

I: The Narrative

Great is the truth and it prevails; mighty the youth the morrow hails.

Lives come and go; stars cease to glow; but great is the truth and it prevails.

- Horace Mann School alma mater¹

There is no book on how to handle a situation like this.

- Steven Friedman, Chairman of the Board of Trustees, Horace Mann School²

On November 5, 2011 Jerry Sandusky, a football coach at Pennsylvania State University, was arrested and charged with 40 counts of sexual abuse of young boys. After the story broke, Amos Kamil, a 1982 graduate of the Horace Mann School, a private co-educational college preparatory day school in the Bronx, New York, got in touch with a former classmate who had once shared that as a child he had been sexually abused by a Horace Mann teacher. “He said he wasn’t doing very well because of [the Sandusky revelations]. And he also said, ‘I wish someone would write about what went on at Horace Mann,’” implying that there were other children who had been abused.³

On June 6, 2012—just two weeks before Sandusky was convicted—Kamil published a *New York Times Magazine* story detailing former Horace Mann students’ claims of sexual assault and abuse they suffered while attending Horace Mann. The stories were horrific, all the more so as Kamil revealed that the abuse spanned nearly 40 years and was perpetrated by multiple teachers and administrators.

Following the article, The Bronx District Attorney’s (DA) office set up a hotline to the Child Abuse and Sex Crimes Bureau and encouraged victims to report allegations of abuse. Over a period of 10 ½ months, the hotline received 30 calls and an investigation involving the DA, the New York Police Department and the Bronx Special Victim’s Squad was initiated.⁴ On May 1, 2013, the DA announced the results of the investigation:

This joint effort resulted in over 60 separate interviews to date, over 25 of which were with victims of alleged abuse. . . . The interviews . . . reveal a systemic pattern of alleged abuse beyond what was outlined in the original New York Times Magazine article. In total, we received direct information regarding at least 12 separate alleged abusers. The reported abuse ranges from what may be characterized as inappropriate behavior to child endangerment, actual instances of sexual contact, sexual intercourse and criminal sexual

acts. The earliest instance of abuse that was reported to us occurred in 1962. While the majority of the abuse was said to have occurred in the 1970s, additional instances of abuse were reported from the 1980s and 1990s. The last reported occurrence of abuse was in 1996.⁵

The Horace Mann School

The Horace Mann School enjoyed an international reputation as a premier educational institution, steeped in tradition and proud of its heritage and standards of excellence. Founded in 1887 by Columbia University, the Horace Mann School (comprised of elementary and high schools) was originally housed on the university's campus. In the 1920s, the school discontinued its girls' program but reinstated it in 1974. By then, Horace Mann had separated from Columbia University.⁶ Even so, the keynote speaker at the school's 100th anniversary celebration in 1986 was Michael Sovern, the president of Columbia University. "Horace Mann was and is one of the greatest secondary schools in the western world," said Sovern. "Your graduates have gone on to meet their appointments with destiny and become leaders of their society."⁷

Horace Mann enrolled a highly selected body of 1,800 students who commuted from Long Island, Connecticut, New Jersey and Manhattan.⁸ Its tuition was \$41,150 for the 2013/2014 school year.⁹ Alumni often sent their children to Horace Mann; indeed, historically, almost a fifth of the students were children of Horace Mann alumni.¹⁰

Sexual abuse at the Horace Mann School

Rumors about inappropriate behavior by teachers had long circulated among students at Horace Mann. In his article, Kamil recalled the warnings he received after arriving at the school in 1979: "A new friend walked me around the school, pointing out teachers to avoid. 'What do you mean? Like, they're hard graders?' 'No. Perverts. Stay away from them. Trust me,'" he recounted.¹¹ Kamil had heard about specific teachers—Stanley Kops, who taught history, and Mark Wright, an assistant football coach—who had an interest in young boys and others who were rumored to have groped girls.¹²

Nearly a year after Kamil's article, Marc Fisher, an alumnus who graduated in the 1970s, wrote a story for *The New Yorker* about another teacher, Robert Berman, accused of sexual abuse by three former students (Berman denied the claims and said he did not even remember one of the accusers). Fisher, too, had heard rumors that had long since become common knowledge: "Like many Horace Mann graduates, I spent years telling anecdotes about my school's teachers. From the earliest days of college, I found that stories about the teacher who

massaged boys' necks as he lectured on the corruption of Tammany Hall, or the teacher who urged boys to swim naked in the school pool, were guaranteed to amaze and appall," he wrote.¹³

Horace Mann alumnus "Frank" recalled that a female faculty member was "widely known" to have been having sex with a male athlete in the 1980s.¹⁴

In an attempt to warn his peers, one victim, too ashamed to talk about the abuse he suffered, said he hoped that seeding rumors might spur action. "What I did do in the immediate aftermath . . . was contribute to the rumors going around that Mark Wright was a child molester, which were pretty rampant at that time. I'd join conversations about it and say that I'd heard he was into boys."¹⁵

"People knew something of what went on. It came up around the [faculty] lunch table. Why this never resulted in more responsible oversight at Horace Mann is certainly [a] question. . ."

- "Al", Upper School teacher, 2007 to 2012¹⁶

Teachers also heard and shared stories. Chester Slaybaugh, who retired from the faculty in 1997 after 36 years at the school—13 as director of the athletic department—said students were advised by other students to stay away from Kops, who was known to be "touchy" with the children.¹⁷ Slaybaugh also recalled hearing of a teacher who would have the boys remove some of their clothes for a type of physical examination.¹⁸ Slaybaugh heard that music teacher Johannes Somary made advances to both male students and female students; in one instance he heard that Somary took a female student to a room and put her hand on his crotch.¹⁹ Ron Lombardi, a coach from 1972 to 1997, said it was widely known that a female colleague] was "spending time with students."²⁰

"Al," who taught at Horace Mann from 2007 to 2012, said current staff were aware of the past abuses, even before Kamil's article was published. "There was a kind of folkloric memory of the behavior that came to . . . public notice last year. People knew something of what went on. It came up around the lunch table. Why this never resulted in more responsible oversight at [Horace Mann] is certainly [a] question. . ."²¹

Abusers Named

Soon after Kamil's article was published, a group of concerned Horace Mann alumni formed the Horace Mann Action Coalition (HMAC),²² a non-profit organization, to advocate for the victims. By March 2013, HMAC's review uncovered credible reports that 64 students had been sexually abused by 22 Horace Mann staff members from the 1960s through the

1990s.²³ Among the abusers—both men and women—were a headmaster, coaches, teachers, a school chaplain, a dean of guidance, and department heads.²⁴

HMAC identified distinct sets of serial abusers, beginning with four in the 1960s who continued to molest students for more than a decade. Four more serial predators abused students in the 1970s and some were aware of the criminal acts of others. A third set of abusers were active in the 1980s, despite changes in headmasters and some administration.²⁵ (See **Exhibit 1** for a timeline of accounts and reports of sexual abuse at Horace Mann from 1960 to 2010.)

