse was especially ineffective at stopping alleged abuse in cases involving male victims. The initial report of abuse failed to stop the alleged perpetrator in 11 of the 12 cases (92%) involving male victims. This may be related to the context in which the cases of abuse of males tended to occur: three involved athletics, three involved medicine, and four involved religion; only two did not involve any of these categories.
- The first reports of abuse were made to a diverse array of actors, including: Title IX Office, medical provider, equity compliance officer, coach or other athletics official, dean or department chair, other university administrator, faculty member, campus rape crisis center or sexual harassment officer, university police, and an outside newspaper.
- In recent years, initial reports of abuse *may* have become more likely to stop the alleged abuse.
 - In 12 of the cases, the initial report of abuse was before 2006, in 10 of the cases, it was in 2006 or later (in the other cases the date of initial report is not apparent from the public reports).
 - Pre-2006, 0% of initial reports resulted in stopping the alleged abuse; post-2006, 60% of initial reports resulted in stopping the alleged abuse.
 - Those percentages, however, come with important caveats:
 - If the initial report resulted in the alleged abuse stopping before 2006, it is less likely to be in the summary, which contains only cases that became public after 2009.
 - There are likely some unknown cases where abuse is ongoing notwithstanding an initial report after 2006, but of

course those are not in the summary either, since they are not publicly known.

- The likelihood that the initial report stops the alleged abuse is connected to the context of the abuse.
 - Percent of cases in which initial report stopped the alleged abuse:
 - Sports: 0%
 - Religious leader: 0%
 - Medicine: 29% (but medicine w/out sports: 40%)
 - All others: 50%

- Most of the abuse cases spanned many years. Only seven (23%) of the cases lasted less than five years. The relative brevity of these cases was sometimes, but not always, tied to the success of initial reporting; initial reporting stopped the alleged abuse in four of the seven cases (57%), compared to 29% of the cases that lasted five years or more. A perpetrator's status as a faculty member (compared to other university roles) was not tied to a longer period of alleged abuse; if anything, the reported cases point in the opposite direction. In all seven (100%) of the cases that were stopped in less than five years, the reported perpetrator was a faculty member (two in medicine), compared to 58% faculty perpetrators in cases that lasted five years or longer.

- Public reports describe the role of the Title IX Office in the sequence of reporting in six of the cases. In two of them, the initial report was to the Title IX Office and the alleged abuse stopped. In two others, the initial report was not to the Title IX Office and the alleged abuse continued until, subsequently, there was a report to the Title IX Office and the alleged abuse stopped. In two other cases, the alleged abuse continued notwithstanding a report to the Title IX Office.

- The alleged abuser had multiple appointments in 42% of cases.
 - Multiple appointments did not seem to impact the rate at which the initial report resulted in stopping the alleged abuse.
 - Initial reports resulted in the alleged abuse stopping in 38% of multiple appointment cases compared to 35% overall.
 - Multiple appointments may have impacted the total length of time the alleged abuse occurred.
 - With multiple appointments, alleged abuse spanned 10+ years in 54% of cases; without multiple appointments, alleged abuse spanned 10+ years in 33% of cases.

- Most of the incidents of abuse ultimately resulted in the perpetrator leaving his position, but usually by means short of firing. Of the 29 cases in which the outcome for the perpetrator was reported, seven (24%) were reportedly fired, nine (31%) resigned, nine (31% retired), three (10%) were transferred to new positions, and one (3%) continued in his job.

- The alleged abuser moving on to a similar position at another institution after the first institution discovered the alleged abuse was an infrequent, but not unheard of circumstance in the cases.
 - In all 31 cases, the alleged abuser eventually left the institution (e.g., fired, retired resigned).
 - In 25 of those cases (81%), public reports contain NO indication that the alleged abuser subsequently obtained a comparable position elsewhere.
 - In three of the other six, the institution had a religious affiliation, and the alleged abuser moved to another institution with the same religious affiliation.
 - In one case the alleged abuser obtained a position outside of the U.S.
 - In the other two cases, the alleged abuser obtained a university position in the U.S., but in one of those was fired for lying about what had happened at the first institution.

University Culture of Awareness

- Involvement of alcohol and/or drugs was a frequent theme in cases in which the alleged abuser was a faculty member.
 - Of the 16 cases involving a “faculty member outside of Medicine/Sports/Religious leader,” eight (50%) involved the alleged abuser and the survivors using alcohol and/or drugs together.
- Involvement of alcohol and/or drugs may have made reports of abuse by faculty less likely to result in the abuse stopping.
 - In five of the eight cases above (63%), public reports include allegations that the university was notified and failed to act; in the other eight faculty cases (those in which drug/alcohol involvement was not reported), public reports indicate that the abuse continued after it was reported in four of them (50%).
- In a majority (71%) of the cases involving medicine, public reports indicate that the alleged abuse was facilitated by exploitation of the survivors’ trust in the medical provider regarding what actions and behaviors were appropriate for a medical professional during a medical exam.
- Fear of retaliation was a frequently recurring theme in public reports about the incidents.
 - In 17 of the 31 cases (55%), public reports include allegations that the survivors feared retaliation from the alleged abuser.
 - One frequently feared retaliation was interference with career or academic success (e.g., negative word-of-mouth in academic field, cancelled advising meetings, or blocking athletic participation).

- Another frequent feared retaliation was monetary loss (e.g., loss of grant funding or loss of scholarship).
- Of the 16 cases involving a “faculty member outside of Medicine/Sports/Religious leader,” three involved professors of music. In these cases, the faculty members had one-on-one contact with their students through private music lessons. They were, therefore, isolated with the students—an environment that facilitated the alleged abuse.
- In the search results, the cases involving international students, both in the U.S. and abroad, revealed a particular set of vulnerabilities.
 - International students were targeted by exploiting their need for support in navigating and adapting to a new culture.
 - International students’ uncertainty with regard to whether their alleged abuser’s conduct was acceptable under United States norms and their lack of familiarity with how to access support services was also exploited by their alleged abusers.

Survivor Support

- Media reports of the cases were largely silent with regard to supports provided to survivors and about things that survivors found useful in making reports or obtaining support.
- In one case, the university allegedly turned away a student from the university’s counseling center. The counseling center allegedly notified the student days later that they had turned her away because they felt she might not be “comfortable and secure,” given that she had filed a lawsuit against the university. The allegation says that the counseling center instead gave the survivor outside referrals (and offered to pay for them) that she did not use, at least initially. This may point to a concern for universities in general: balancing providing support staff/services sufficiently independent of the university to avoid a conflict of interest (or the appearance of a conflict) that could undermine the support on the one hand, with ensuring that survivors receive accessible and excellent support on the other.

Roundtable Discussions

Introduction and Overview

The Task Force scheduled three roundtable discussions, which brought nationally recognized experts in issues surrounding sexual abuse—drawn from the academy, practitioners, and survivors—to speak with the Task Force. Each invited speaker made an informal presentation (some with citations, some not) followed by discussion with the Task Force. Each invited speaker also participated in the discussion surrounding the other presentations at their roundtable session. In advance of their presentations, each invited speaker reviewed the Task Force’s historical summary of instances of sexual abuse in higher education institutions and directed their presentation towards at least one of the three areas² in which the Task Force was charged with exploring best practices. A list of the roundtable presenters and their topics is included as Appendix D.

As a result of the COVID-19 pandemic, the Task Force held all three roundtables via videoconference, as the originally planned in-person meetings were not possible. The roundtables were held on March 30, April 13, and April 20, each lasting approximately four hours. Included below are summaries of each of the three days of roundtable presentations and discussions; the summaries are intended to capture much of the knowledge and insight that was shared at these sessions. The summary of each presentation represents the views that were expressed by that presenter, which are not necessarily the views of the Task Force.

Several themes emerged from the presentations and discussions at each roundtable. The summary of each roundtable begins with a brief synopsis of those themes, and a list of those themes appears immediately below. In addition, *two major themes made up some part of all three roundtables. First, the crucial importance of senior leadership.* Speaker after speaker spoke about the necessity for genuine, public, and substantive support from senior leadership to positively address sexual abuse in higher education. *Second, a survivor-centric approach.* At each roundtable, the value and imperative of asking “what is best for survivors” when thinking about any step for reform—e.g., culture change, training, or improved reporting—came to the fore. Survivor support is both intrinsically important and itself furthers prevention.

The list of *additional themes* that emerged from each roundtable follows:

- i) The importance of ongoing and customized training/education programs. Such programs must be fitted to each institution, ideally with multiple modes of delivery. Training includes encouraging bystanders and capable guardians to report/interrupt risky behavior early on. (Roundtables 1 and 2)

² The Task Force was charged with identifying best practices with regard to: (i) educational tools and practices for enhancing a culture of awareness and compliance, (ii) assisting reporting and developing pathways to action on college campuses, and (iii) sustainable mechanisms for support and recovery.

- ii) Understanding the very limited role of adjudication in supporting survivors. Because adjudication of complaints occurs in only a very small percentage of sexual abuse cases and hence does not directly impact most survivors, adjudication necessities should not stand in the way of other survivor supports. It is important for survivors to know that the institution and community focus is on survivor support rather than adjudication. (Roundtable 1)
- iii) The importance of proactively addressing retaliation. Fear of retaliation is a leading barrier to reporting, and experienced retaliation wrecks efforts to establish a survivor-centered culture. Reporters should be advised about what constitutes retaliation, and, even more importantly, institutions must look for and assess behavioral indicators of retaliation rather than simply asking survivors if they have been retaliated against. (Roundtable 1)
- iv) Recognition of the need for a comprehensive approach (e.g., a public health approach) across an academic institution to address problems of sexual abuse. One or two units or interventions alone cannot be expected to make significant headway. (Roundtable 2)
- v) Expansion of sexual abuse reporting options, including confidential reporting, to the maximal extent possible, because reporting is an overwhelmingly crucial step towards receiving support. Such expanded reporting must be accomplished with the survivor-centered perspective, because a positive reaction to an initial report sets a trajectory for the experience of survivors. (Roundtable 2)
- vi) Successful intervention against sexual abuse requires both clear metrics and transparency; clear and transparent measurements provide: (a) leaders with crucial tools to evaluate what is working and what is not, (b) the community with a basis for holding leaders accountable, and (c) the institution with the opportunity to recognize leaders-in-change as heroes. (Roundtable 3)
- vii) Leadership and planners can expect backlash from many interventions designed to combat sexual abuse, and must proactively plan and prepare accordingly. (Roundtable 3)
- viii) The frequent power imbalance between perpetrators and survivors highlights the importance of paying special attention to high-risk groups and niche vulnerabilities. (Roundtable 3)

Roundtable 1 - March 30

The roundtable discussion on March 30, 2020 included presentations from Ms. Ju'Riese Colón, Dr. Patricia Harned, and Ms. Sage Carson. Ms. Colón provided an introduction to the U.S. Center for SafeSport (the Center), discussed strategies the Center has implemented to change the culture within sports, and reported some of the known outcomes related to the change efforts. Dr. Harned discussed the work being conducted by the Ethics and Compliance Initiative, and presented key findings from multiple survey research studies related to ethical behavior and response in the workforce. She identified several best practices for enhancing a workplace culture that promotes a culture of respect and encourages reporting of misconduct. Ms. Carson, from Know Your IX, presented institutional policy recommendations designed to maximize survivor support and recovery and promote equity for all students.

Several themes emerged from the presentations and discussions. First, the importance of organizational leadership. The speakers frequently noted the critical impact of obtaining buy-in from senior administrators and leaders. Any efforts designed to address culture change, reduce sexual abuse, encourage reporting, and so forth require sincere and concerted involvement from those in positions of authority. In tandem, sufficient resources must be allocated toward these efforts, another aspect in the hands of leadership. Second, the presenters firmly addressed the need for training and education programs that are ongoing and customized to individual settings. A one-size-fits-all approach is not sufficient to achieve effective and sustained change, and multiple modalities are ideal. A third theme addressed the importance of survivor-centric strategies and efforts. Providing appropriate care, response, and support to survivors should be at the forefront of all initiatives that are designed to reduce and respond to sexual abuse. Reporting mechanisms should prioritize survivors' needs rather than focusing predominantly on adjudicating alleged perpetrators. Prosecuting the perpetrator, while understandably valuable and attractive, is usually not a top priority for survivors nor the most effective focus for university efforts because of the chilling, re-traumatization, and backlash effects that can ensue. Stopping and sanctioning perpetrators is important, but when in tension with enhancing reporting, it must take a back seat. Finally, the discussion consistently focused on proactively addressing retaliation. Fear of retaliation is a leading barrier to reporting, and experienced retaliation wrecks efforts to establish a survivor-centered culture. Reporters should be advised about what constitutes retaliation, and, even more importantly, institutions must look for and assess behavioral indicators of retaliation rather than simply asking survivors if they have been retaliated against.

Ms. Ju'Riese Colón

Ju'Riese Colón is the Chief Executive Officer at the U. S. Center for SafeSport. In her presentation, *Creating Culture Change within the Olympic Movement*, Ms. Colón provided an overview of the U. S. Center for SafeSport, described its mission, and discussed its efforts to change the culture within the Olympic and Paralympic movement to focus on promoting safety.

The Center is an independent, non-profit organization focused on addressing issues of emotional, physical, and sexual misconduct. As the first and only national organization of its kind, the Center is distinctive in that it has been authorized by the U.S. Congress. The "Protecting Young

Victims from Sexual Abuse and Safe Sport Authorization Act of 2017” authorizes the Center to serve as an independent organization responsible for developing policies and procedures designed to prevent emotional, physical, and sexual abuse of amateur athletes. The Center’s unique status gives it the ability to investigate and drive accountability related to sexual misconduct; the Center’s mission is “to make athlete well-being the centerpiece of our nation’s sports culture through prevention, education, and accountability.”³

The Center is charged with addressing sexual misconduct within sports culture in the U.S. This charge includes oversight of the Olympic and Paralympic Movement (OPM)—athletics at the most elite level—and OPM sports at all levels, which involve as many as 18 million people, including youth sports athletes and coaches. The Center is responsible for creating policies, training participants, auditing the Olympic and Paralympic Governing Bodies (NGBs)—which includes 56 organizations (e.g., U.S.A. Swimming, U.S.A. Boxing, U.S.A. Gymnastics)—and establishing financial support to fund itself. Having started with only four employees, the Center has grown significantly in the past three years to its present staffing of 60 employees. The Center has the authority to drive both individual and organizational accountability.