William Clinton

William Clinton was a history teacher at Horace Mann for 30 years, beginning in the 1960s, and also served as the dean of the guidance department.²⁶ Peter Sheckman, an alumnus from the class of 1963, recalled Clinton leading him to his office after scolding him in his history class for talking with a fellow student during class. “He berated me for quite a while, telling me that I did not deserve the honors I got at Horace Mann. Then, after much of that, he said, ‘You are so good looking,’ and got soft and seductive as he complimented my hands” said Peter.²⁷

Another victim described retaliation he experienced after refusing to have sex with Clinton:

Clinton found out [that I was being abused by another teacher, Tek Young Lin] and called me into the guidance office. . . to talk about the “situation” with Tek. He put his hand on the top of my left inner thigh, near my crotch—I pushed it away and said no. He said, “This is very self-destructive behavior. We have a path here at Horace Mann, work hard, get A’s, go to a good college, read the law, and lead a good life. If you are uncooperative, that’s self-destructive because I’ll make sure you’ll never be on that path. You’ll never get an A at Horace Mann,” and put his hand back on my thigh. I got up and walked out. . . Clinton retaliated against me. . . Other teachers were told ‘watch out for him, he’s a trouble maker.’ [My] parents spoke with him when I got a B- in [Clinton’s] AP American History class . . . Clinton said I got a lower grade because “I believe your son was being self-destructive” in not turning in his term paper. [He] used the same words, so I would know that turning him down had consequences.²⁸

Johannes Somary

Swiss-born Johannes Somary was a respected, internationally-known conductor who had served as a guest conductor for orchestras ranging from the Vienna Philharmonic to the Royal Philharmonic of London.²⁹ Somary, who taught music and led the glee club at Horace Mann

from 1959 until his retirement in 2002 at 67, was greatly admired by students and faculty alike.³⁰ “He was a hero to me,” said Edward Bowen, one of his victims. “But he was also a monster.”³¹

In 1970, Bowen’s mother, Joan, was hired to teach at Horace Mann and Edward began to attend classes at 13.³² Bowen met Somary through the glee club, and Somary worked to establish a good relationship with Bowen, offering him voice lessons, encouraging Bowen to call him by his first name and hiring him to babysit his children.³³ Bowen said he was 16 when Somary, seated next to him on a sofa, undid Bowen’s pants and touched his penis. Bowen told Somary to stop but the abuse was only just beginning. “I was such a good victim . . . shy, trusting, unsophisticated,” said Bowen.³⁴

Around the same time, another former student, “Marty”, said Somary unzipped his pants and began to masturbate him during an evening drive. “I’m thinking, ‘Oh, my God, this can’t be happening.’ I didn’t know what to do. I was just a child,” he said.³⁵ Another student, “Doug”, told friends and family that he reported inappropriate behavior by Somary to lower school head Harry Allison, who told him to forget about it.³⁶

The retired teacher Slaybaugh also heard that during school trips to Europe, Somary would have one student stay with him in the same room.³⁷ “Marty” was one of those students: “I was expected to have sex with him and did even though it repulsed me every time.”³⁸

Joseph Cumming, then a 15-year-old Horace Mann student, was abused by Somary beginning in 1975 to 1977.³⁹ “At the time it was going on I felt that Johannes had done a lot of generous things for me, and I felt indebted,” said Cumming. “He inspired me to love music and told me I could become one of the great composers of my generation. And when he began to touch me sexually I tried to believe that there was some explanation . . . [such as] that this is how Europeans show affection.”⁴⁰

Around 1980, an administrator, “Pat”, was approached by another of Somary’s victims, who said he had been abused by Somary “over a period of time.”⁴¹ When “Pat” confronted Somary directly, he said it wouldn’t happen again. The administrator also reported Somary’s abuse to Clinton, who served as dean of guidance, and during the meeting he offered “Pat” a drink. “I’ve got a bottle of scotch in my drawer, how about a drink?” “Pat” recounted. Clinton said “Pat” could go to headmaster R. Inslee Clark but he “warned that ‘the tree is rotten, so the leaves don’t matter’ or words like that,” the administrator said. “Pat” did report Somary to Clark who said, “These things happen,” and said he’d take care of it. When no action was taken, “Pat” informed an active parent/donor, as well as two Board members.⁴²

In 1993, a decade later, Benjamin Balter, class of 1994, went on a Glee Club trip to Europe with Somary. Upon his return, his family said Balter was withdrawn. His brother, Charles Balter, described him as “changed.”⁴³ Ben’s mother, Dr. Kathleen Howard, who taught science

at Horace Mann, noticed Ben's unhappiness but attributed it to several family crises. That year, Balter made his first suicide attempt.

Soon after, Balter wrote a letter to Horace Mann Headmaster Phillip G. Foote, describing Somary's "grossly inappropriate advances" toward him.⁴⁴ (See **Exhibit 2** for a copy of the letter.) Foote responded to the letter by calling Howard into his office to confront Somary, who said, "Ben kissed me first." When Howard said, "How dare you put your tongue down my son's mouth!" Somary replied, "That's how we Swiss kiss," according to Howard.⁴⁵ Aside from this exchange, Somary denied Ben's charges. In 2012, Foote recounted the events. "Somary came into my office with the mother and strenuously denied everything," Foote said. "His vehemence made a lot of people put off doing anything about it."⁴⁶

Horace Mann board member Michael Hess (class of 1958), then acting as an attorney for the school, convened a conference that included several trustees and Howard, who wanted Somary fired.⁴⁷ According to Charles Balter, Hess told her the school wouldn't investigate the allegations without *recorded* evidence of impropriety.⁴⁸ Howard recalled that Hess said that without such evidence, "it was Ben's word against Somary's"⁴⁹ and that Somary would sue.⁵⁰ In May 2013, Hess denied that he had any involvement "in the discussions with Ben Balter or his family in 1993."⁵¹ "I do not want to get into a disagreement with the family, but I was not involved," he said to a reporter with the *Daily News*.⁵²

Though no further action was taken in 1993, Somary was notified several years later that he could no longer travel with students, unchaperoned, after the school received another report of student abuse.⁵³ Howard said throughout the ordeal, no school official ever asked Ben Balter about the letter or his allegations.⁵⁴ "All the administration and trustees got together and decided they wouldn't do anything about it. People came out of the woodwork protecting Somary," said Foote.⁵⁵ Ben Balter's second suicide attempt, in 2009, was successful.

In 2012, when Kamil asked Foote why he did not do more to investigate, Foote replied: "The structure of H.M. was not easy. . . It was a time with different values and different systems. You didn't have the access you do now. It was hubris. H.M. was sure it was above everybody else. Nobody wanted anything to change."⁵⁶

After Foote retired, Howard met with Eileen Mullady, who was appointed head of school in 1995, and told her about Balter's letter.⁵⁷ Howard did not see the letter itself, however, until 2012 when the current headmaster, Thomas Kelly, showed it to her.⁵⁸ Some time after Somary retired he contacted Kelly and offered to rejoin Horace Mann to teach, pro bono. Kelly declined Somary's request.⁵⁹

Robert Berman

On April 1, 2013, *The New Yorker* published a story by Horace Mann alumnus Marc Fisher of three former students who said Robert Berman, a Horace Mann English teacher, sexually abused them in the 1970s.⁶⁰

“Gene” recalled being raped by Berman when he was 16. “I was numb. . . It was almost like an initiation. [Berman] quoted some line in the Bible about if two lie together, then they have heat; but how can one be warm alone? I thought it was some sort of pathway to this special life. This is what you do if you’re going to be one of his poets,” said “Gene”.⁶¹

Jon Seiger, an alumnus of the class of 1979, was punished by Berman for failing to write an English paper. Seiger said the punishment was to be struck on his bare buttocks with a wooden pointer. After that, he said, Berman demanded oral sex. Seiger said he was compelled to fellate Berman more than seven times over the course of the school year.⁶²

“Doug”, who had earlier reported Somary and was himself abused by Berman, hanged himself in 1976.⁶³ Soon after his death, Doug’s parents asked for a meeting with headmaster Clark and complained about Berman. Clark told them “there was no proof that Berman had done anything wrong. There was nothing the school could do.”⁶⁴

Stephen Fife described being cornered by Berman during a field trip to the National Gallery of Art in Washington in 1970. “Berman came up behind me,” Fife recalls. “I was twirled around and he had his tongue literally inside my mouth. . . . He was very forceful, one hand on the small of my back, and he put that hand down the rear of my pants and I remember being frozen, paralyzed. He was the person I admired more than anyone else in the world.”⁶⁵ Fife said when he broke free, Berman accused him of being “willful” and “denying what [Fife] wanted.”⁶⁶ Fife reported the incident to Philip Lewerth, head of the upper school, who told him “in the absence of eyewitness testimony, the school policy compelled administrators to side with teachers.”⁶⁷ When Fife said he had no evidence, Lewerth told him, “That’s a fight you can’t win,” according to Fife. Lewerth warned Fife that if he brought formal charges, Berman could sue him for libel, which would harm his chances of getting into a good college.⁶⁸ In 1994, Fife met with Clinton, who admitted that although many boys had approached him with allegations about Berman’s behavior, he thought the complaints were “simply a response to [Berman’s] eccentricity,” and he offered Fife a glass of scotch.⁶⁹ Fife recalled Berman once told him, “Genius makes its own rules.”⁷⁰

Berman left the school in 1979. According to Clinton, he was pushed out over the accusations of inappropriate behavior, though former headmaster Michael Lacopo said it was because Berman had too few students—possibly because parents demanded their children be withdrawn from his classes.⁷¹ Current headmaster Kelly, when asked about Berman’s departure, said his understanding was it was related to abuse accusations.⁷² Indeed, in October 2012,

during an alumni gathering, Kelly acknowledged that boys had been sexually abused and had “intercourse in Horace Mann classrooms and on Horace Mann trips.”⁷³ Kelly went on to say he “would like to punch Berman in the nose,” and “believes completely the story of the survivors.”⁷⁴

Tek Young Lin

After the publication of Kamil’s article, another name—Tek Young Lin—began to surface on victim chat boards. Three former students said they were abused by Lin, two when they were 14 or 15 and a third when he was 17.⁷⁵ In June 2012, the *New York Times* interviewed Lin, a chaplain, cross-country coach and English teacher who taught at Horace Mann from 1955 to 1986. Lin acknowledged that he had “had sex with students, ‘maybe three, I don’t know.’ . . . In those days, it was very spontaneous and casual, and it did not seem really wrong,” said Lin, who took pains to note “everything I did was in warmth and affection and not a power play.”⁷⁶ “Glenn”, the 14-year-old cited in the *New York Times*, article disagreed. “Although I refused most of his requests, I did allow him to photograph me and to ejaculate on my buttocks numerous times. . . .”⁷⁷

Mark Wright

Mark Wright, an alumnus who returned to Horace Mann to teach art and coach football, was accused of sexual abuse by at least six former students. One told fellow alumni, ten years after graduation, that Wright assaulted him when he was 13 and in 8th grade. “And not just me,” he added. “There were others.” First Wright befriended him, he said. Then he molested him. Then he pretended nothing happened.⁷⁸

That former student, identified by Kamil as “Andrew,” said Wright called his home one evening and asked his parents if he could take “Andrew” to a museum. “My parents were so excited that a teacher would take such an interest in me,” said “Andrew”.⁷⁹ Though “Andrew” did not go on that trip, Wright invited “Andrew” to sit for a portrait:

It was the night of the eighth-grade dance. . . and instead of going to the gym, I went to meet him in his art studio . . . He locked the door and told me to undress. . . I was really uncomfortable but did it anyway since he was across the room. I remember exactly what he said: that he needed to see the connection between my legs. The next thing I knew, he had my penis in his hand. I was so scared. He was a pretty intimidating guy. He began performing fellatio and masturbating.⁸⁰

Afterward, “Andrew” said, “it was really hard being at Horace Mann, knowing that if I ran into him, he would get up really close to me and say stuff like: ‘What’s wrong, little buddy? You’re not still mad about that time, are you?’”⁸¹

Richard Warren, who taught English at Horace Mann from 1965 until 1979, was aware of allegations against Wright:

A 9th grade student came to me and asked me if I knew that Mark Wright was gay. I remember saying that I had heard that rumor about a great many faculty, and asked why he was concerned. I took him seriously because I knew him well and he was not a frivolous kid, and clearly a sensitive one. He said that Wright had met with him privately in the gym and asked him to drop his pants and asked him if he could have an erection, then fondled him. More may have happened, but the boy was already understandably in shaky shape telling me this, and my asking for details was not what he needed. I asked him if it would be all right for me to report this to the head of the middle school, who was a good friend and completely discrete. The boy said ok, so I went to my friend, and he recommended going in to report this to the headmaster, Clark. So we went in right then and I repeated the story. Clark’s reaction was striking even to my then innocent ears. He said or asked nothing about the boy’s welfare, but said that he was concerned about Wright and wanted to be sure to protect him. I had no idea that I was reporting the incident to exactly the wrong person. I asked later what had happened to resolve the issue and was told it had been taken care of.⁸²

In late 1978, while teaching at Horace Mann, Chester Slaybaugh, who is now retired, said he saw Wright walking with a male student toward the weight room, in an isolated area of the school. Slaybaugh said he opened the door to the weight room and saw the boy with his pants down sitting on Wright’s lap. Wright was rubbing the boy’s leg. Slaybaugh said he was stunned and closed the door.⁸³

Slaybaugh reported the incident to Philip Lewerth, head of the upper school. He said the administration panicked and a decision was made that Wright should not return after the Christmas holiday. It was Slaybaugh’s job to fire Wright. Slaybaugh said that when he called Wright into his office and asked him, “What were you thinking?” Wright sat down and cried. According to Slaybaugh, aside from Lewerth and Clark, nobody else knew of the incident. Slaybaugh said nobody spoke to the student and he was not offered any help or counseling.⁸⁴

When students and faculty returned to campus in January 1979, after the winter break, Wright was no longer on staff at Horace Mann, and no explanation was offered to students or faculty.⁸⁵