Scope of the Problem

Sexual misconduct is a significant problem within sports. The Center estimates that nearly 45 million youth participate in sports annually. Ms. Colón shared published data indicating that 40-50% of athletes have experienced some form of harassment or abuse,⁴ and according to a study of over 2,000 Australian athletes, these numbers may be even higher for elite athletes (i.e., athletes training at the Olympic and Paralympic level).⁵ Ms. Colón also shared public data indicating that 74% of college students on a varsity team have had experiences of hazing, and in more than 50% of these hazing incidents, a member of the offending group posted pictures on a public web space.⁶ More than 75% of elite athletes have experienced emotional abuse during their athletic career.⁷ Perhaps most alarmingly, in one report, one out of four coaches or organization advisors were aware of hazing behaviors.⁸ Moreover, abuse is not limited to coach on athlete abuse; in some cases, adult coaches were found to be abusing other adult coaches.

Ms. Colón described the culture within sports as contributing to increased risk of abuse. There is a pervasive mentality that athletes need to be “tougher” and to be willing to win at all costs. This winning mentality is particularly dangerous because when people are willing to “put it all on the line,” athlete safety is particularly at risk. Various forms of abuse occur under the guise of “tough

³ U.S. Center for Safe Sport. (n.d.). *Our work: Mission*. <https://uscenterforsafesport.org/about/our-work/>.

⁴ Childhelp. (2014). *Childhelp blow the whistle on child abuse*. <http://globalsportsdevelopment.org/wp-content/uploads/2014/04/BTW-Program.pdf>

⁵ Leahy, T., Pretty, G., & Tenenbaum, G. (2002). Prevalence of sexual abuse in organized competitive sport in Australia. *Journal of Sexual Aggression*, 8(2), 16-36.

⁶ Allan, E. J., & Madden, M. (2008). *Hazing in view: College students at risk*. Hazing Prevention Consortium. https://www.stophazing.org/wp-content/uploads/2014/06/hazing_in_view_web1.pdf.

⁷ Stirling, A. E., & Kerr, G. A. (2013). The perceived effects of elite athletes’ experiences of emotional abuse in the coach-athlete relationship. *International Journal of Sport and Exercise Psychology*, 11, 87–100.

⁸ Allan, E. J., & Madden, M. (2008). *Hazing in view: College students at risk*. Hazing Prevention Consortium. https://www.stophazing.org/wp-content/uploads/2014/06/hazing_in_view_web1.pdf.

coaching” or are dismissed as behavior that merely “crossed the line.” Consequently, prevention efforts need to focus on shifting the culture within sports.

Although the Center has received at least one report of abuse from each governing body, many of the NGBs perceived that they were immune to the problem of sexual misconduct and that sexual misconduct was only an issue within USA Gymnastics. Consequently, some NGBs have been resistant to the Center’s efforts to address cultural change in sports.

To date, the Center’s efforts to drive cultural change have focused predominantly on establishing and implementing policies (i.e., making sure athletes, coaches, and others involved are aware of the rules), driving accountability, and streamlining reporting strategies to acquire high quality data. The Center’s goal is to ensure that every individual within the movement knows their role with regard to accountability. In this charge, the Center has found that when leaders are part of an organization’s efforts to address culture change, those organizations demonstrate better outcomes. In, Ms. Colón’s words, “when there are strong leaders within their own gyms, they are starting to see more systemic change. They are better able to hold people accountable.” With over 3,000 reports of abuses, streamlining reporting is necessary to allow effective oversight by the Center.

Minor Athlete Abuse Prevention Policies (MAAPP)

The Center discovered that, even though many sports organizations were interacting with young people regularly, not all of them had policies in place to govern appropriate behavior and provide safety. Additionally, there were no uniform policies consistent across organizations. In response, the Center used the federal statute (i.e., Protecting Young Victims from Sexual Abuse and SafeSport Authorization Act of 2017) to inform the creation of the MAAPP, which provides uniformity in the rules for every organization within the Olympic and Paralympic Movement. Ms. Colón noted that the biggest challenge in drafting these policies related to one-on-one interactions, which is where risk for youth victimization was highest.

The MAAPP stipulates that NGBs are required to implement specific policies including education, training, and prevention. The prevention policies must address the following topics: (i) one-on-one interactions; (ii) massages and rubdowns/athletic training modalities; (iii) locker room and changing areas; (iv) social media and electronic communications; (v) local travel; and (vi) team travel. The Center’s next endeavor is to determine how to best work with the NGBs to ensure that the policies, along with accountability measures, are effectively operationalized. As enforcement of and familiarity with the MAAPP increases, the Center anticipates that the reporting of sexual misconduct will continue to increase.

Education

Ms. Colón described educating constituents as a central component of achieving accountability. The Center developed online courses so that every coach, physician, athlete, or other person involved with Olympic and Paralympic sport can learn about the dynamics of abuse in sports and how abuse impacts young people. The initial course, which takes 90 to 120 minutes to complete, is designed to help constituents identify red flags, understand appropriate touching, distinguish

the difference between tough coaching and abuse, and understand what actions to take if they witness possible abuse. A portion of the training focuses on the roles of bystanders reporting abuse, so adults have a better understanding of their role as mandated reporters. The training also addresses barriers to reporting.

As the Center developed the core course of training, it determined that customized or tailored trainings were needed for different groups of people. Currently, the Center has ten separate courses available to U.S. Olympic and Paralympic members and participants. While recognizing the length of time it takes to complete the online training imposes—it is the biggest barrier to completion—Ms. Colón noted that many constituents have completed the training: the Center has trained more than one million people so far, with a goal of training to train two million. The Center also conducts in-person trainings because those who are interacting with young people, in particular, need in-person, scenario-based training to reduce the high rate of abuse. Each NGB, therefore, receives at least one in-person training annually.

Youth & Parent Courses

In 2019, the Center launched five courses designed specifically for youth in sports; although the courses have demonstrated positive outcomes, completion rates so far have been low. The courses are designed to help youth recognize signs of abuse and know where to report it. Many youth have reported back to the Center that the training was effective in increasing their knowledge about abuse and in helping them to identify problematic and abusive behaviors. Many described that they thought their (inappropriate) relationship with their coach had been normal, but after completing the module, they were able to identify the coach's behavior/relationship as abuse. Despite the promising results of the courses, the lower rate of completion may be attributed to two factors: (a) some NGBs are doing the bare minimum to be in compliance, so they do not consider youth training a necessity; and (b) parental consent is required, which can be an added barrier to completion. Ms. Colón explained that the Center is hopeful for more widespread uptake of the courses as its work continues.

The Center also recently released a toolkit for parents, and continues to revise strategies to educate parents. Parents are essential in helping their kids recognize abuse, and they are also essential as observer bystanders. Along with their kids, some parents have demonstrated a lack of clarity about appropriate relationships and boundaries between coaches and athletes. For example, some parents were confused about why it would be problematic for their kids to talk to their coaches at midnight. As Ms. Colón stated, “some parents still cannot talk about sex with their kids, let alone sex abuse prevention.” Educating parents, then, is an essential component of shifting the culture of abuse in sports.

Accountability

Individual Accountability

After the Center developed and implemented these uniform trainings, reporting of sexual abuse through various reporting mechanisms, including a confidential hotline, increased dramatically. For example, reporting nearly tripled from the end of the fourth quarter in 2017 ($n=126$ reports)

to the end of the first quarter of 2018 ($n=374$ reports). The types of reports are also starting to change. While the Center still receives reports that are “the worst of the worst,” it is also starting to get more reports from bystanders and reports of less severe behaviors, such as grooming behavior or behaviors that have not yet risen to the level of abuse. The Center attributes these increased reports to the success of its trainings, and the hope is to ultimately stop abuse before it happens.

The Center investigates allegations of abuse and misconduct for any participant within the Olympic and Paralympic movement, regardless of whether the report comes from athletes directly or from bystanders who witness abuse. The Center has the authority to investigate, adjudicate, and impose penalties for abuse in youth sports, including imposing lifetime bans from sports participation. The Center also works closely with law enforcement, as mandatory reporters of child abuse. To that end, the Center developed a centralized disciplinary database which has become well-known (and at times contentious). This database, publicly available from the Center’s website, provides information about the adults the Center has suspended or banned from involvement with sports within the Center’s jurisdiction and why. NGBs are required to make sure that they are not including suspended or banned individuals in their business and their activities. Additionally, the Center is encouraging universities to use this list, although it is not yet mandated by the NCAA.

Records of past misconduct are visible to NGBs even after a suspension has ended. The Center does not give investigative information for background checks on individuals, but instead publicly shares the database online for informational purposes only. Ms. Colón also acknowledged the potential for retaliation by perpetrators, though the SafeSport code explains that retaliating and making false allegations are violations.

Ms. Colón noted that the Center is still grappling with how to sanction/discipline individuals, and how to work more closely with universities. The biggest obstacle with universities, from the Center’s perspective, is that the NCAA has not issued any mandates outside of their *suggested* guidelines.⁹ Ms. Colón pointed out that not having mandates is problematic for many reasons. As one example, a coach the Center had banned for two years from participating in Olympic sports, started coaching at a top-ten collegiate program, during his suspension. The university had no obligation to check the Center’s database to see if the coach was listed, enabling his active collegiate coaching despite the ban from the Center.

The Center also works on survivor support and recovery. The Center has responsibility for advising on the reporting process and referring individuals to mental health and support services. The Center also offers the option of making anonymous reports.

Organizational Accountability

Ms. Colón explained that the ability of NGBs to implement the new compliance requirements has varied across the organizations. To address challenges with implementation and promote

⁹ Ms. Colón reported that, after her presentation, the NCAA issued a policy for annual disclosure of any acts of violence resulting in an investigation or discipline through a Title IX proceeding or criminal conviction.

organizational accountability, the Center created a team that was designed specifically to help NGBs with compliance. Each NGB was assigned its own staff person to help them with implementation, compliance, support for corrective actions, and preparation for the 2020 audit.

Starting in 2019, the Center began conducting annual audits¹⁰ of each NGB. For each of the 51 NGBs, the Center evaluates whether the NGB had prevention policies in place and whether it trained all of the proper people. Of the organizations that passed their audit, 78% had their CEO or executive team involved with these culture change efforts. Conversely, when these change efforts were delegated to someone else, NGBs struggled. This result highlighted for the Center the critical importance of leveraging NGB leadership to drive cultural and institutional change.

Next Steps

Ms. Colón identified several “next step” priorities for the Center. It plans to focus on refining safety policies and incorporating the lessons learned over the past three years. Additionally, it intends to train two million people in 2020, conduct in-person audits, and enhance communication and awareness with athletes. The Center is still building relationships with athletes to make sure they trust the Center to handle allegations of abuse.

The Center is also trying to identify leaders at the NGB level, and a newly created athlete’s advisory team will be meeting soon for the first time. This group will be “champions” to carry the message forward. Additionally, the Center is starting an athlete safety course, so each person in charge of their organization will be qualified to speak knowledgably to their boards and leadership.

Dr. Patricia Harned

Dr. Harned, the Chief Executive Officer at Ethics and Compliance Initiative (ECI), presented regarding enhancing a culture of awareness and compliance from both an institutional perspective and a leadership and management perspective. She focused her discussion on how institutions can create an environment in which individuals are willing to report sexual misconduct.

ECI works with individual organizations and industries to help them create and sustain cultures of integrity. Its work involves extensive research to identify and improve best practices. To this end, ECI frequently conducts cultural assessments, often in the aftermath of incidents of misconduct. The organization is also a membership association for ethics and compliance practitioners across a wide range of sectors and industries.

ECI is well-known for its Global Business Ethics Survey—formerly called the National Business Ethics Survey—that it developed to evaluate workplace conduct from employee perspectives.

¹⁰ Previous audits have been administrative, but this year the Center was planning to do on-site audits during games and competitions to determine how well the NGBs were implementing them. This is on hold due to COVID-19.

This longitudinal, cross-sectional survey has been implemented fourteen times over twenty-five years and includes data from eighteen countries. The survey is designed to understand: (i) how employees view their organizations, (ii) what drives their perceptions of compliance, and (iii) how employees respond when they observe some sort of wrongdoing.

According to Dr. Harned, the biggest limitation in ECI's research is that while the survey asked people whether they had, "observed any compliance problems" in the past twelve month, the survey did not ask whether they had experienced or perpetrated a compliance problem. With that said, however, in a recently developed survey for Hollywood ECI asked people for the first time whether they had been a victim of abuse, assault, or discrimination. In future surveys, ECI plans to change their methodology depending on what the organization they are working with wants to address. The second major limitation Dr. Harned reported was that ECI did not include an item in the survey that asked whether the survey respondent had observed sexual assault. The likelihood that people have observed it is low, and it is not a category that organizations tend to identify as a critical issue. The survey did ask about observation of other serious behaviors (e.g., abuse and intimidation by a person in power, prevalence of sexual harassment, prevalence of discrimination in the workplace).

Dr. Harned set out some of the important findings from the Global Business Ethics Survey: Abusive/intimidating behavior is the number one problematic behavior people observe in the workplace. Approximately 35% of people who observed abusive or intimidating behavior reported it, and of those who reported, 40% had experienced retaliation. Dr. Harned also reported that, unfortunately, "the better the job organizations did at getting people to report, the more likely that those people would experience retaliation for doing so." This finding is consistent with a study conducted by another organization, which was one of the most comprehensive workforce studies regarding sexual assault. That study similarly found that retaliation increased in parallel with an increase in sexual assault reporting. The nature of retaliation tended to be social in nature: people who reported were excluded from group experiences or they were given the cold shoulder—both of which are difficult behaviors to substantiate. Other types of retaliation included: job loss, denial of promotions, and physical harm (though this last was the least common).

With regard to frequency of behaviors, ECI found that very often people observe such wrongdoing more than once. In an university environment, staff, or administrators, and to some degree faculty members, will observe abusive behavior happening multiple times before they report it. That is part of the process of coming to terms with what is happening.