Stanley Kops

Stanley Kops, an alumnus of the school who later became a history teacher, was known for spontaneously giving his male students shoulder massages. “On one occasion Kops came to a varsity baseball game (of which I was a player) in 1980 or 1981 and while I was on the bench, he proceeded to give me a neck massage,” recalled Horace Mann alumnus “Frank.” “It wasn't a big deal but it was uncomfortable and unwelcome. I have always remembered the event and him as weird and creepy.”⁸⁶ Kops also coached the junior-varsity swim team and Kamil wrote of another classmate who told him, “It was in that context that I came into contact with his long, creepy touches, which always accompanied pointers about stroke or form.”⁸⁷

Another former student said Kops sometimes canceled class so the students could engage in roughhousing. “Basically, he would allow kids to run amok in the classroom and kind of joined in the action. I was new in seventh grade and remember thinking that this was a different kind of school where a teacher was physically ‘handling’ me. I can remember him being kind of red and breathless after particularly vigorous frolicking.”⁸⁸

Outside the classroom, however, Kops’ behavior turned criminal. When he was 14 years old, Jon Seiger was taken to an apartment off-campus by Kops and another man, and forced to undress and masturbate for them. “They took pictures. Kops called me to his classroom a few weeks later, showed me the pictures, and threatened that if I ever mentioned anything to anyone about what happened . . . that everyone at school, and everyone I knew would see the pictures. . . I snatched one of the pictures and have it to this day.”⁸⁹

In 1983, while attending an off-site seventh-grade orientation trip, a 12-year old student, “Seth”, claimed that Kops, who was sleeping in the same cabin with the students, came up from behind him and “pressed up against” him in the middle of the night after his sleeping bag fell to the floor and he climbed down from his bunk to retrieve it. “Seth” said he felt uncomfortable but would not have reported it if not for his encounter with Kops the following morning. “Seth” said Kops pulled him behind a building, grabbed his own crotch and asked “Seth” what he had been doing the previous night.⁹⁰

“Seth’s” father went to the headmaster, Michael Lacopo. “The act was never consummated, but it was an issue of concern, and it became clear it was time for him to move on. And he didn’t deny it. And the kid’s parents were satisfied,” Lacopo explained. Within days, Kops had resigned with no explanation provided to Horace Mann students or parents.⁹¹

After Kops left Horace Mann, he applied for a teaching job at Rutgers Preparatory School, a private school in Somerset, New Jersey. Dan Alexander, a teacher at Horace Mann at the time, said that Kops was able to obtain favorable references from Clinton, and headmaster Gordon Newcombe, for his new position.⁹² After one year, Kops’ contract was not renewed. Shortly after

the school year ended at Rutgers Prep, Kops committed suicide; he shot himself while sitting in his car.⁹³

Crawford Blagden

Crawford Blagden taught 9th, 10th and 12th grade English at Horace Mann from 1980 to June 1991. In 2014, Blagden agreed to be interviewed and, responding in writing on August 29, 2014 to questions posed by an HMAC investigator, Blagden admitted that he and “Jessica” had “shared an intimate relationship when she was a student and I was a teacher at [Horace Mann].”⁹⁴ “Jessica” said she was in middle school when, one day, Blagden offered her a ride home. She said he put his arm around her waist and said, “Would you like me to be your boyfriend?” “Jessica” said she remembered thinking, “Wow, someone thinks I’m special.”⁹⁵ She said Blagden took her back to his apartment, made her a gin and tonic and told her to shower. She explained what happened next:

Afterward, I was sobbing, and I wanted desperately to go home. He said if I insisted on leaving, I would have to take the subway. I didn’t know how to get there from his place, and I was in shock. . . . Oddly, I don’t remember him telling me to keep quiet at that point. Maybe he just knew that I would. I was an obedient kid, respectful of authority.⁹⁶

She went to an adviser at the school one day, crying. “I said that something was wrong ‘down there.’ I felt a bump on my private parts. He referred me to the dean of guidance, [William Clinton]. I told him that someone had ‘polluted me,’ hesitant to say the word ‘sex.’ He laughed. Incredibly, he gave me a dusty copy of the book *Lolita*.”⁹⁷ The abuse continued on and off into “Jessica’s” high school years when she entered a deep depression and sought help from a psychiatrist who revealed the abuse to her parents. Though “Jessica” had already graduated from Horace Mann, her younger sister was still a student and her parents angrily confronted school officials about Blagden’s abuse. A short time after the meeting, they were told that their younger daughter’s scholarship would be reduced and that “Jessica’s” scholarship would now need to be repaid. “I took this to be a defensive threat,” said “Jessica.”⁹⁸

In 1991, Blagden left Horace Mann and said it was because he had a chance to move to New Orleans to work at the Isidore Newman School for Michael Lacopo—“a great headmaster”—where he taught for two years.⁹⁹ Alexander believed that Blagden left the Isidore Newman School “due to the same type of allegations.”¹⁰⁰

R. Inslee Clark and multiple teachers

Seiger described his abuse, at age 14, at the hands of several teachers—including R. Inslee Clark, Horace Mann headmaster from 1970 to 1980:

After a concert in the [Horace Mann] auditorium, Johannes Somary went out of his way to introduce Mr. Clark to me. At that point Johannes had only started laying the seeds of abusing me. . . touching me on the shoulder, neck, hands, and back way too long, with his hand caressing as he spoke to me. . . .¹⁰¹ He didn't introduce anyone else to Mr. Clark that day, none of the very talented 17 and 18-year-old seniors who had performed excellently during the concert. Only 14-year-old me. And he introduced him to me on the sidelines, away from others' earshot. Even at that moment I felt it was a private thing, an invitation into a secret special thing, but of course I thought it was a positive special thing, as a naïve 14-year-old, I interpreted myself as being lucky to be given that special entre into being complimented by "Maestro" Somary, and catching the attention of HM's headmaster. If only I had known.¹⁰²

Soon after, Clark summoned Seiger to his office and invited him to his home. Seiger arrived to discover Kops, already there.¹⁰³ Seiger described the night:

[Clark] and Stan Kops got me drunk, took me to a hustler bar, picked up/hired two male prostitutes to come back to Mr. Clark's house and rape me while he and Mr. Kops watched. . . . then sending the prostitutes off when they were finished (and I was in pain, scared, and bleeding), only to then assault me themselves, in tandem.¹⁰⁴

A few days after the rapes, Somary approached Seiger: "I heard about the great time you had the other night with Mr. Clark and Mr. Kops. I'm glad you are getting to know them so well."¹⁰⁵ Soon after, Somary's advances became "forcing French kissing . . . then groping outside my pants, then inside, then more and more and more, which continued for years," recounted Seiger.¹⁰⁶

Somary also introduced Seiger to Barry Siebelt, a theatre teacher at Horace Mann:

[He] kept me after a dress rehearsal, saying untruthfully that I had done a terrible job, and promising to drive me home if it got late. At about 9 p.m., he announced we were done, but said it was too late to drive me home, called my mother to get permission for me to stay at his house. And took me there. He gave me a few drinks. . . . He asked if I wanted to have sex. I said no. . . . Then he grabbed me from behind, with his arm tightly around my neck choking me and said, "this IS going to happen, so just relax and it won't hurt so much," and raped me.¹⁰⁷

Seiger thought he had been targeted for abuse. "The teachers who were carrying out the abuse were very good at singling out those who lacked parental support at home. . . . For instance, my parents had just split up. I was adopted anyway, and my adopted brother was hyperactive and quite violent and got kicked out of several schools. So he took up all of the energy at home, and I was pretty much on my own, and this was identified," he said.¹⁰⁸

Horace Mann's Response

On January 27, 2012, four months before his article was published in *The New York Times Magazine*, Kamil sent a letter to Horace Mann Board of Trustees Chairman Steven Friedman requesting that Horace Mann officials share “the administration’s perspective on the issue.”¹⁰⁹ Kamil had tried to contact Kelly as well as other trustees repeatedly by email and telephone but had received no response.¹¹⁰ Friedman did not respond to the letter. After writing the article and before publication, Kamil tried again, sending a list of questions to HM officials, seeking comment. Instead, he received a reply from the school’s corporate public relations firm, Kekst and Company:

The current administration is not in a position to comment on the events involving former and, in some cases, now-deceased, faculty members that are said to have occurred years before we assumed leadership of the school. . . . The article contains allegations dating back, in some instances, 30 years, long before the current administration took office, which makes it difficult to accurately respond to the factual allegations therein. In addition, on June 13, 1984, there was a fire in the attic of the business office that destroyed some records.¹¹¹

“Al”, a former English teacher at Horace Mann who left the school in 2014, said that the faculty was notified “well in advance” that Kamil’s article was coming and were told to keep quiet. “From the very first, the very intentional tack of the school with regard to the recent disclosures has been to suppress information. ‘You can say what you like if a reporter calls,’ Kelly said at a faculty meeting. ‘But the school can respond as it likes [i.e. with adverse employment action] if you do,’” recounted “Al.”¹¹²

On June 6, 2012—the same day Kamil’s article was published online—Kelly and Friedman posted an open letter on the school’s website addressed, simply, to “Friends.” In the letter, Kelly and Friedman made Horace Mann’s first public comments:

... We share and appreciate our community’s frustration when the School cannot address specific allegations in the article. As we hope you can appreciate, we are not in a position to comment on accounts of events and conversations that took place prior to our administration... there were a number of issues and questions regarding specific allegations or individuals that we were not able to address for privacy reasons and based upon advice of counsel. For the same reasons, we regret that we also are limited in our ability to communicate to the community about these past events.¹¹³

On June 7, an alumnus launched a private Facebook page, open only to Horace Mann alumni, entitled, “Processing Horace Mann.” Initial posts to the page focused on reactions to the *New York Times Magazine* article but soon turned to calls for Horace Mann’s board to explain how the school would respond to the needs of the victims.¹¹⁴ One alumnus, wrote: “As a

Horace Mann alumnus, I urge H.M. to forgo the usual ‘management’ of this scandal in their usual spin-centric, lawyered-up, image-conscious way. Whether or not this occurred on the current administration’s watch, they have an obligation to embrace honesty and transparency to prove they are now a different place, not blather on about why no one should worry...”¹¹⁵

When students returned for classes in September, the school’s newspaper, the *Horace Mann Record*, published an article by a current student, questioning why the school had not addressed the student body regarding the sexual abuse allegations:

. . . While my parents have been receiving emails from Dr. Kelly and various other administrators, we students have yet to be addressed a full statement from the school on this topic. . . . nearly three months later, we students still have yet to receive an acknowledgement from the staff on the article. . . . If something like this were to happen again, I, a student and engaged member of the community, want to know how we are going to better respond and move forward.¹¹⁶

What the Administration Knew

Between 1962 and 1996, more than 20 reports of sexual abuse were made by victims, their parents, teachers or witnesses to Horace Mann’s teachers, administrators or trustees. Incidents were reported across administrations and across decades. In all, by 2011 Horace Mann officials received at least 25 reports of sexual abuse, from among what would turn out, in 2013, to be accounts of 22 faculty and victimizing 64 students. None of the reports was forwarded to law enforcement. In addition, HMAAC’s investigation does not indicate that the school ever shared a victim’s report with the victims’ parents. In most cases, the abusers were allowed to stay at the school for years or decades after the first incident was reported.

Several administrators acknowledged that at one time the school had maintained a file, passed from headmaster to headmaster, of complaints against faculty.¹¹⁷ In 2012, the administration said files had been destroyed in a 1984 fire. Indeed, an administration building across the street from the main campus was struck by lightning in 1984, causing a one-alarm fire. The blaze gutted the top level of the building, which housed the school’s alumni and development offices. Marc Fisher, an alumnus and reporter, visited the school in 1984 to check student records for a reporting project. Fisher said Dottie Conigliaro, editor of the Horace Mann alumni magazine at the time, told him that fundraising and old alumni records were stored there, but she was sure there were no teachers’ records.¹¹⁸ Fisher was taken to a room in the basement of Tillinghast Hall where the personnel records were kept. “There were four metal file cabinets, the complete archive of student—and faculty—records, and Dan [Alexander] said at the time that this was the extent of the school’s archive (but for some notable items that were kept in the library,) said Fisher.¹¹⁹ Slaybaugh said there was no reason for faculty records to be

in the business office; he maintained that faculty records were kept in the headmaster's office in file cabinets.¹²⁰

In 2005, "Gene", a victim, met with then board chairman Robert Katz and vice-chair Peter Sloane. After "Gene" told Katz about the abuse he had suffered Katz told him that files had been destroyed in the 1984 fire;¹²¹ therefore, he said, Horace Mann, could not be held responsible because the school did not know Robert Berman had been abusing him. "It's not Horace Mann's bill to pay," Katz told him.¹²²

The 1984 fire, however, did not explain what had become of any documents pertaining to the ten complaints made to the school between 1985 and 2010. In 2013, a spokesman for Horace Mann said Kelly searched but was unable to locate any file.¹²³ Nevertheless, Kelly did find Ben Balter's 1993 letter reporting abuse by Somary.