Factors that Influence Speaking Up

Dr. Harned explained that most people ask themselves the same questions when making the decision about whether to report misconduct. Most adults already have a strong sense of right and wrong, so they do not tend to struggle with whether a behavior is a violation (despite organizations spending a lot of time and resources on educating employees about this). Dr. Harned reports that knowing what to do about it is where the issue lies. When people observe misconduct, they may ask, "Can I make a difference if I come forward?" It is not uncommon to

hear people saying, “He was a powerful guy, I just figured it was pointless to come forward.” However, if people *do* believe that they can make a difference, they are 32% more likely to make a report. Some companies will use this information to develop campaigns to help employees build confidence and trust that their report can make a difference. The more that people hear that message (i.e., if you come forward, it will make a difference), the more likely they will report misconduct.

The second question people may ask themselves is, “Who can I rely on for help?” What supports are available if they come forward? If someone believes that there will be a support network that will help, they are 40% more likely to come forward to report a problem. Even if the university is not providing that support themselves (e.g., if they are partnering), knowing that there is a place to go for support is really helpful.

The third question is, “Will someone respond if I come forward?” Will there be procedural justice? People do not have to know the whole process, but the more transparent the process is, prior to someone having to come forward or at the time of reporting—people can understand what will happen with the process—the more likely they are to have a better experience and to come forward.

The fourth question is, “Am I going to be protected?” Am I going to experience retaliation? The number one and two reasons that people come forward are also the top two reasons that they do not. Dr. Harned referenced an organization that has established best practices with regard to preventing retaliation. When a person makes a report within that organization, staff in the ethics and compliance office (ECO) will periodically check in with the reporter to see if they need any support and to see if they have experienced retaliation. The ECO will also examine performance reviews and other relevant documentation to see if the reporter could be experiencing retaliation. These steps are valuable because many people will not report retaliation themselves.

ECI has observed distinct patterns among reporters. People who make a formal report are more likely to go to someone in a more senior position and someone they know (e.g., a supervisor). The only variation in this trend is when the supervisor is the one doing the harm. In 92% of cases, reports are made to someone internal to the organization. Most organizations rely on anonymous hotline reports, but the vast majority of people who make reports do not do so through a hotline. In 95% of cases, the first reports are made to someone known to the reporter, and only 5% of reports of wrongdoing come through a hotline. In some instances, victims eventually may go to the media, an attempt that is made when they feel as though nothing happened. The ability to respond, to respond quickly, and to keep people informed is very important.

Dr. Harned explained that individuals who receive reports should be educated about the company’s process and should be equipped to provide support to the reporter. That initial conversation is vitally important; whether or not a person can “handle that conversation well” will affect the culture and the ability of an organization to receive additional reports in the future. Given the critical importance of the initial response from the person receiving the report, some organizations develop and distribute “cheat sheets” for every employee who is in a supervisory

role. The cheat sheets contain information about appropriate, step-by-step ways to respond when an employee comes forward to report wrongdoing. For example, the cheat sheet might answer questions such as: What is the first thing you should say? What are the questions that would be appropriate (or not appropriate) to ask? What is an appropriate way to ask questions? What are appropriate resources for this person? Dr. Harned stated that the more you can equip people with a script, the more likely they are to use it. It was noted by a Task Force member, however, that this preparation should include *more* than the mere distribution of a cheat sheet. Without accompanying training and guidance, people will not develop the knowledge and self-efficacy to respond appropriately, even with access to a cheat sheet. People are remarkably aware of what happens to others if they come forward to report, so it is critical that supervisors be well-prepared to respond appropriately to reports of wrongdoing.

Stronger Cultures = Better Outcomes

Although Ethics and Compliance programs (including Title IX) provide rules, regulations, and compliance mandates, it is the culture of an organization that influences constituents' behaviors. Training is helpful for raising awareness and educating people about what is appropriate, but education alone has limitations. Training does not change the conduct of perpetrators and does not affect whether people report. Rather, reporting is shaped by the culture of an organization. Dr. Harned stated, "Culture trumps compliance all the time." Results from ECI's research show that the stronger the culture of the organization, the more likely people will have positive behaviors in the organization. Additionally, the stronger the culture, the less likely that discrimination will happen.

Drivers of Culture

Culture is driven primarily by senior administrators and the people who are in positions of authority (e.g., immediate supervisors). ECI has examined certain behaviors among senior administrators and supervisors (hereafter senior leaders) and found that if senior leaders adopt four key behaviors, the amount of wrongdoing in the organization will decline and employees are more likely to say they work in a strong culture. The first behavior for senior leaders is integrating the importance of ethical conduct into everyday conversation. Senior leaders should frequently talk about doing the right thing, driving continuous learning when it comes to ethics and compliance, and performing with integrity. Second, senior leaders should model ethical conduct. Third, senior leaders need to hold those who violate conduct policies accountable for their behavior. Fourth, senior leaders should provide support to any employee who raises concerns.

Employees' beliefs about top management's ethics-related actions are shaped by: personal experiences and interactions, the way top managers handle crises, and company policies and procedures. To further illustrate the potential impact of senior leaders on the culture within the workplace, Dr. Harned shared some notable statistics:

- 57% of employees report wrongdoing to a manager or immediate supervisor. This underscores the important role of organizational leaders in the reporting process.

- When **senior leaders** display ethics-related actions (e.g., engage in ethical behavior, discuss the importance of ethics and integrity, etc.), employees are 38% more likely to report.
- When **managers** display ethics-related actions, employees are 32% more likely to report.

Ethics and Compliance Program Quality and Stronger Cultures

Establishing ethics and compliance programs has been shown to be a helpful strategy for strengthening organizational culture. Not surprisingly, the higher the quality of the ethics and compliance (E&C) program, the better the outcomes tend to be. Critical compliance program elements include:

- A code (or other written standards) of conduct
- High-level oversight
- An anonymous helpline
- Training (employees and leaders/managers)
- Performance goals for leaders

To maximize the impact of an E&C office, Dr. Harned explained the utility of a PR campaign that can help people understand the role of the E&C office. Using surveys to gather institution-specific data tends to help to establish buy-in from faculty and executive leadership, particularly within higher education settings.

In the E&C industry, there is a movement afoot to have institutions adopt a framework that includes principles and practices that define a high-quality ethics and compliance program.

The five principles of a high-quality E&C program include:

- i) Ethics and compliance is central to business strategy.
- ii) Ethics and compliance risks are owned, managed, and mitigated.
- iii) Leaders at all levels across the organization build and sustain a culture of integrity.
- iv) The organization protects, values, and encourages the reporting of concerns and suspected wrongdoing.
- v) The organization takes action and holds itself accountable when wrongdoing occurs.

One way that organizations have promoted reporting is to conduct “core values” trainings. The trainings seek to help people in authority think about common scenarios and situations that occur in the workplace to think about what the “right thing” to do would look like and how it aligns with organizational values. In these scenario-based exercises, the person in authority says to their supervisee, “Do you think this could happen here? I would hope that you would report to me, and here are some resources, etc.” With this strategy, a person is twice taught—first as a participant, and then as they teach it to their supervisees. This opportunity is powerful and transformational. Having scripts and conversation starters for managers also helps a great deal. The least effective thing for most organizations is online training, which is typically not that effective. Nonetheless, if the program is similar to SafeSport – if it is really well-designed,

engaging, and people take it seriously, it can be effective. Some of the off-the-shelf trainings do not necessarily have a big impact.

Dr. Harned shared that when retaliation occurs, it usually happens very quickly after someone reports. Unfortunately, the process of investigating reports takes weeks, and by then the retaliation damage is done. Thus, one of the emerging best practices is to ensure that reporters are told at the time they make their report about what the institution considers to be retaliation and told that they should pay attention to whether they are experiencing such behavior. Those who make reports should be aware that retaliation is a possibility. While it is essential that organizations care and support survivors, some organizations go too far and cause harm through their support efforts, for example by pulling them out of their job, isolating them, or putting them in a different work group. Ironically, these actions can all be seen as a form of retaliation. Thus, there is a delicate balance between trying to support the person making the report and not going so far that the supportive action itself is perceived as retaliation.

Ms. Sage Carson

Sage Carson is the manager of Know Your IX. Founded in 2013 as a survivor- and youth-led project under Advocates for Youth, Know Your IX is a non-profit organization that “aims to empower students to end sexual and dating violence in their schools.”¹¹ Know Your IX affirms and actively supports survivors. Survivor needs are at the forefront of everything they do. Ms. Carson presented to the Task Force about policy recommendations for institutions of higher education, with emphasis on equity and strengthening support and recovery for survivors. She offered four primary policy recommendations: campus transparency, accessible resources, safe and confidential reporting, and fair disciplinary procedures.

Campus Transparency

Know Your IX recommends several strategies for institutions to promote campus transparency. First, institutions should implement annual climate surveys and should disseminate the results of the surveys. Results from these annual climate surveys are useful both for survivors, who can use the information to make decisions about whether to report their own experiences, and also for institutions to gauge whether they are meeting the needs of students or whether services need to adjust to better meet survivor needs.

Ms. Carson explained that before survivors can make a decision to report sexual misconduct, they need access to information about how their institution has responded to students who have previously made such reports. Results from an annual climate survey can provide information about how the university responded to previous survivors, including what support they received, how timely the processes were, and what costs or impact survivors experienced as a result of accessing services and/or making a report of sexual misconduct.

¹¹ Know Your IX. (n.d.). *Learn about Know Your IX*. <https://www.knowyourix.org/about/>.

Results of an annual climate survey are also needed to assess the institution's ability to meet the needs of all student survivors. Any student—regardless of gender, sexuality, race, ethnicity, national origin, ability, class, etc.—can be a survivor of sexual misconduct, and institutions should be meeting the needs of *all* survivors. Annual climate surveys can help to determine areas of success and areas for improvement. For example, one institution that conducted a campus climate survey determined that some deaf students could not get access to an interpreter for several days, a delay that may have deterred students from returning and prevented them from receiving necessary support services.

Campuses should also be transparent about their disciplinary process by publishing anonymized and aggregated data about gender-based violence on an annual basis. This information should include:

- The number of reported instances of sexual violence (NOT just Clery data).
- The type of process used to resolve each report of sexual misconduct. This includes the informal process, formal process, and information for those who only want support resources, such as counseling services. This information should also indicate whether schools are forcing students to engage in mediation when they do not want to.
- The number of cases that were investigated through the disciplinary process.
- The number of cases in which accommodations were requested, granted, modified, and/or denied.
- The number of respondents who were found responsible or not responsible for sexual misconduct, the sanctions that were imposed, and the reasons given for the outcome decision. With this information, students can gauge whether it is likely that a perpetrator will be held accountable if they were to make a report. For example, if an institution received 277 complaints, yet only two students were held accountable or received any sanctions, this information may help a student decide whether reporting will impact the perpetrator. At the same time, a Task Force member pointed out that these data should be contextualized so that a survivor is not inadvertently discouraged from reporting when it could be helpful.
- Disciplinary process data
 - The number of students who experience any of the following after reporting gender violence:
 - Withdrawal from class
 - Placement on academic probation
 - Voluntary or medical leave from school
 - Transfer or withdrawal from school
 - The number of cases that resulted in appeal
 - The length of each case from time of the initial report to end of case

Accessible Resources

Know Your IX recommends institutions have accessible resources for student survivors. These resources should include: (i) making reasonable accommodations for survivors; (ii) issuing no-contact orders; (iii) facilitating access to orders of protection; (iv) providing access to mental

health services; (v) providing student loan counseling; (vi) reviewing disciplinary actions to determine whether a complainant may have been unfairly disciplined as a result of their complaint.

Reasonable accommodations

Institutions should issue reasonable accommodations and intermediate measures for student survivors. These accommodations could include, for example, housing/residential support, campus escorts, tutoring, transportation arrangement, and campus employment accommodations. Accommodations and intermediate measures for student survivors, however, should not violate the student's other civil rights (e.g., gender neutral housing, disability accommodations). The accommodations should be inclusive of all of the student's needs.

No contact orders

When a respondent is a member of the campus community, institutions should issue a "no contact order." This order should stipulate that continued contact with a victim constitutes a violation of school policy.

Access to orders of protection

Institutions should facilitate access to orders of protection or equivalent protective orders. Assistance should include connecting an individual to victim services providers and arranging any necessary transportation to court at no cost to the victim. Individuals should not be penalized for missing class, work, or other obligations in order to attend the protective order hearings.

Mental health services

Institutions should ensure that victims have access to mental health services at no cost to the survivor, and to other reasonable disability accommodations required by relevant federal and state law, including Section 504 and Title II of the Americans with Disabilities Act.

Student loan counseling

Schools should provide student loan counseling for student survivors who are considering temporary withdrawal, permanent withdrawal, or half-time enrollment. Since a change in enrollment status can have a substantial impact on student loans, and institutions should help survivors make informed decisions.

Disciplinary action

Schools should review any disciplinary actions taken against the complainant to see if there is a causal connection between the sexual violence and the misconduct that may have resulted in the complainant being disciplined.

Safe and Confidential Reporting

Ms. Carson recommended that safe and confidential reporting should exist for all students. It is essential that students know when they can report, where to go to report, and what is going to happen once they make a report. Institutions should adopt an explicit amnesty policy as part of

their code of conduct. Know Your IX also recommends appointing sexual assault response coordinators to whom survivors can turn to for support and help accessing services without triggering an investigation by the school or law enforcement. Providing this service is essential so survivors can choose the best avenue for them.

She further recommended that institutions create and disseminate written copies of rules, procedures, and policies including how to:

- Receive confidential resources
- Report an incident confidentially to college or university officials who are not mandated reporters
- Anonymously disclose an incident to school officials, including the use of online mechanisms
- Make a report to a school employee with the authority to address complaints

Fair Disciplinary Process

Ms. Carson contended that to achieve fair processes, the preponderance of the evidence standard should be used in all campus adjudication processes. Prompt and equitable hearings on sexual misconduct should be implemented. While Know Your IX is oriented in a survivor perspective, the organization is also deeply concerned about fair process. In Ms. Carson's words, "if a process is not fair to one person, it is not fair to anyone." To ensure such fairness, Your IX recommends that schools be required to audit their gender-based misconduct policies every two years. Additionally, Ms. Carson discussed several ideas described below, including a Student Survivors' Bill of Rights, Courageous Institutions, opposition to certain policies and various concerns about mandatory reporting.