* * *

During the years the abuse took place Horace Mann had no official policy on what to do once reports of abuse were received. According to an anonymous posting on *The New York Times* website, one faculty member recalled a single training on mandatory reporting of abuse of minors being conducted at Horace Mann:

I believe that session was in 2008. The information on this topic was bundled with a number of other subjects and many faculty members left feeling unclear about how the laws applied to us and whether we were to report suspicions of abuse to authorities only, or the administration and then the authorities. One member of the guidance department also suggested that the law was not accurately or adequately explained. My impression was that HM's lawyer (who did the presentation with Admins) was sending the message that the burden for reporting was on the individual faculty member. It also was implied that HM would not necessarily support someone (if there were legal or other problems) who reported an incident of suspected abuse to the authorities. I recall that colleagues felt they were being placed in a precarious position (either by HM, the law, or both).¹²⁴

In September 2012, Horace Mann adopted a new policy on reporting child abuse of students by school employees.¹²⁵ While the new policy included a statement that allegations of sexual abuse would be reported to authorities, Horace Mann would do so only if the allegations appeared to be "substantiated and to constitute criminal behavior."¹²⁶ In April 2013, "after some discussions" with the Bronx DA's office, Horace Mann's policy was re-written to include "immediate notification to law enforcement."¹²⁷ The policy, which applied to incidents that occurred on campus or at school-sponsored events, required staff who suspected a colleague of abuse to report their concerns to their division head who would consult with the head of the school and then direct the complaint to a point person or member of the school's

Administrative Council for investigation. There were alternative reporting instructions if the alleged perpetrator was the head of school or division head.¹²⁸

* * *

Having policies and procedures in place at the school level was important because New York State mandatory reporting laws contained several loopholes that enabled teachers and administrators at private schools to avoid reporting peers they suspected of abusing students. This made the Horace Mann School—indeed, any private school in New York—an ideal predatory environment for those who sought to sexually abuse children. Throughout the almost four decade period of sexual abuse at Horace Mann, incidents were reported to school officials on many occasions, but law enforcement was not notified. Even so, Horace Mann officials were following the letter of the law. While New York State’s Social Services Law mandated that all school officials report suspected child abuse by a parent or “other person legally responsible” for the child, “other person legally responsible” referred to a guardian, caretaker, or other person 18 years of age or older who was responsible for the care of the child. The statute, therefore, required private school officials to report sexual abuse by parents or guardians, but *not* by their employees.¹²⁹

New York State’s Education Law also detailed schools’ reporting responsibilities once an allegation of child abuse was lodged. However, the statute only applied to public schools, not private schools.¹³⁰ Though it was a misdemeanor to withhold a report of child abuse by a guardian, reporting non-guardian abuse to police was voluntary for private institutions like Horace Mann.

Victims could directly report their abusers to the police, but minors rarely did so. New York State’s statute of limitations prevented the prosecution of child sexual abuse crimes once the victim turned 23, five years after becoming a legal adult.¹³¹ As a result, all instances of reported sexual abuse occurring at Horace Mann between 1962 and 1996 were beyond New York State’s criminal statute of limitations in 2012.¹³²

“I went to HM in the mid-80s. As a thirteen-year-old girl I was groped by both a popular . . . teacher and . . . coach. I tried to tell another teacher, one also admired by many of us, about the first episode; it was laughed off. After that, I never told anyone anything.”

- Anonymous posting on The New York Times website¹³³

Studies indicate only 2% to 6% of school-related sexual abuse cases are reported to an official; as a result, the extent of sexual abuse of students by school staff is unknown.¹³⁴ However, a 1995 survey by the American Association of University Women (AAUW) reported that 25% of girls and 10% of boys, grades 8 through 11, said they had been sexually harassed in some way by a member of the faculty or staff during their school years. Estimates of the number of teachers who sexually abused students ranged from .04% to 5%.¹³⁵

Researchers found that as of 1995, most schools did not have procedures for reporting sexual abuse or policies for managing the allegations once complaints were filed. Researchers learned that school officials rarely contacted the police, the district attorney's office or child abuse hotlines. When investigations were conducted, they were done "in house." Typically, if a teacher insisted that the allegation was untrue, the investigation was closed.¹³⁶

During the AAUW study, most administrators reported feeling "ambivalent" about the cases; some felt their loyalties were "divided" and they were "unsure where their duty lay"—who should they be protecting? Alleged victim or alleged abuser?¹³⁷ Often the alleged abuser was an outstanding employee and just as often the alleged victim was a marginalized or troubled student. As a result, administrators said they often found it hard to believe the accusations were true. "In many cases, the superintendents were friends of the alleged abusers, and they felt torn by the requirement that they investigate their friends."¹³⁸ Recently, large-scale studies of sexual misconduct by educators have found that abusers are disproportionately teachers who have been honored for teaching excellence, thus making it even harder to identify potential abusers.¹³⁹

Abusers typically target the most vulnerable, using a psychological technique called grooming—a process by which an abuser formed a relationship with the victim over time and used that relationship to lure the victim into sexual acts while compelling secrecy through coercion. Simultaneously, the abuser works to make the victim feel special and valued, bestowing "gifts" that might include trips, alcohol and drugs. The abuser often plays a familial role, treating the child as if he or she was older or more mature and over time, becoming more personal and sexual and threatening the victim to ensure his or her silence.¹⁴⁰ Abusers may seek out children who "have few other role models, especially adult male role models. . . . So the kid who often does want a father figure in their life does respond with genuine affection, but from the point of view of the pedophile, that affection is mistaken or misinterpreted as an erotic interest," according to James Cantor, a psychologist and editor in chief of *Sexual Abuse: A Journal of Research and Treatment*.¹⁴¹

One Horace Mann victim described a situation which seemed to confirm Cantor's assertion: "We talked about our personal lives with our teachers. They knew us. They knew what was going on with our parents, who were getting divorced. So they planted seeds and they watched and they waited and they developed relationships and then they pounced," a victim said.¹⁴² Cumming, after speaking with many fellow victims remarked that he was "struck by

how much the elements of their stories had in common” as many had been groomed in the same way: “a series of after-class meetings, a period of growing intimacy, sharp criticism alternating with abundant praise, and, finally, demands for sexual acts.”¹⁴³

The Firestorm

Horace Mann released a 2nd letter, on June 10, 2012, in answer to alumni and public outrage and calls for Horace Mann to offer a more substantive response. The current headmaster, Thomas Kelly addressed this statement specifically to alumni:

There are two schools to tend to: one facing forward with a lifetime of wonderful memories taking shape, and one with students well past college-age seeking support and leadership beyond what a traditional alumni office offers. . . . Ultimately, we need to work together to understand what may have happened and why, while at the same time, recommitting ourselves to the healthy relationships that did evolve during your time at Horace Mann School. To allow the egregious behavior of some as described in the article and online to turn members of our community against one another would marginalize the most important portion of our past and present: the friendships that connect us.¹⁴⁴

On June 21, 2012, two weeks after Kamil’s article, a group of 18 victims of sexual abuse by Horace Mann teachers and staff forwarded a “survivor’s letter” to Kelly and the board of trustees. In the letter, the survivors asked the Horace Mann administration to address four of the group’s goals: 1) protecting potential future victims, including identifying living abusers who may still be abusing and work with law enforcement to investigate them; 2) ensuring that abuse could never happen again at Horace Mann by creating new policies informed by past experience, removing board of trustee members who were aware of the abuse and did nothing, conducting an external, independent investigation and removing abusers’ names from honor rolls and building plaques on campus; 3) healing and assisting former students who were victimized by issuing a public apology “which expresses compassion for what we have suffered” and establishing a fund to compensate victims; and, 4) changing the wider [regulatory] system.¹⁴⁵

In the letter, the victims focused on their request for an independent investigation:

Such an investigation would reassure us and the wider Horace Mann community of the administration’s determination to deal transparently with this crisis and to do all that is necessary to ensure that the climate which enabled abuse in the past can never again thrive at Horace Mann. Such investigations would do much to restore the credibility and integrity of our beloved alma mater.