Student Survivors' Bill of Rights

Ms. Carson suggested that institutional adoption and implementation of a Student Survivors' Bill of Rights is an important mechanism for sustainable support and recovery for survivors. The bill of rights that she described included six points. Students should have the right to:

- i) Receive from the institution reasonable accommodations at no cost.
- ii) Be free from the suggestion by any school employee that a survivor is at fault for an incident of gender-based violence or that a survivor should have acted in a different way.
- iii) Describe the incident to as few individuals as practical.
- iv) Choose to submit evidence during the fact-finding stage.
- v) Cease to participate in a campus disciplinary proceeding at any time.
- vi) Be protected from retaliation by the institution and to have the institution take all reasonable steps to prevent retaliation by any student, the accused and/or the respondent, and/or their friends, family, or others.

With regard to the last of these, Ms. Carson reported that Know Your IX has observed an increase in retaliation, particularly among international graduate students and graduate students who rely on funding (though she emphasized retaliation occurs against faculty and staff as well

as students). She attributed this to the Department of Education’s proposed changes¹² to its Title IX regulations and to Brett Kavanaugh’s senate hearing.

Courageous Institutions

Ms. Carson reported that Know Your IX has received countless stories from survivors who report that the aftermath of their victimization was made worse by their institution. For example, one survivor reported that they were told by a university official, “I hope you have learned from your mistake.” From victim-blaming statements such as this, to a lack of institutional response—institutions are capable of causing additional harm to survivors. This phenomenon is sometimes referred to as institutional betrayal. Know Your IX seeks to end institutional betrayal. Ms. Carson referenced Jennifer Freyd’s research about institutional courage, and in doing so, Ms. Carson recommended that institutions:

- i) Comply with civil rights law
- ii) Respond sensitively to victim disclosure (e.g., no victim blaming, make sure survivors get access to resources, etc.).
- iii) Bear witness, be accountable, and apologize.
- iv) Cherish the whistle-blower. They should not be shunned, punished, or pushed out.
- v) Engage in a self-study that includes reflecting on the institution’s policies and procedures, engaging with survivors, and determining what changes are needed.
- vi) Conduct anonymous surveys.
- vii) Ensure that leadership is educated about research on sexual violence and related trauma.
- viii) Be transparent about data and policy.
- ix) Use the power of your institution to address the societal problem of sexual violence.
- x) Commit resources for steps i through ix (e.g., ensure that funding is available, hire the personnel to implement this work).

Opposed Policies

In addition to the policies it recommends, Know Your IX also opposes certain policies. Transcript notations, an official note on a perpetrator’s academic transcript indicating the findings of sexual misconduct or that the student left the university during a pending investigation, are the first opposed policy. Know Your IX opposes transcript notations on the grounds that they may discourage victims from reporting and discourage administrators from opening or adjudicating investigations. Aware of the lasting effect of a transcript notation, administrators may advertently or inadvertently be less likely to find a perpetrator responsible for sexual misconduct. There is also no evidence that transcript notations decrease the likelihood that a perpetrator re-offends, and the transcript notation serves as an indefinite sanction, which Know Your IX considers inappropriate.

¹² At the time of Ms. Carson’s presentation, the final version of pending new Title IX regulations had not been released. These new Title IX regulations were released on May 6, 2020, with an effective date of August 14, 2020.

Mandatory Reporting and Continuum of Disclosure

Ms. Carson noted that most of the recommendations from Know Your IX that are related to mandatory reporting were specific to people under the age of 17. However, in states where reporting is mandatory even for adults, Ms. Carson recommends that institutions try to provide confidential advocates who would not be mandated to report, but who would be able to issue resources and accommodations and communicate with faculty and staff.

In instances of sexual misconduct, survivors typically turn first to their peers. For this reason, Know Your IX contends that institutions should consider mass education for their student bodies about available resources for survivors so that survivor will be likely to get that support information when they disclose to their peers. This could be especially helpful because students are not likely to read through student codes of conduct or sexual misconduct policies immediately after an assault. With a large institution, having as many touch points of knowledge as possible is important.

Rather than focusing on the dichotomy between a student's anonymity and the student's ability to access resources, Ms. Carson suggests that institutions focus on determining how much a survivor needs to disclose in order to obtain reasonable accommodations. For example, institutions that have 24-hour hotlines available are able to help students decide what to do. The hotline can connect callers with medical support, Title IX information, and so forth. Know Your IX recommends an advocate hotline exclusively for the institution, not just city-wide or state-wide hotlines.

Institutions may sometimes grapple with a tension between stopping perpetrators and the discomfort or the cost of prosecution to the survivors who are brave enough to come forward. Rather than trying to balance this tension, Ms. Carson recommended that institutions place survivors at the center of their focus. In her words, "if the way we are functioning within Title IX—if we are only looking at stopping perpetrators, we are doing it wrong." Title IX puts survivors at the center. With Title IX, institutions should ask: What does someone need in order to stay in school? How do we make accommodations for survivors? How do we meet the needs of survivors? That is the best place to work from—looking at the person harmed and trying to help them move forward.

Roundtable 2 – April 13

The roundtable discussion on April 13, 2020 included presentations from Professor Nancy Chi Cantalupo and Dr. Anne DePrince. Professor Cantalupo addressed the topic of identifying best practices focused on assisting reporting and developing pathways to action, and Dr. DePrince focused on the topic of identifying best practices regarding sustainable mechanisms for survivor support and recovery.

Several themes emerged from the presentations and discussions. First, discussion throughout the day focused on the value of using comprehensive approaches to campus violence prevention through application of a public health approach to prevention and the integration of Coordinated Community Response Teams (CCRTs). Second, discussion highlighted the importance of expanding reporting options and resources for survivors as a critical area for institutional action. These tools serve as a direct method for addressing violence prevention, and they serve as an important support mechanism for survivors, which, like all successful survivor support, also supports prevention, as survivors are crucial allies in prevention. Third, in addition to increasing reporting, institutions need to prioritize training for all individuals on campus who could potentially receive a disclosure. A final prominent theme of this roundtable discussion was the crucial role of strong leadership within the institution. Executive-level administration must engage beyond setting mandates to achieve the buy-in and cultural change across all levels of an organization for institutional action to be effective.

A detailed summary of the presentations and discussion follows.

Professor Nancy Chi Cantalupo

Nancy Chi Cantalupo is an assistant professor of Law at Barry University. Her expertise centers on the use of law to combat discriminatory violence, with a particular focus on gender-based violence. More specifically, her work focuses on using law and policy as a way to establish incentives for individual campuses to engage in appropriate institutional action to end sexual misconduct. She asserts that institutional action that (i) addresses university culture and (ii) occurs at all levels of the institution (i.e., including the president's office) is the only strategy that will end sexual harassment, provided that the institutional action is "wise and non-sexist." She presented to the Task Force about identifying best practices focused on assisting reporting and developing pathways to action.

Public Health Model

Professor Cantalupo encourages institutions to adopt a public health model when thinking about prevention. Institutional action is often divided into "prevention" on the one hand, and "response" on the other hand, but *all* action is prevention. Under a public health model of prevention there are three parts; Primary prevention includes traditional educational programs (e.g., bystander education) to stop violence before it starts. Secondary prevention includes actions taken immediately after violence or harassment occurs, and is often very focused on providing support to the survivor. Tertiary prevention encompasses long term efforts, such as

disciplinary policies and procedures, sanctions, and other relevant institutional policies addressing sexual misconduct, directed at decreasing victimization and revictimization. A comprehensive approach to prevention is supported by law through Title IX and the Clery Act, as amended by the Violence Against Women Act, and all campuses should have multiple strategies for engaging in all three methods of prevention.

Enhanced Reporting

Professor Cantalupo emphasized the importance of improving sexual misconduct reporting, and highlighted two strategies for institutions to consider:

Partnership Perspective

First, institutions should move beyond a compliance-only perspective (particularly as it relates to secondary prevention), and shift to a partnership perspective on violence prevention. In a compliance-based perspective, prevention efforts are framed as the institution providing help to survivors. A partnership perspective, though, positions the survivor as a partner in the prevention efforts. To mobilize this partnership, institutional support for the survivor can serve as an incentive for survivors to engage in the partnership, and universities should consider other ways to incentivize survivors to come forward. It is critical to provide survivors with the help that they need so that they can be involved in any manner that they are comfortable with during university investigative and disciplinary processes. Sensitivity to the diverse needs of survivors helps to create an atmosphere where survivors are allies in prevention efforts.

Reporting Systems

Second, reporting systems need to expand reporting options for survivors. Given the large number and diversity of survivors, a one-size-fits-all approach to reporting is not sufficient. No single reporting option is going to meet the needs of all survivors. So, the more reporting options available, the better. Professor Cantalupo identified a handful of strategies to enhance and diversify reporting systems on college campuses, including dual-path reporting systems, app-based reporting options through Project Callisto, law enforcement efforts, and campus climate surveys.

The first strategy she discussed was **dual-path reporting systems** whereby all survivors have an option to pursue a confidential or a non-confidential path. Both paths provide survivors with access to resources, but the confidential path allows for resource accessibility without having to name the perpetrator(s), while the non-confidential path allows investigative efforts. With this system, survivors can shift paths along the way; those who initially pursued the confidential path can later decide to pursue the non-confidential path. This dual-path reporting system is modelled on the military's reporting system, which has analogous restrictive and non-restrictive reporting options.

Professor Cantalupo noted that The White House Task Force to Protect Students from Sexual Assault, for which she was a consultant, underscored the importance of expanding options for reporting sexual misconduct. The Task Force convened after the 2011 Dear Colleague Letter (DCL), issued by the U.S. Department of Education's Office of Civil Rights, which turned all

“responsible employees” and anyone who students could reasonably believe have authority to address sexual misconduct into mandatory reporters, actually led to decreased rates of reporting. Universal mandatory reporting tends to “chill” victims from coming forward. Consequently, in their 2017 report,¹³ the White House Task Force issued guidance for institutions to expand reporting options for survivors in an effort to combat reduced reporting. President Trump’s administration, rescinded the guidance put forth by the Office of Civil Rights’ DCL, but using a method like confidential and non-confidential dual-path reporting is still the recommended best practice for universities.

Increasing reporting options is not only a big advantage for advancing recovery and support for survivors, but Professor Cantalupo said that there is empirical data suggesting that increased reporting options correspond with increased reporting from survivors. Professor Cantalupo referred to a study that suggests, in the military context, that many victims—and an increasing number of survivors over time—have chosen to switch from the restrictive path to a non-restrictive path. If the goal is finding and disciplining perpetrators, that study suggests that dual reporting options are helpful in non-restrictive reporting efforts, because a significant number of restrictive reporters who would not report at all without the restrictive option, over time switch from restrictive to non-restrictive reporting.

Another strategy for expanding reporting options is **Project Callisto**, a software program (i.e., app) that universities can purchase. Project Callisto uses similar technology as the dating and networking app Tinder. A survivor who has access to the app can enter information about what happened—including the name of the perpetrator. The information is stored in escrow, but the survivor can set up various conditions under which the information would be released to the institution’s Title IX coordinator. One of these common conditions is repeat perpetration, so the information would only stay in escrow until another person identified the same perpetrator in their report on the app or included some other information that qualifies as a reason to send both students’ reports to the Title IX coordinator.

Professor Cantalupo’s understanding is that Project Callisto discovered that there were also therapeutic benefits to the app that did not have anything to do with the identification of repeat perpetrators, which was the primary goal of developing the software. Merely entering the information into the app led to positive therapeutic outcomes, as Callisto found users were three times more likely to seek out medical and emotional services.

Efforts from **law enforcement** can also affect reporting. For considering best practices in the context of law enforcement, Professor Cantalupo recommends a survivor-centered law enforcement program called “You Have Options” employed by the Ashland, Oregon Police Department. This program “establishes uniform law enforcement options for sexual assault reporting and best practice law enforcement strategies to assist in the identification and

¹³<https://www.whitehouse.gov/sites/whitehouse.gov/files/images/Documents/1.4.17.VAW%20Event.Guide%20for%20College%20Presidents.PDF>

documentation of sexual offenders for You Have Options Program Participating Law Enforcement Agencies.”¹⁴

Campus climate surveys are another method of enhancing reporting. They gather information from survivors about their campus experiences without putting the survivor “on the spot.” If the survivor did not report via other options, a campus climate survey provides another opportunity to share information about what they experienced. The institution can use these data to determine the scope and dynamics of sexual misconduct on campus, which can inform their efforts moving forward.

Coordinated Community Response Teams

Professor Cantalupo also recommends that institutions implement a Coordinated Community Response Team (CCRT), which she named as a best practice and a comprehensive approach related to reporting and pathways to action. CCRTs (e.g., working groups, standing committees) refer to any collection of important stakeholders on and around campus. Both “town” and “gown” groups are represented on the CCRT because a wide, diverse range of stakeholders is critical. Mobilizing a multitude of stakeholders not only adds diverse perspectives but also helps to make the work more manageable (with too few people working on the issue of gender-based violence (GBV), those involved quickly get overwhelmed). Institutions must also specifically include survivors and faculty members on their CCRTs. CCRTs are important because they incorporate the entire community and require community buy-in to address all levels of intervention and prevention—whether that is service delivery, policy development, or policy implementation. The importance of CCRTs is so critical that the Office of Violence Against Women (OVAW) will not provide funding to any GBV program that does not have a CCRT.

CCRTs are particularly useful for policy development. Some institutions have copied and pasted policies from other universities, a problematic practice for many reasons, but especially with regard to policy implementation. Institutions need to develop their own policies that are functional and feasible for their campus specifically.

Dr. Chris Gidycz raised some concerns about certain tendencies among CCRTs, namely the lack of continuity and sustainability. She explained that, from her 20+ years of experience with CCRTs, committee productivity tends to stagnate for one or more reasons—people tire of being on the committee, new regulations are handed down from the President’s Office that restrain the committee’s work, or there is little oversight from higher administration. Dr. Gidycz pointed out that when higher administration does not get adequately involved, and when they are not a big enough part of the CCRTs to ensure some continuity, much of the hard work does not ever come to fruition.

Professor Cantalupo agreed that the effectiveness of a CCRT can be influenced by many varying factors, including whether the President’s Office is involved. She stated that to be successful with violence prevention efforts, institutions should not only form a CCRT but also bring in consultants to structure and launch the CCRT. She also asserted that the most successful CCRTs

¹⁴ City of Ashland. (2020). *The You Have Options Program*. <https://www.ashland.or.us/Page.asp?NavID=15331>

are those with a direct line to the President, or at the very least, to the Provost. The CCRT needs to be a standing committee and needs to have at least one co-chair who will be a stable force—somebody who is secure in their own position and is likely to be at the institution for a long time (e.g., tenured faculty, ideally full professors).

Culture and Retaliation

Many people talk about discipline and investigation as somehow separate from prevention, but they are not. If an institution sends a message that reports will be taken seriously, that retaliation will be taken seriously, and that harassers will not be protected, they can advance violence prevention on their campus. It may be difficult to prioritize these efforts because it feels a bit like you are “putting the horse before the cart.” However, when any instance of retaliation is tolerated, it is because there is a culture in the institution that is accepting of retaliation. Interventions must address institutional culture – those interventions that fail to improve institutional culture will not be successful in reducing violence.

When thinking about minimizing retaliation, institutions should think beyond just addressing the problem of retaliation and think more about changing the campus culture. To achieve a culture that does not accept harassment, the issue of GBV should be addressed from multiple angles. Part of campus culture change includes hiring practices. For example, there should be more gender balance among faculty and staff in academic departments. Faculty hires should include at least some individuals with expertise in gender-based violence. Changing the culture will also make the culture less appealing to people doing the harassing because the environment will no longer support or tolerate harassment or retaliation.

A survivor on the Task Force, Mike Avery, responded to this topic stating, “In my situation, decades ago, I never felt comfortable to say anything to anyone. And then you add the power element. This guy has the power to say yay or nay. It was too much of a risk [to report the abuse]. I felt like I had way more to lose. You have to be comfortable that there is a system in place. If it is not, it is going to be very difficult to come forward.”

With the power differential between faculty (or coaches, doctors, etc.) and students, college students—especially those who are 18 and 19 years old—are particularly vulnerable. Professor Cantalupo referenced the Me Too movement to illustrate the possibility of gathering survivors into “a little army” to draw attention to serial harassers. There is greater chance of effectiveness when a group of people come together. The challenge is coming up with methods to allow those survivors to identify each other and be able to work together.

Dr. Anne DePrince

Dr. Anne DePrince is a professor in the Department of Psychology at the University of Denver. Her research focuses on the consequences of trauma, particularly as it relates to violence against women and children. Her research also examines the social-emotional and cognitive correlates of interpersonal violence in youth and adults and the application of these correlates to intervention and prevention efforts.

Dr. DePrince presented to the Task Force about trauma-informed, multidisciplinary approaches to supporting survivors. In her presentation, Dr. DePrince introduced the concept of a trauma-informed approach (TIA), described features of TIAs, and provided empirical examples of TIA outcomes.

A “trauma-informed” response is often misunderstood as merely providing survivors a compassionate response and emotional support. Although these are important components, they do not themselves constitute a trauma-informed approach. Instead, a trauma-informed approach to supporting survivors refers to responses and efforts that acknowledge the likelihood of trauma symptoms and that address the multitude of ways that trauma may affect survivors. Dr. DePrince discussed the application of TIAs at the individual level, systems level, and in K-12 schools, with each level having distinct features. Because there is less literature available about TIAs at the university level, the K-12 literature can be leveraged for application to higher education settings, though the individual and systems level also have relevant applications to various higher education settings. Dr. DePrince divided the features of TIAs into six categories: **prevalence, impacts, empowerment, collaboration, policies/procedures/practices**, and **relationships**.

Anyone engaging in violence prevention and support for survivors must recognize the **prevalence** of trauma within communities. The next two categories, **impacts** and **empowering** students, go hand in hand. People often think exclusively about providing emotional support to survivors through therapeutic intervention. Survivors, though, have many needs that span different dimensions, including health, safety, economic well-being, legal needs, education, and more. Consequently, to implement a sustainable TIA from a campus perspective, addressing support and recovery efforts for survivors should include a multi-disciplinary response (i.e., **collaboration**). Support and recovery cannot be left to the health and counseling centers alone to address. A multi-disciplinary response requires institutions to consider who else needs to be around the table to develop and implement holistic responses to survivors. Integrating TIAs into **policies/procedures/practices** means just that: institutions must fully integrate knowledge about trauma into institutional policies, procedures, and practices. Moreover, leadership and staff across institutions should have a shared understanding about how trauma affects learning and necessitates campus-wide approaches. Students’ needs should be addressed in a holistic way so that students feel physically, socially, emotionally, and academically safe.

To further illustrate the needs of survivors, Dr. DePrince discussed her work conducting a federal project focused on determining how best to provide holistic support for survivors. As part of the project, survivors’ legal needs were assessed. Dr. DePrince and her colleagues determined that survivors had legal needs in many areas, all of which were unmet. In the campus context, students clearly have many important judicial-related needs (e.g., navigating systems, understanding options and processes, accessing appropriate support services).

To highlight the importance and influence of **relationships**, Dr. DePrince presented findings from her research study called the Women’s Health Project. The primary goal of the study was to identify the social reactions women received upon disclosing sexual assault and the impact on their well-being and criminal justice engagement. The project included a community sample of women (N=228) who had experienced a sexual assault in the last year and reported the assault to

someone formal (i.e., someone other than friends and/or family). Participants were interviewed, on average, 157 days after the assault. The participants in the study were diverse in age, race, ethnicity, and sexuality. Over half of the participants were white, and 44% identified as belonging to one or more ethnic or racial minority groups. Participants' ages ranged from 18 to 62, with an average age of 34.8. The majority (80%) identified as heterosexual, while 20% identified as either lesbian, bisexual, or asexual.

Participants were asked multiple questions during the interviews. Researchers asked participants about the kinds of reactions they received when they disclosed their assault to determine whether they were positive or negative. Positive responses included emotional support and tangible aid (helping people get what they need). Negative reactions included responses in which the survivor was treated differently, control was taken away from them, the respondent engaged in victim blame, the respondent was egocentric, or the respondent was distracted.

Dr. DePrince and colleagues were interested in determining the kind of reactions survivors received after disclosing an assault and how it affected involvement with law enforcement. Researchers asked women about their experiences with community-based providers. In approximately 60% of the cases, women had reported the assault to law enforcement. Results of the study indicated that reporting to law enforcement was associated with having received more tangible aid from community-based providers. The direction of this correlation was not assessed. However, in a small subsample of women who initially had not reported to law enforcement but reported after some time had passed, there was a correlation between receiving tangible aid and eventually reporting to law enforcement. The researchers concluded it was very likely that receiving tangible aid increased the odds of reporting sexual assault to law enforcement. Having a positive experience with someone in the formal arena seems to “open up multiple doors.”

At the time of the first interview, 19% of the participants were students. Among them, 28% reported that their university played a substantial role in their negative post-assault experiences. Some examples of how the institutional response affected the survivors' experiences included:

- Not taking steps to prevent this type of experience.
- Creating an environment in which this type of experience seemed common and/or more likely to occur.
- Making it difficult to report the experience.
- Responding inadequately and/or covering up the experience.

Dr. DePrince also referenced research from Dr. Freyd and colleagues who found a link between these negative institutional responses (which they term “institutional betrayal”) and poor health outcomes.

In the same study, survivors were asked about reactions they got from reporting an assault to friends and family. Responses from family and friends did not predict delayed reporting to a formal source; but when friends and family were perceived to be more helpful, survivors were more likely to report to law enforcement. Given that the response of friends and family can affect decisions to report to law enforcement, institutions should consider the type of education the broader community receives about sexual violence. How can we make it so that we are all aware

of the resources in the community, so that a friend can help their friend make a report? From a trauma-informed system and a sustainability perspective, having people well-equipped with information is important so that initial disclosure will lead to something helpful to the survivor. Responding by taking control away from the survivor and/or blaming the survivor is not helpful.

Dr. DePrince also acknowledged a potential limitation to their study's application in the university settings. Most of the women in their study fit the stereotypical images of being the "right kind of victim," and women are more likely to report and be taken seriously by law enforcement when an assault is stereotypical (e.g., assaulted by a stranger with a weapon present). People who experience an assault that is *not* stereotypical (e.g., by an acquaintance without armed violence as is often the case in campus assaults) may be less likely to report to law enforcement. The study results about reporting also may have been impacted by survivors' internalized stereotypes about assault, which in turn may have affected their decision about reporting to law enforcement.

To highlight the influence of **collaboration** when providing a TIA, Dr. DePrince shared findings from the Denver Triage Project. The purpose of this study was to test the impact of a community coordinated response (CCR) to domestic violence (DV) on a victim's well-being and criminal justice outcomes.

As reports of DV came into the police, the research team randomized women into two groups: an outreach group and a referral group (treatment as usual). The outreach group was considered a community coordinated response in which the survivor received a phone call from a community-based advocate. The type of community-based advocate was determined based on review of reports. For example, if a survivor mentioned they wanted a divorce, then it was a legal advocacy organization that made the outreach call. In the call, the advocate told the survivor (or left a voicemail) that they heard the survivor might need the organization's services, and that they were available to support the survivor. The referral group received a typical response, which was a system-based advocate that provided referral information for support and recovery services.

Results indicated that after one year, the participants who received an outreach phone call from an advocate showed a decline in PTSD symptom severity. Participants in the control group (treatment as usual), did not show any reduced severity in PTSD symptoms. Additionally, participants in the outreach condition were more likely to have developed plans to leave their abusive situation. Interestingly, both groups accessed the same number of agencies, but the women in the outreach condition perceived the services to be more helpful. Notably, some of the women who received only voicemails never called the agency back, but the call/voicemail still made a difference. Many women said, "I never called that person back, but I knew someone cared." This concern seemed to have a lasting, positive impact on survivor outcomes. Additionally, the phone call helped with a needs assessment—survivors could more quickly articulate what resources they **DID** need, even if the call was from a different type of agency. This helped the survivors gain access to the resource they *did* need. The phone call affirmed what the survivors said, and for those who responded to the call, there was flexibility in terms of resources depending on their needs. Dr. DePrince explained that these results suggest that

receiving a single phone call from an advocate can significantly affect survivors' health outcomes.

Next, Dr. DePrince discussed coordination for co-occurring Title IX and criminal justice investigations, which requires the use of multi-disciplinary teams (MDTs). She suggested that all campuses should have a memorandum of understanding (MOU) with law enforcement to outline procedures for how they would proceed. To illustrate this point, she shared an example from her research in which she and her study team were embedded in an MDT, a workforce charged with developing an MOU. Her team catalogued all of the work that was happening on the workforce, and they conducted key informant interviews with members of the MDT. Her research team participated in 16 workforce meetings of the MDT and transcribed the meetings in real time. Next, they coded the discussions and comments. The results indicated that although the group did focus on the MOU to some degree, the MDT discussed many topics including current procedures, new procedures, problem solving (as issues were coming up), case consultation, information sharing, policy change, and the MDT operational processes. Dr. DePrince indicated that the topics were a moving target from week to week. She understood that they were meant to talk about an MOU, but first they needed to talk about all of those other topics. Unfortunately, a new district attorney was elected, and the group had to shift gears. Discussing new procedures was only a small percentage of their discussions. It was evident that working together was not about establishing new bureaucracy. Members of the MDT were concerned that there was a lot of turnover, yet they perceived this group as essential to doing their work effectively. Participants perceived that the groups were beneficial for establishing networks and collaboration, sharing information and resources, and facilitating productivity. Being physically present to build relationships was also deemed essential. Obstacles associated with the work of the MDT included time constraints, institutional buy-in, attendance consistency/accountability, treading water or stagnating, and dealing with conflicting interests across members.

Extrapolating from these outcomes, Dr. DePrince highlighted important considerations for institutions trying to establish sustainable models for MDTs. The importance of institutional buy-in cannot be overstated. Having leadership and supervisors that understand the importance of the work and diverse membership from across the institution are critical. MDT delegates should invest time in information-sharing and relationship-building. Agendas for meeting should be well structured, which will facilitate guided progress and focus while ensuring that meetings offer time to be responsive to issues as they emerge in real time. Additionally, there is a critical need for strong facilitator leadership. Strong leadership will help to manage multiple stakeholder needs, onboard new members, and articulate shared goals for the group to ensure that the group's work continues to move forward.

Next, Dr. DePrince reported findings from her work in which she and the research team (Gagnon et al., [in prep]) examined survivor experiences with the criminal justice (CJ) system. Participants were asked several questions:

- How would you describe your role in the CJ system?
- In what ways have you felt validated, supported, and/or respected by the CJ system?

- In what ways have you felt invalidated, not supported, and/or disrespected by the CJ system?

Although 83% of women were able to describe the type of role (e.g., big role, no role) they played in the CJ process, almost one in five respondents had no idea about their role in the CJ system. Results from the second question about what made the survivor feel validated and invalidated were two sides of same coin. They felt validated when there was persistent, tenacious communication, but felt invalidated when there were not enough call backs. The survivors reported that they felt validated when they were believed, for example when someone said “this is not your fault.” They felt invalidated when belief in their experience was not vocalized or expressed. They felt supported when they were given choices throughout the process, and felt unsupported when they did not have opportunities to make choices. A simple way to convey validation was to offer information and resources. Invalidation occurred through the sheer length of time the CJ process takes, which highlights the importance of explaining to survivors what to expect with CJ involvement.

When asked what they would want to tell professionals, they provided the following responses:

- i) Increase availability of women officers/service providers.
- ii) Improve training on working with sexual assault victims. Sometimes the way people ask questions seemed inconsistent with what they knew about sexual assault.
- iii) Improve communication with victims. Although they understand that the process can take a very long time, they wanted folks to keep checking in with them.
- iv) Provide consistent referrals to resources—survivors wanted to be reminded frequently about the availability of resources.
- v) Have greater sensitivity to trauma-related responses and greater overall compassion
- vi) Start by believing them and refraining from making judgments. This should be implicitly and explicitly communicated to the survivor.