The current administration cannot take credit for the good things in the past while disowning responsibility for the bad things in the past. The current administration

cannot ask us to help them financially because of the good things their predecessors did in our lives while refusing to help us deal with the consequences of the bad things their predecessors did in our lives. . .¹⁴⁶

After the letter was sent, there were several behind-the-scenes communications between Kelly and members of the Survivors' Group. "The nature of those conversations, at first, was conciliatory, with the headmaster Kelly emphasizing Horace Mann would do the right thing," said "Todd", a member. "Kelly was making representations and commitments that he had neither the authority nor the ability to follow through on. Often, the people who think they are doing the greatest service by going outside of the normal channels are the people who are least equipped to do that well."¹⁴⁷

The Survivors' Group did not receive a formal response from Horace Mann, but on June 24, 2012, a day after a second article appeared in *The New York Times*—this one containing an admission by former Horace Mann teacher, Tek Young Lin, that he "had sexual relations with students"¹⁴⁸—Kelly issued another letter to alumni and copied the board of trustees, employees and families:

While [Lin's] admission of guilt included an apology and rationale for his decisions, his apology is unacceptable and the behavior described inexcusable. At no time is it appropriate for a teacher, working with minors and in a position of undeniable authority and trust, to engage in a sexual relationship with a student. . . While I understand this waiting is not what some in the community want to hear at this juncture, the School is not going to rush those decisions and actions that are proving to be among the most important ever to face our community of learners and leaders.¹⁴⁹

The Victims Organize

The Survivors' Group and Horace Mann began to informally negotiate the best way to engage in a conversation. "At this point, neither party had retained lawyers—it was just about how to have a conversation," said "Todd." "But after going-back and forth, it became clear to us that Horace Mann was never going to schedule a meeting unless we hired a lawyer, because they simply were not taking us seriously," he said.¹⁵⁰

The Survivors' Group soon grew to more than 20 men and women. On July 11, 2012, frustrated that their previous letter had not been acknowledged, the Group sent a second letter to Kelly and the board of trustees, with a copy to the Horace Mann community:

So far the Trustees appear to be stonewalling us. Some of us have had informal, private conversations with Dr. Kelly. His tone has been reasonably constructive, but he has not told us he is responding to our letter on behalf of the Trustees. We have received inquiries from the school's lawyers, but this is not the same as hearing from the Trustees.

We have heard from the school’s PR firm through the news media, but this is not the same as hearing from the Trustees. . . . The Trustees have an opportunity to create a win-win situation, and we hope they will seize it. . . . We do not want to harm our alma mater. But we have been pressured to be silent too many times. The Trustees can no longer ignore us or delay their response. If the Trustees are unwilling to respond to us, instead continuing to communicate with us only through their lawyers and their PR firm, then they—not we—will have done serious harm to the school.¹⁵¹

On July 26, 2012, New York’s CBS News affiliate broadcast an interview with five victims. Though Horace Mann officials refused an on-camera interview, the school notified CBS that it “had plans for” the headmaster and board chair to meet with the victims “in the near future.”¹⁵²

Soon after, one of the victims introduced Gloria Allred, a lawyer known for taking on high-profile abuse and harassment cases, to members of the Survivors’ Group and within a week, most of the victims had hired her. “Just as we were hiring her, we learned Horace Mann had agreed that Steve Friedman and Dr. Kelly would meet with the victims,” said “Todd.” “Although a few people thought we should do it without a lawyer because it would otherwise be too confrontational, others felt we would not be sufficiently protected if we didn’t bring a lawyer,” he explained. Allred, two of her co-counsel, and two other attorneys representing other victims, attended. “Todd” believed that Horace Mann agreed to the meeting because they were concerned about the publicity that Allred would generate. “There was very little animosity toward Horace Mann [from the survivors] at this point. But some of us were beginning to realize we would never get them to the table without the threat of publicity,” said “Todd.”¹⁵³

On July 30, 2012, Cumming and another victim received an email from Board of Trustees Chairman Steven Friedman offering to meet with the Survivors’ Group in mid-August.¹⁵⁴ “He refused our request that other Trustees attend, and insisted that only he and Tom Kelly and legal counsel would attend on behalf of Horace Mann,” said Cumming.¹⁵⁵ “We requested that this be the first of a series of meetings to begin a dialogue with the Trustees, but Friedman rejected this,” said Cumming.¹⁵⁶

On August 6, 2012, Friedman posted another letter to the Horace Mann website, this time addressed to “Friends”:

. . . “Doing the right thing” about the past has vastly different meanings to different members of our community. . . . As the Board of Trustees of a not-for-profit educational institution, it is clear that our primary fiduciary responsibilities and legal obligations are to the school today and to its 1,800 current students.¹⁵⁷

The First Meeting

On August 15, 2012, a group of victims and Horace Mann representatives gathered to meet in Manhattan. Those in attendance included 16 Survivors' Group members (and some spouses/supporters), other victims and their lawyers (including Allred, Nathan Goldberg, Mariann Wang, Kevin Mulhearn and Rosemary Arnold). On the Horace Mann side, Friedman, Kelly and two of their lawyers from Schulte Roth & Zabel LLP attended. "Todd" characterized the meeting, which lasted a few hours, as extremely tense. "Any hope that anyone had that the nature of the conversation would be conciliatory was disappointed," said "Todd." "Because there were lawyers, both sides were lawyerly and it was very clear that both sides were posturing—not with a negative connotation—doing all they could to broadcast their position. In our case, that Horace Mann needed to do right by the survivors. In Horace Mann's case, to use [their] words, 'this is not my bill to pay.'"¹⁵⁸

Allred spoke first. In her opening remarks she emphasized the damage that had been done to the victims and made a general appeal for Horace Mann to work with the victims to start to remedy the damage. "She did not focus on money," said "Todd". "In fact, money was never discussed. No concrete asks were made by her on our behalf," he said.¹⁵⁹

After Allred spoke, Friedman took the floor and addressed the group for ten minutes. "He acknowledged that it was a terrible thing that happened and then said that the current administration had no responsibility for what had happened," said "Todd." Several times, Friedman said that he would not negotiate with the survivors separately—only as a group; he wanted to reach a global settlement. "One and done,' he said repeatedly," recalled "Todd." In addition, Friedman emphasized that there must not be any publicity and if there was any generated by the Survivors' Group or their lawyers, Horace Mann would walk away from the negotiations. "He looked straight at Allred with a laser focus at this point. She tentatively agreed but two survivors spoke up. One said, 'Well look, I can't promise that I'm not going to say something to somebody and you can't silence me. Another survivor expressed the same sentiments. Allred assured Friedman that she would not make any statements for the time being, and that seemed to mollify Friedman," said "Todd." Friedman did not address any of the Survivors' Group's other requests.¹⁶⁰

Kelly spoke next. "Kelly is the opposite of Friedman. He wants everybody to like him and consequently he tells everybody what they want to hear," said "Todd." For 40 minutes, Kelly rambled, "Todd" said, struggling to say that they would try to do the right thing, but offer no specifics.¹⁶¹

After the meeting, the Survivors' Group's lawyers said the victims had to end all communications with everyone at the school. Cumming and Kelly, however, continued to speak to each other. "It was a huge disservice [to the Survivors' Group]" "Todd" explained. "We got conflicting reports and stories. Kelly would always give the impression that Horace Mann

was going to do something more than what Horace Mann ended up doing. Consistently. And that's part of the reason that so much ill will was generated by them. Our expectations were heightened for a just and fair outcome. Every time we confronted the administration, we got just the opposite," he said.¹⁶²

* * *

On August 16, 2012, the Horace Mann Alumni Council, the governing body of the alumni association, gathered to meet with Friedman and Kelly. Some Council members had been calling for an independent investigation and anticipated that Friedman and Kelly would address the abuse and the school's plans to address the matter during the meeting. Outside the venue, a group of alumni gathered to stand vigil in support of the victims.