Following Dr. DePrince’s presentation, discussion continued regarding intersectionality and the ways institutions can provide a supportive environment for all groups of people, particularly given that women of color experience sexual harassment at disproportionate rates. Professor Cantalupo stated that one reason she focuses on sexual violence as a civil rights matter is because sexual harassment and GBV can be racialized for students of color, an additional function of inequality. Sexual violence is both a cause and a consequence of inequality. Professor Cantalupo further explained that discrimination is often separated from harassment and assault, but it is important to see how harassment and assault are forms of discrimination. Women of color deal with racialized sexualized stereotypes that frame them as unchaste or promiscuous, a stereotype overlapping with myths about rape victims that are also centuries old (e.g., if you are chaste, you cannot be raped). Professor Cantalupo pointed out that although we often associate stereotypes with discrimination, there has been little conversation of stereotyping sexual assault victims and how that functions as a form of discrimination. Educational programs need to start recognizing and talking about the role of stereotypes and how these negatively impact our responses to these cases.

Dr. DePrince further elaborated by referencing research by Dr. Rebecca Campbell. In the study, police reports were coded to identify the number of times rape myths were mentioned (e.g., the survivor was too emotional, did not fight back, etc.). The prevalence of rape myths in these reports speaks to the need for ongoing education for everyone. Dr. DePrince also recommended Jennifer Gomez's work related to cultural betrayal trauma theory. When survivors from minority backgrounds were assaulted by a perpetrator of the same minority background, reporting the assault is sometimes seen as a betrayal of their race. When they are perceived to have betrayed their race in this way, survivors experience worse health outcomes.

Task Force members continued the discussion by raising concerns about the unique vulnerabilities of graduate students, who have special dependence on advisors and mentors for funding, letters of recommendation, and career development and advancement. The impact of harassment on graduate students is often both economic and psychological. Because of this dependent role, graduate students may not see a way out of the situation, so a common response is to "keep your head down." This condition poses questions for academic departments: How are they talking about mentor/mentee relationships? What are they communicating to students as they enter the program? How do they communicate to the students "who is responsible for [them]?"

Dr. Gidycz advocated for institutions to do a better job addressing the continuum of "bad behavior" because bad behaviors tend to escalate into more severe behaviors. Boundary violations should be addressed early on before they escalate, and there needs to be ongoing and concerted discussions about mentoring relationships. Task Force members proposed that departments consider establishing mentoring agreements and have these be a component of a faculty member's annual review. Some programs have implemented co-advising relationships, so the graduate student is not beholden to one particular faculty member. There have also been efforts from graduate student union organizations to provide legal counsel and support with investigations if a graduate student makes a report of sexual misconduct. In a union, the students have some ability to communicate independently from the institution. Regardless, institutions should continuously educate graduate students about what behaviors from faculty are acceptable and what options are available if they are in an uncomfortable, inappropriate, or abusive situation with a faculty member.

Professor Alan Michaels raised a question regarding adjudication of accusations of faculty sexual violations. A common outcome in which a faculty member is accused of sexual misconduct is for the faculty member to resign or retire. From a survivor's perspective, it may not be at all apparent that the resignation or retirement was essentially forced by the institution, so it may also seem that there were no repercussions or consequences for the faculty member. Regardless of the standard of proof, most cases of sexual misconduct involving faculty end up in a confidential settlement. Thus, the issues arises whether it is harmful to remove the abuser but not publicly make a record of the reason for the removal and whether creating a survivor-oriented environment necessitates public acknowledgement of the faculty's wrongdoing. Dr. DePrince shared that, although the lack of transparency about judicial processes can be shocking, explaining this to survivors is incredibly important and goes a long way with them—even if the

survivor is told, “this is a step that we cannot tell you about.” Letting the survivor know this information is an important starting place when explaining the entirety of the process—they will not be shocked to learn that a settlement cannot be made public.

Professor Cantalupo also shared a suggestion that in some of these settlement situations, the survivor should be given the option to participate in the negotiation. Although how this would operate as a legal and institutional matter might be complex, in some ways that is precisely what graduate student unions are doing. The person who has been harmed ought to be able to have a say in what appropriate compensation should be. The institution is engaging in the settlement presumably because of obligations under Title IX for the student survivor, so what the survivor says is important information—they should not be cut out unless they choose to not be involved.

Professor Cantalupo further explained that another layer of complexity around faculty investigations and sanctioning is that punishing peers is difficult for faculty members. However, she contended that this may be another reason why it could be helpful to include survivors in the process. Survivors could demand things that would help the faculty/institution to say, “look, we are going to do this—it is what the survivor needs and we are committed to the survivor’s ability to get an equal education.” This frames the sanctions as providing adequate support for students rather than disciplining their peer. Ultimately though, a Task Force member noted, changing the institutional culture around sexual misconduct requires that faculty endorse disciplinary action for their peers who engage in sexual misconduct.

To address cases where a large number of students have been abused over a long period of time, Dr. Vince Roscigno proposed that university reporting models may benefit from expanding reporting options to have a more centralized and outside unit that could alleviate concerns about the “insider-ness” of perpetrators. For example, in an athletic program, a student could report to someone unaffiliated with athletics. Professor Cantalupo suggested that institutions can achieve this centralization by establishing on-campus victim services offices with advocates who are independent of any one academic department. One concern, though, is making sure students understand that the office is outside their department’s chain of command.

Whether or not a student survivor makes a university report is likely connected to responses they receive from their family and/or friends. Mike Avery mentioned that when Richard Strauss’ abuse came to light, he had to tell his family about what had happened, which was a very difficult thing to do. Survivors’ decisions to report to the institution are influenced based on the responses and reactions they receive after reporting to family and friends. Dr. DePrince further elaborated that unhelpful and harmful responses from friends and family are not only damaging to the survivor, but these types of responses also take away agency from the survivor by making them feel as if they need to protect their family or help their family with *their* emotions. This relates to a larger societal context about how we respond to sexual assault and abuse. People generally do not know how to do that well, which speaks to a need for much larger interventions and education strategies for everyone.

Roundtable 3 – April 20

The roundtable discussion on April 20, 2020 included presentations from Dr. Frank Dobbin, Dr. Donald Tomaskovic-Devey, and Ms. Katherine Lasher. Dr. Dobbin focused on strategies to improve sexual harassment policies, training, and grievance procedures. Dr. Tomaskovic-Devey focused on institutional strategies to improve workplace climate and to prevent a culture of sexual harassment, including strategies to improve institutional responses to sexual harassment complaints. Ms. Lasher focused on the Title IX implications for reporting and responding to sexual misconduct, and she discussed strategies for leveraging these federal regulations to develop and promote responses that are equitable, fair, and just.

Several themes emerged from the presentations and discussions. First, a point that came up in all three roundtables was emphasized here: power differentials among individuals on college campuses (e.g., coach vs. student athlete) contribute to the high rates of sexual misconduct and reluctance of victims to file grievances or to report to authorities. A second focus of this session was on the need for transparency and reliable metrics while also accounting for the oft-observed reality of backlash undermining well-intentioned interventions. For example, being transparent about the culture of sexual misconduct (e.g., rates of violence, forms of violence, etc.) can draw attention to the problem of sexual violence, and thereby tempt institutions to try concealing the information out of self-protective instinct. Collecting and disseminating metrics about sexual misconduct on campus, however, is an essential step to identify target areas for prevention and intervention. Additionally, the presenters suggested that providing this transparency will likely be a catalyst for survivors to report misconduct and access necessary services. At the same time, as another example of backlash, being transparent about the problem of sexual misconduct may cause unrest and concern among constituents, so institutions must be prepared to address this potential and account for it in planning interventions. Third, each presenter stressed the importance of paying attention to high-risk groups and niche vulnerabilities (e.g., STEM labs, graduate programs, athletic departments, and other places on campus where students rely on faculty/coaches/others-in-positions-of-power for their funding, ability to participate in sports or in research, etc.), as opposed to relying on one-size-fits-all prevention and remedy processes. This attention to difference is equally important in the development and delivery of training and education programs. A detailed summary of the presentations and discussion follows.

Dr. Frank Dobbin

Dr. Frank Dobbin is the Henry Ford II Professor of the Social Sciences in the Department of Sociology at Harvard University. Over the last 15 years, Dr. Dobbin has been studying the effects of diversity programs including (i) why organizational leaders adopt certain diversity programs, and (ii) why they expect training to be effective in eradicating harassment. Dr. Dobbin explained that organizations frequently adopt new training programs without existing evidence that the programs produce positive outcomes. Implementing programs without evidence of their effectiveness is an issue for all areas of management-related programs, not just sexual

harassment. For example, many organizations have been adopting implicit bias programs, including Google, but Google has seen very little improvement in workforce diversity since the implementation of implicit bias training. Dr. Dobbin's research focuses on understanding whether programs are effective, and if they are not, what needs to change to make them effective.

Employers have “done a lot” in their efforts to address the issue of workplace harassment, but this activity does not appear to have reduced harassment in the corporate world or in universities according to Dr. Dobbin. Despite increasing efforts to reduce sexual harassment, the prevalence of sexual harassment has remained constant over nearly four decades. Surveys from the 1980s indicated that 40% of women were harassed in the workplace. In 2018 the Pew Research Center found that the prevalence was the same—40% of women were still being harassed in the workplace.

Evaluating the effectiveness of sexual harassment grievance procedures and training is difficult. Women are more likely to quit their job than file a complaint, so complaints are a poor metric for evaluation.¹⁵ Only, approximately 10% of people who believe they have something to complain about file complaints. Sexual harassment research has consistently established that many people leave their jobs after they are harassed, and they do so without filing complaints or telling anyone. Because women are more likely to quit their job after experiencing sexual harassment, than to file a complaint, a new policy (including training) that succeeds in reducing sexual harassment should lead to more women in the workplace. Because training typically increases recognition of sexual harassment, post-training surveys are unreliable. Retention of women workers may be a better metric.

With this in mind, Dr. Dobbin and his colleagues (Kalev, Kim, & Deutsch) conducted research to evaluate whether new policies and programs (i.e., grievance procedures and training programs) affect white, black, Latina, and Asian-American women on the tenured faculty. To determine the effect of sexual harassment policies and programs on tenured faculty, data from two datasets were merged. The first was the 1993-2015 IPEDS faculty composition data for U.S. colleges and universities. These data included faculty composition in regard to race, ethnicity, and gender. The second was a retrospective survey of 605 colleges and universities that Dr. Dobbin and his research team collected. When gathering their data, Dr. Dobbin and his colleagues contacted academic heads—usually deans—or tried to find someone who knew the history of diversity programs and work-life employment practices at their institution. Data were representative of medium and large, private and public schools. The sample included colleges and universities that were larger and more prestigious than the average institution, according to Dr. Dobbin.

In their data analysis, Dobbin and his co-authors examined the impact of new sexual harassment policies and programs on tenured faculty composition by looking at average change in group share over program life (i.e., period in which the policy/program was in place at a certain

¹⁵ Cortina, L. M., & Berdahl, J. L. (2008). Sexual harassment in organizations: A decade of research in review. In J. Barling & C. L. Cooper (Eds.), *Handbook of organizational behavior* (pp. 469-497). Sage Publishing.

institution) from 1993 – 2015. It was hypothesized that if the policies and programs were having their intended effect, the number of female faculty during that timeframe would increase substantially. Analyses were conducted using panel models with fixed effects for institution and year and using robust standard errors. The data analysis controlled for other variables to account for potential factors contributing to the variance, such as regression toward the mean and other conditions occurring at the university (e.g., a new president, HR policies, etc.). Dr. Dobbin and his colleagues are confident that their model isolated the policy and program effect in their results. Various time intervals were observed because universities adopted programs at different times across that time period. Results indicated that among 605 schools, the percent of faculty members who were white men declined substantially over this time from 70% in 1993 to just over 50% in 2015. Conversely, the percent who were white women had a smaller increase from approximately 18% in 1993 to 28% in 2015. Tenured minority faculty increased only a very small percentage during this time.

Based on the results of their analyses, Dr. Dobbin and his colleagues concluded that sexual harassment interventions did not have the intended positive effects. Although the trainings appeared to be beneficial in some cases, these positive outcomes were limited to universities with fewer than 30% female tenured faculty. The implementation of both harassment grievance procedures and mandatory sexual harassment trainings went from having positive effects to having negative effects. This was true for four groups of tenured women: white, African-American, Latina, and Asian-American woman. When women hold roughly 30% or more of tenured jobs, the positive effects of harassment grievance procedures and sexual harassment trainings go away, and negative effects often emerge.

Some of the limited observed diversity of the faculty can be attributed to fewer individuals from minority groups pursuing doctoral degrees from the elite schools that feed most faculty positions, and some can be attributed to the fact that women and minorities exit careers in academia at higher rates than white men. Even after accounting for these factors, the results of their study indicated that sexual harassment interventions did not contribute to increased diversity in faculty composition.

Dr. Dobbin explained that there may be several reasons for the lack of change in faculty composition. One explanation for this could be that the implementation of sexual harassment policies (and corresponding retention of female faculty) appeared to activate group threat, particularly against white women. Group threat, a theory developed in the 1960s, occurs when the dominant group's power (e.g., white males) is challenged and produces actions to weaken the challenger group. That is, if leadership is dominated by one group, and another group begins to threaten their power, we see actions to weaken the challenger group.

Group threat has been shown to harm members of protected groups through retribution. Prior research showed that Ohio women who complained of workplace harassment face retribution and ridicule.¹⁶ Cortina and Magley reported that two-thirds of federal workers who filed

¹⁶ Roscigno, V. J. (2007). *The face of discrimination: How race and gender impact work and home lives*. Rowman & Littlefield Publishers.

harassment complaints experienced backlash;¹⁷ and more recently, researchers have shown that women who were harassed and filed complaints ended up in worse jobs, and in poorer mental and physical health, than women who did not file complaints.¹⁸

There is also reason to believe that conventional sexual harassment training may not have the intended impact on participants because of participants' defensiveness. Some studies have shown that participation in sexual harassment trainings made men more likely to blame harassment on the victims—they perceived the victims as having encouraged it or being capable of preventing it.¹⁹ Sexual harassment training may also increase acceptance of sexual harassment by men.²⁰ Among men who are prone to engaging in harassment, training worsened their attitudes toward harassment, and among most men, training led to a decreased likelihood that they would take complaints of harassment seriously and instead increased their acceptance of sexual harassment.²¹

Dr. Dobbin proposed that one strategy to improve sexual harassment policy outcomes is to consider bystander intervention training which focuses on how to intervene when witnessing sexual harassment rather than focusing on policies and punishments. Bystander intervention programs may be more likely to work because they position trainees in the role of the observer, not as the presumed harasser, which may minimize their defensiveness. Framing them as potential heroes (and not potential villains) may increase their intention to intervene.²²

Additionally, Dr. Dobbin proposed that universities rethink the process of making and addressing complaints by considering the potential use of an ombud office. The ombud's office is typically a neutral office outside of any departmental chain of command. An ombud may be able to receive complaints confidentially and help victims think through their options. With this option, survivors may be more likely to report sexual harassment. This may also be an effective strategy if survivors were then able to decide whether the harasser is notified, which could potentially minimize retribution. Universities still need a formal process to hear and adjudicate complaints in order to formally sanction harassers. However, using the ombud's office may be more effective in bringing people forward.

Dr. Dobbin acknowledged that data collection did not include information about the standard content of the sexual harassment policies (grievance procedures and training) or the quantity and frequency of trainings. Content and dosage are critical areas of intervention development and

¹⁷ Cortina, L. M., & Magley, V. J. (2003). Raising voice, risking retaliation: Events following interpersonal mistreatment in the workplace. *Journal of Occupational Health Psychology, 8*(4), 247.

¹⁸ McLaughlin, H., Uggen, C., & Blackstone, A. (2017). The economic and career effects of sexual harassment on working women. *Gender & Society, 31*(3), 333-358.

¹⁹ Bingham, S. G., & Scherer, L. L. (2001). The unexpected effects of a sexual harassment educational program. *The Journal of Applied Behavioral Science, 37*(2), 125-153.

²⁰ Kearney, L. K., Rochlen, A. B., & King, E. B. (2004). Male Gender Role Conflict, Sexual Harassment Tolerance, and the Efficacy of a Psychoeducative Training Program. *Psychology of Men & Masculinity, 5*(1), 72.

²¹ Robb, L. A., & Doverspike, D. (2001). Self-reported proclivity to harass as a moderator of the effectiveness of sexual harassment-prevention training. *Psychological Reports, 88*(1), 85-88.

²² Cares, A. C., Banyard, V. L., Moynihan, M. M., Williams, L. M., Potter, S. J., & Stapleton, J. G. (2015). Changing attitudes about being a bystander to violence: Translating an in-person sexual violence prevention program to a new campus. *Violence against women, 21*(2), 165-187.

implementation, so not having these data limited conclusions that can be made about study results.

Although Dr. Dobbin emphasized sexual harassment in his presentation, the connection between sexual harassment and sexual assault was also addressed. Universities need to focus on changing campus culture. A culture that is permissive of sexual harassment is the same type of culture that tolerates sexual assault. Addressing all these interconnected issues requires widespread culture change.

One of the issues with how training has been handled on campuses is that training initiatives are typically driven by efforts at compliance with directives from the federal government (i.e., Title IX). Dr. Dobbin contends that people do not tend to respond well to these type of mandates. “Home-grown” strategies that have faculty design input and ownership are more likely to succeed. For example, when companies create their own diversity task force (instead of hiring an outside consultant), everything works much better—a home-grown task force can have significant positive effects.

Dr. Donald Tomaskovic-Devey

Dr. Tomaskovic-Devey is a Professor of Sociology and the Director of the Center for Employment Equity (CEE) at the University of Massachusetts, Amherst. His presentation focused on processes that generate sexual harassment and organizational responses. Dr. Tomaskovic-Devey explained that most universities and most workplaces address sexual harassment with an unduly legalistic approach, which is not effective.

Dr. Tomaskovic-Devey’s presentation focused initially on a project that he conducted along with an economist, Carly McCann, in which they analyzed all of the legal claims made to the United States Equal Employment Opportunity Commission (EEOC) and all of the state Fair Employment Practice Agencies (FEPA) between 2011 and 2016. These data are interesting because the EEOC is the door into the legal system—anyone wanting to enter the legal arena for a discrimination related complaint must first file a complaint with the EEOC.

In 2016, the EEOC issued a report estimating that 85% of women would be harassed during their career.²³ In his work with Carly McCann and M. V. Lee Badgett, Dr. Tomaskovic-Devey estimated that over 5 million employees experience sexual harassment at work each year.²⁴ The majority of victims are women, but almost 20% are men. Only 25% to 40% of survivors will disclose this to someone in their workplace. When they do disclose, people tend to report to individuals that they trust (e.g., co-workers, local supervisors, or union representatives) rather than reporting through a formal complaint system. Just over 9,000 of these incidents turn into

²³ U.S. Equal Employment Opportunity Commission. 2016. “Select Task Force on the Study of Harassment in the Workplace.” See EEOC report at <https://www.eeoc.gov/june-2016-report-co-chairs-select-task-force-study-harassment-workplace?renderforprint=1>

²⁴ McCann, C., Tomaskovic-Devey, D., & Badgett, L. (2018). *Employers' responses to sexual harassment*. Center for Employment Equity. <http://dx.doi.org/10.2139/ssrn.3407960>

formal charges with the EEOC or FEPA, and even fewer (n=8,147) are determined to have potential legal merit. Ultimately, only 27% (fewer than 2,000) of those who file a sexual harassment charge with the EEOC receive any benefit, and 23% receive some monetary compensation. Moreover, the compensation is somewhat small, with the median award only \$10,000. It is also concerning that only 12% of charges lead to an agreement to alter workplace practices.

When survivors try to go to the court system after filing with the EEOC, 90% of them are turned away because their cases are not considered strong enough for lawyers to take. For those cases that are accepted, a higher proportion (60%) receive monetary benefits and the average dollar payout is also slightly higher. However, the private bar is less likely than the EEOC to negotiate workplace changes, and non-disclosure agreements are widespread.

Black women have the highest risk with a rate of victimization that is four times larger than their proportion of the labor force. Not surprisingly, people who are in less powerful positions are more likely to encounter situations of sexual harassment. These statistics reveal a large issue around reporting. People tend to refrain from reporting sexual harassment because they do not expect employers to maintain confidentiality. Additionally, most employers react punitively against people who file formal sexual harassment charges. Over half (64%) of formal sexual harassment charges are associated with job loss, and 68% of charges include allegations of employer retaliation after the charge was made. Retaliation is highest against black women. Past research also shows that when people complain about discrimination or sexual harassment, their original goals are to make their workplace a safer place (not to gain financial compensation or send the perpetrator to jail). When complaints are channeled into a legal system, though, the goal of a safe workplace is abandoned.

Dr. Tomaskovic-Devey highlighted two important implications from his research. The first is that most incidents never reach formal complaint systems. The second is that legal remedies are rare, weak, and typically ineffective at improving workplace climate. Indeed, when there is a greater legal component in the grievance procedure, there is more backlash against the survivors. Adopting a legalistic point of view, then, may not be the best approach to addressing sexual harassment. Rather, a promising approach may be to think of sexual harassment as a form of harassment in general. The EEOC concluded in its 2016²⁵ report that sexual harassment should be framed as a form of power-based harassment and that workplace bullying (in all its forms) are failures of management in addressing workplace climate. By adopting this point of view, preventing sexual harassment and sexual abuse “requires changing the organizational tolerance of abusive behavior by powerful actors.” If a workplace tolerates abuse in certain niches, sexual abuse is also likely to occur.

Given his view that legalistic responses are ineffective, Dr. Tomaskovic-Devey presented five ideas for best addressing sexual harassment.

²⁵ U.S. Equal Employment Opportunity Commission. 2016. “Select Task Force on the Study of Harassment in the Workplace.” See EEOC report at <https://www.eeoc.gov/june-2016-report-co-chairs-select-task-force-study-harassment-workplace?renderforprint=1>

- i) Do not rely on legalistic remedies. A focus on harassment must be a part of normal business practices and not just a reaction to failures.
- ii) Do not tolerate harassment of any type.
- iii) Introduce proportionate accountability in the system.
- iv) Create transparency at all levels while trying to minimize the challenges caused by privacy constraints. For example, prior to engaging with institutional systems and resources, students should have comprehensive knowledge about how the systems work at the institution, how the systems perform, and what possible outcomes could occur.
- v) Generate (and publicize) metrics that allow an institution to see how it is doing and to be held accountable.

Dr. Tomaskovic-Devey then discussed the application of routine activity theory to sexual harassment prevention strategies in a university setting. Routine activity theory may be useful when trying to identify where harassment is most likely to occur. Routine activity theory suggests that crime occurs when there are available targets, willing offenders, and the absence of capable guardians.²⁶ Targets are plentiful and are available in any place where power imbalances exist. In some ways, all bureaucratic organizations are structured in a way that makes this possible. It is not possible to predict who the willing offenders will be. It *is* possible, though, to consider the places in an organization that lack capable guardians. The absence of capable guardians varies most across organizations and this is where intervention can occur. When students, staff, or faculty do not speak up about sexual harassment, it is often because they perceive that there are no capable guardians. Similarly, when individuals engage in harassing behaviors, they often do so because they do not think anyone will intervene and, in some cases, believe that their colleagues will protect them.

Dr. Tomaskovic-Devey pointed out that this basic analysis can be applied to niche areas on campus. He drew attention to STEM labs where power differentials seem to be extraordinarily high. Typically, STEM labs are isolated from the rest of a university. Everyone in those labs is dependent on head scientists for employment, publications, and other professional necessities. The National Academy of Sciences issued a critical report in the last year or two about the problematic power differentials in STEM labs where typically nobody is providing oversight. Like STEM labs, any area on campus where significant power differentials exist, and where external monitoring is minimal or non-existent, can develop a culture of abuse. Unsurprisingly, most egregious cases of sexual abuse happen in these type of environments. However, institutions need to look at routine cases as well as the most egregious ones. Focusing on metrics and transparency will support efforts to address this wide spectrum of cases. As an example, Dr. Tomaskovic-Devey shared that the graduate school at his institution does not interview students when they drop out of the program. According to AAU studies, many female graduate students are being assaulted and harassed, and, whereas employees in a company can leave and find a new job if they are being harassed by a boss, students tend to have fewer options. To quit a program and start somewhere else is much more challenging. Graduate students who drop out or

²⁶ Cohen, L. E., & Felson, M. (1979). Social change and crime rate trends: A routine activity approach. *American Sociological Review*, 588-608.

transfer to other programs could help to pinpoint areas of concern. Conducting exit interviews could help to identify reasons that students are leaving their program, and looking at these patterns of turnover could be useful for generating metrics and identifying problematic patterns.

A starting place when thinking about sexual harassment prevention may be to consider the six key factors about bullying and harassment that Dr. Tomaskovic-Devey presented:

- i) Most complaints never reach the formal complaint system.
- ii) Legal remedies are rare.
- iii) It is not about sex, it's about power.
- iv) Sexual harassment happens most often in work settings where routine harassment is tolerated.
- v) Sexual harassment is more common in hyper-masculine environments.
- vi) Sexual harassment and other forms of bullying are more likely in settings that lack capable guardians.

Dr. Tomaskovic-Devey expanded on this list. Sexual harassment is more common in environments that permit harassing behaviors in general, and also where hyper-masculinity is tolerated. Institutions may want to start thinking about where on their campus bullying behavior is more likely to be tolerated. Where are the more hyper-masculine environments? Athletic departments may be such a place because they are units that are built around coaches, and sometimes, bullying is admired in coaches. In a place like an athletic department, where there can be this strong level of authority, power, and cultural acceptance of bullying, athletes may be taught to be submissive and accepting of bullying as part of that culture. Such behaviors may not be just tolerated, but actually reinforced by coaches and others in positions of power and may be adopted by athletes and/or those with less power. At the same time, not all faculty or university affiliates who are bullies are going to engage in sexual harassment, and similarly, not all of those who engage in sexual abuse engage in other explicit bullying behaviors. Particularly when cases persist over a long period of time, the perpetrators have to be “good” at it, able to hide, and often come across as the “nice guy.” Establishing capable guardians may be an effective strategy for addressing the range of abuse that occurs across college campus environments.

Ms. Katherine Lasher

Ms. Katherine Lasher is the Associate Vice President in the Office of Institutional Equity at The Ohio State University, where she manages Ohio State's response to reports of discrimination, harassment, and sexual misconduct that are covered by federal law, state law, and/or university policy for matters involving students, faculty, staff, and visitors. This centralized office houses the university's Americans with Disabilities Act, Affirmative Action and Equal Employment Opportunity, Protection of Minors, and Title IX functions. [At the time of Ms. Lasher's presentation, the final version of pending new Title IX regulations had not been released. These new Title IX regulations were released on May 6, 2020, with an effective date of August 14, 2020. Some of these new regulations will impact the substance of what Ms. Lasher described to the Task Force. A description of those changes is included at the end of the summary].

Ms. Lasher began by providing a summary of Title IX, which is the federal legislation that guides most institutions' policies related to sexual misconduct prevention and response. Title IX (1972) states that "No person in the United States shall, on the basis of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." Although Title IX was initially applied to athletics, its application has now expanded into many areas, including pregnant and parenting students, sexual misconduct, and more.

The term sexual misconduct, in this context, encompasses many behaviors, including sexual assault, sexual harassment, domestic violence, stalking, sexual exploitation, and sex and gender-based discrimination.

Title IX mandates institutions to stop discrimination, prevent recurrence, and remedy the effects upon the victim/survivor/community. One way institutions implement this mandate is through duty to report. That is, anyone at an institution who has the authority to take action to redress sexual misconduct or has been deemed a mandatory reporter, or anyone a student reasonably could believe would have authority or responsibility over such matters, is considered a responsible employee and is required to report sexual misconduct. Discretion about responsible employees is often left to the institutions, but most require that, at minimum, all faculty members must report sexual assault.

In addition to reporting mandates made by Title IX, there may be felony reporting laws that vary by state. For example, Ohio law requires that those who are not in a legally protected role and who have knowledge of a felony report it to law enforcement. These felony reporting laws may create barriers to reporting, by not allowing information to be kept confidential.

Ms. Lasher pointed out additional barriers to reporting that were identified through the 2019 AAU campus climate survey. The AAU results for OSU's campus in particular revealed that the primary reasons students refrained from contacting resources following an assault were because they: (i) felt they could handle it themselves, (ii) believed that their experience was not serious enough to contact programs or resources, (iii) were too embarrassed or ashamed, or felt it would be too emotionally difficult, or (iv) did not want the perpetrator to get in trouble.²⁷ Other reasons reported include fear that it would not be kept confidential, concerns about being believed, fear about negative academic, social or professional consequences, not knowing where to go or who to tell, or fear of retaliation. Additional reporting factors included: whether the report would be taken seriously, whether a fair investigation would be conducted, language barriers, distrust or the justice system, access to resources, and fear of being judged. It is also important that universities consider power differentials when considering barriers to reporting and institutional response to sexual misconduct, especially in cases between faculty and students or staff.

Title IX dictates that universities have a responsibility to respond to complaints of sexual misconduct. University responses must be prompt, fair, and equitable. When addressing sexual

²⁷ Cantor, D., Fisher, B., Chibnall, S., Harps, S., Townsend, R., Thomas, G., Lee, H., Kranz, V., Herbison, R., & Madden, K. (2019). *Report on the AAU campus climate survey on sexual assault and misconduct: The Ohio State University*. https://www.osu.edu/assets/buckeyesact/2019_campus_climate_survey.pdf

misconduct complaints, institutions should coordinate a response to all complaints, provide information to those involved, and should conduct investigations and/or adjudicate complaints of harassment. Survivors should receive information about various confidential and non-confidential support resources, internal investigative options, and external processes, such as sexual assault nurse examiner (SANE) examinations. Interim measures are individualized supports that may be available to help those who may have experienced incidents of sexual misconduct. Examples of interim measures include, but are not limited to, no contact directives, changes in class or work scheduling, or counselling and academic support. Universities have noted an increase in reports due to increased awareness and education, but while survivors maintain a desire for support resources and interim measures, the desire for investigations has not necessarily increased at the same rates.

A component of institutional response can include an investigation, which involves: (i) meeting with the complainant, the respondent, and relevant witnesses; (ii) collecting and reviewing relevant evidence as provided by participants; and (iii) ensuring a fair and equitable process while understanding the impact of trauma. One goal during an investigation is to ensure the process is fair, thorough, and impartial to both the complainant and respondent, so that those involved have the same opportunity to provide information that they feel is relevant to the investigation. Most institutions now allow a support person to be present during this process. Typically, the support person is not an advocate, though some universities are allowing more of an advocate role. Ms. Lasher noted that there is a whole body of literature about trauma-informed investigations (e.g., Dr. Rebecca Campbell) which addresses the importance of understanding that an investigation can be fair while also being trauma-informed.

Different outcome models are used across the U.S., including investigative models and hearing models. In both the investigatory and hearing models a preponderance of the evidence standard is applied. Generally, with an investigatory model, an investigator will investigate the facts by interviewing the complainant, respondent, and any witnesses, examining relevant documents, and make a finding as to whether or not there has been a policy violation. Although, Ms. Lasher noted that processes may vary somewhat across institutions.

In the hearing model, after the university investigates the complaint, a Title IX hearing is conducted. Generally, at the Title IX hearing, the participants provide statements, put forth evidence, and may be subject to cross-examination. The trier of fact, which is often a hearing panel or hearing officer, will make findings as to whether or not there has been a policy violation. Ms. Lasher noted that hearing models also vary by institution.

In 2018, in *Doe v. Baum*, the United States Court of Appeals for the Sixth Circuit held that in public university disciplinary proceedings, students have the right to cross-examine a witness where the witnesses' credibility is at stake. The court noted that, "if a university is faced with competing narratives about potential misconduct, the administration must facilitate some form of cross-examination in order to satisfy due process." *Baum* also required institutions to offer a hearing if the sanction could result in suspension or expulsion from the university. Thus, after *Baum*, public institutions in the Sixth Circuit, which includes Kentucky, Michigan, Ohio and Tennessee, were required to follow these holdings.

Alternative resolutions are another option which also may include a variety of approaches. For example, alternative resolutions can involve educational conversations, mediation, facilitated discussions, and/or restorative justice. Using an alternative resolution model affords the possibility for many outcome options.

Ms. Lasher discussed the importance of building trust through the response processes. To build trust, institutions must enhance transparency. Transparency is especially essential for students who may participate in the process only if they have the information. Methods for generating transparency can include a variety of approaches: generating metrics, conducting climate surveys, and providing accessibility information about resources and processes. Though it may not be necessary to conduct a climate survey every year, it is a good idea to gather valuable feedback from students, faculty, and staff to determine where to focus efforts. Additionally, information should be available in multiple formats and not just available on websites. Other suggestions to promote transparency include conducting social media campaigns, presenting information at freshman orientations, issuing letters to every incoming student, and meeting with and utilizing student leaders. It is particularly important to provide information to the community in the fall during the “red zone”—the time when students are particularly susceptible to sexual misconduct victimization.

The Violence Against Women Act (VAWA) requires that institutions provide sexual misconduct prevention training. There are historically high-risk groups that universities have focused on, but education and training should be also provided to everyone. Scaling up training programs is challenging. Universities should consider multimodal approaches for education, which includes a combination of in-person and online education. Campus climate surveys can be a useful tool to help identify specific educational needs and high-risk groups. It is also helpful if educational programs are tailored to specific audiences (e.g., athletics, Greek orgs, STEM/Medicine, LGBTQ community). A one-size fits all approach to prevention is not likely to be effective.

At the time of Ms. Lasher’s presentation, the final version of pending new Title IX regulations had not been released. These new Title IX regulations were released on May 6, 2020, with an effective date of August 14, 2020. Some of the changes in the new Title IX regulations will change aspects of the higher education landscape Ms. Lasher described at the roundtable. Changes in the new regulations, as they relate to higher education, include:

- Universities must now allow cross-examination of the parties and any witnesses during a live hearing. Cross examination will be conducted by advisers for the parties, but not the parties themselves.
- Each institution may now determine whether to use preponderance of the evidence or clear and convincing evidence as the standard of proof to determine policy violations, and must use the same standard for all complaints.
- New institutional requirements for investigations: providing, with an identified process, a formal written complaint and notice of the allegations; allowing equal opportunity for the parties to present evidence, and an opportunity to review evidence before the hearing.
- Interim measures are renamed “supportive measures,” and the new regulations outline processes for supportive measures.

- Providing a process for an informal resolution, which may be used at any point prior to a determination of responsibility, so long as a formal complaint has been filed. Informal resolution is not permitted to resolve allegations that an employee sexually harassed a student.
- Changing the definition of sexual harassment. Sexual harassment under the new regulations means conduct on the basis of sex of one or more of the following types:
 - i) Quid pro quo sexual harassment, meaning that “an employee of the recipient conditions the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct;”
 - ii) Hostile educational environment, meaning “unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient education program or activity;” or
 - iii) Sexual assault, dating violence, domestic violence, or stalking, as defined under U.S. law.

Appendix A: Search Methods

With the inclusion definitions detailed in Appendix B, the Task Force adopted four methods for identifying known cases of sexual abuse at institutions of higher education. The first method was a Lexis Nexis database search for news articles related to large-scale sexual abuse cases. A Boolean string of key words was used to search the Lexis Nexis database for relevant news articles.²⁸ We identified 23 cases using this method. Second, the Task Force conducted a database search in Google using the same key words. The first 1,000 hits were screened to determine whether any new cases were identified. Because no additional cases were found in the first 1,000 hits, the remaining hits were not screened. Third, we reviewed all sexual violence cases currently under investigation by the U.S. Department of Education to determine whether they met our inclusion criteria. We identified eight additional cases. Fourth, we looked for cases that may have been mentioned as examples or points of reference in articles, reports, or legal cases about cases that were previously identified and included in the list of cases. We did not identify any additional cases with this method.

²⁸ After an iterative process of identifying key search terms, the final Boolean string was as follows: (sex* abus* scandal OR serial sex* abus* OR sex* assault scandal OR serial sex* assault OR serial molest* OR sex* assault multiple victim* OR sex* abuse multiple victim* OR sex* violen* scandal OR sex viol* perpetration OR sex* abus* perpetr* OR sex* assault perpetr* OR grop* OR fondl*OR unwanted touch* OR non-consensual touch* OR non-consensual kiss* OR non-consensual sex* OR unwanted kiss* OR rape* OR incest OR statutory rape) AND (coach OR professor OR doctor OR physician OR medical professional) AND (college OR university OR higher education) AND NOT (sex* assault* by student) AND NOT (high school) AND NOT (catholic church) AND NOT (clergy) AND NOT (Nassar OR Strauss OR Sandusky). Additional names were added to the exclusion string as they became known (e.g., AND NOT Tyndall OR Dennis Kelly OR Robert Miller OR Reginald Archibald OR Xu Gang OR Jorge Dominguez OR Thomas Roma OR Douglas Perlitz OR Robert Kurzban OR Bernie Fine).

Appendix B: Key Definitions

A necessary first step for creating the background summary of cases was deciding which cases to include, so the Task Force established inclusion and exclusion criteria. Cases were included if they occurred within the jurisdiction of a US institution of higher education *and* became known within the last ten years. This included cases of sexual abuse perpetrated by a coach, physician, professor, priest, or other university affiliate against two or more survivors. Survivors could include anyone—a student, community member, colleague, athlete, etc. Cases were not included if they pertained solely to sexual harassment or stalking.²⁹ Cases were also not included if they involved only student-on-student sexual assaults. Student-on-student cases were not included for several reasons. First, the nature of these incidents is often characteristically different than those involving employees and non-student affiliates, and the Task Force was created as part of the response to the abusive actions of Richard Strauss, a physician and professor. Second, employees of a university tend to be employed for many years and have more opportunity to engage in “long-term” abuse as compared to students who typically have a finite amount of time on campus. Third, employees and students tend to receive different training around sexual abuse, so we wanted to focus our analysis on cases involving university employees and non-student affiliates.

The Task Force determined a number of additional definitions for identifying cases and to create the background summary of known instances of large-scale sexual abuse at institutions of higher education. These terms included “sexual abuse,” “recent,” “known,” “large-scale,” and “institution of higher education.”

For “sexual abuse,” the Task Force adopted the definition of sexual assault delineated in the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990: “An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s Uniform Crime Reporting system. A sexual offense is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.” Rape is defined as the “penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.” Fondling is defined as “the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age.” Incest is defined as “sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.” Incest is defined as “sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.”

For “recent” the Task Force included cases that were first publicly reported in 2010 or later, regardless of when the abuse was alleged to have occurred. We did not include cases that were first publicly reported after October 31, 2019 when our search for cases completed.

²⁹ Although sexual harassment is serious sexual misconduct that must be addressed in university and other settings, it is in a different category from the subject of the current study involving sexual assault and abuse and is not within the scope of this project.

For “known,” the Task Force included only cases that were publicly reported and relied only on information already in the public record.

For “large-scale,” the Task Force included all cases with two or more alleged survivors, but not cases in which a single individual was victimized.

For occurring at an “institution of higher education,” the task force included only U.S.-based institutions. For such institutions, cases were also included if the abuse occurred within an institution’s “jurisdiction,” i.e., on campus or off campus, if under the institution’s auspices.

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Appendix D: Roundtable Presenters and Topics

<u>Roundtable Presenters</u>	<u>Affiliation</u>	<u>Topic</u>	<u>Charge Category</u>
Ms. Sage Carson	Manager, Know Your IX	Know Your IX: Policy Recommendations	Identifying best practices regarding sustainable mechanisms for support and recovery
Professor Nancy Chi Cantalupo, JD	Assistant Professor of Law, Dwayne O. Andreas School of Law, Barry University	Identifying best practices focused on assisting reporting and developing pathways to action	Identifying best practices focused on assisting reporting and developing pathways to action
Ms. Ju'Riese Colón	Chief Executive Officer, United States Center for SafeSport	Creating Culture Change within the Olympic Movement	Enhancing a culture of awareness and compliance
Dr. Anne DePrince	Professor, Department of Psychology, University of Denver	Trauma-Informed, Multidisciplinary Approaches to Supporting Survivors	Identifying best practices regarding sustainable mechanisms for support and recovery
Dr. Frank Dobbin	Henry Ford II Professor of the Social Sciences, Department of Sociology, Harvard University	Sexual Harassment Prevention Programs are Failing: Can We Do Better?	Enhancing a culture of awareness and compliance
Dr. Patricia Harned	Chief Executive Officer, Ethics & Compliance Initiative	Enhancing a Culture of Awareness and Compliance	Enhancing a culture of awareness and compliance
Ms. Katherine Lasher, JD	Associate Vice President, Office of Institutional Equity, The Ohio State University	Reporting Sexual Misconduct: Advancing a Community that is Equitable, Fair, and Just	Identifying best practices regarding sustainable mechanisms for support and recovery
Dr. Donald Tomaskovic-Devey	Professor, College of Social & Behavioral Sciences, University of Massachusetts Amherst	Organizational Responses to Sexual Harassment	Identifying best practices focused on assisting reporting and developing pathways to action

Appendix E: Task Force Membership

- Alan Michaels, JD – Edwin M. Cooperman Chair and Dean Emeritus of the Moritz College of Law, Ohio State (Chair)
- Michael Avery – Ohio State BA, Four-Year Member OSU Men’s Lacrosse Team
- Brienne Beaujolais – Doctoral student, College of Social Work, Ohio State
- Regis Becker – Board member, U.S. Center for SafeSport
- Esther Choo, MD, MPH – Associate Professor of Emergency Medicine, Oregon Health & Science University
- Christine Gidycz, PhD – Professor Emerita of Psychology, Ohio University
- Katherine Lasher, JD – Associate Vice President for Institutional Equity, Ohio State
- Janine Oman – Deputy Director of Athletics, Ohio State
- Vincent Roscigno, PhD – Professor of Sociology, Ohio State
- Kimberly Spears-McNatt – Chief of Police, The Ohio State University Police Division
- Deborah Tuerkheimer, JD – Professor, Northwestern University Pritzker School of Law
- Kirsten Duris, Ohio State BA – Research and Administrative Assistant