Friedman told Council members that the board was opposed to conducting an independent investigation and said that because investigators would lack subpoena power, he believed none of the accused abusers would admit having done anything wrong.¹⁶³ Friedman also stated concerns that conclusions drawn from such a report might make the school vulnerable to litigation.¹⁶⁴ In addition, the cost—which he estimated to be around \$12 million (comparable to Louis Freeh's Penn State report on the Sandusky abuse)—would be too high and might even go higher, given that Horace Mann's investigation would need to have a "wider scope."¹⁶⁵ A Council member asked if a more affordable option could be pursued and in response, Friedman said that "the Freeh report was the gold standard and anything less would be inadequate."¹⁶⁶

The conversation turned to whether the board would issue a letter of apology to the victims. An Alumni Council member noted that the private school Buckingham, Browne & Nichols (BB&N) in Cambridge, Massachusetts issued an apology letter in 2008 for the way it had handled the 1987 firing of a teacher accused of sexually inappropriate behavior.¹⁶⁷ Kelly, who claimed to have spoken with officials at BB&N, said he was told that the "very open apology opened up the flood gates on litigation and liability."¹⁶⁸ BB&N later settled a single civil suit for \$70,000.¹⁶⁹

In September 2012, the Horace Mann Alumni Council affirmatively voted to pass a resolution for the board to commission an investigation into the sexual abuse. The board did not respond in any way to the resolution.¹⁷⁰

A New School Year Begins

On September 4, 2012, Horace Mann students returned from their summer vacations to learn that several changes had been made at the school as a result of the abuse revelations. The

school had eliminated Class Day awards, honorary chairs and locations on campus that had been named for “retired or former faculty of concern,” according to the school newspaper, *The Horace Mann Record*. Clark Field, which had been dedicated to R. Inslee Clark Jr., was renamed the Main Field, and signs with Tek Young Lin’s name—at the Zen Garden and English department—were taken down.¹⁷¹ Kelly was quoted in the HM Record as stating, “After careful consideration, the school’s Administrative Council made the decision to remove all signage and naming opportunities associated with either retired or former employees who may have been involved with one or more of the hurtful stories shared about our past.”¹⁷² He sent an e-mail to the newspaper, expressing that, although those in the Horace Mann community had differing views on the appropriate steps to take to heal and move forward, current students should still be able to “enjoy their time at Horace Mann School and not to refrain from feeling good about their successes.”¹⁷³

During the first week of school, Kelly and Upper Division Head David Schiller addressed the growing scandal at the first assembly. Kelly also met with the Lower Division’s fourth and fifth grade students. During the assemblies, the administrators explained some of the actions that had been taken over the summer as well as plans to hold educational workshops. Horace Mann had hired a private child protection organization, The New York Society for the Prevention of Cruelty to Children, to conduct workshops on sexual abuse prevention with Horace Mann students. The workshops were designed to offer students “the knowledge and skills needed to protect themselves from sexual abuse from any source and in any situation,” said the organization’s Executive Director Dr. Mary L. Pulido.¹⁷⁴ “We want to do this with minimum disruption to the life of the school,” said Schiller. “We don’t want to make this the center of everybody’s life for a week.”¹⁷⁵ Dr. Daniel Rothstein, Director of Counseling and Guidance for the Upper Division said that while most students knew the topic was important, he felt that they understand that the abuse was “historical. . .[and] not the school now.”¹⁷⁶

The Mediation

After a series of meetings and calls between Horace Mann and the Survivors’ Group’s respective lawyers following the August meeting, the parties agreed in late 2012 to mediation to occur in early 2013. “Many of the survivors felt that they would do it only if it included non-monetary as well as monetary matters,” said “Todd”. “Horace Mann’s lawyers did not want to include non-monetary matters. Why? I don’t know. They were so focused on money, litigation,” he said. But by the time the victims entered the mediation, they were under the impression from their lawyers that Horace Mann had agreed to discuss non-monetary redress.¹⁷⁷

The two-week mediation was conducted in March 2013 at the law offices of Schulte Roth & Zabel in midtown Manhattan. On the first day, a Monday, the survivors met briefly with their own lawyers in the morning and in the afternoon. The survivors’ lawyers presented to

mediators and Horace Mann representatives with survivors looking on. From Tuesday to Friday, the survivors had an opportunity to tell their stories. “Todd” explained the process:

Each day, a different member of the settlement committee came to hear an individual 45 to 60 minute presentation from some number of victims. In the room were representatives from Horace Mann’s insurance companies, their lawyers, the victim and his or her lawyers, Kelly, a member of the board’s settlement committee, and Horace Mann’s lawyers. You would go in [and be given] 45 to 60 minutes [to speak], completely one way. No questions were asked so there was no interrogation. The lawyers would sometimes prompt the victim by asking questions. The victims had already given written statements to their lawyers, which had gone to Horace Mann and their lawyers. Some just presented the facts of what happened and others talked about their life since and how it affected them. Some talked about what they wanted. Some rambled incoherently. I talked about how it had affected me and how my life had been different because of it. And what I hoped they would do to restore balance and help me and other victims. For Horace Mann, the combination of the written and oral statements was to be able to go to the actuarial tables and figure out the equitable settlement. Horace Mann probably would have been happy not to have the oral presentations at all. I think they were doing it to making the victims feel heard.¹⁷⁸

“The two sides were never in the same room together with the mediator,” said “Todd”. “Usually a mediator facilitates a discussion between the two parties. They probably did facilitate between the victims’ lawyers and Horace Mann’s lawyers, but part of the reason victims came away with such a bad taste was because they could never have any kind of conversation or dialogue,” said “Todd.” “They were one way presentations—lawyers speaking to one another—but there was no opportunity for SG members to look into Steve Friedman’s eyes and say, ‘I was hurt’ and for him to say ‘I believe you and I’m sorry that happened to you and I will do everything I can to undo the damage that was done to that little kid,’ but nothing like that happened. So many people went in looking for closure and were utterly deprived of it because HM made it only about money,” said “Todd”.¹⁷⁹

On the second day of the second week of the mediation, the victims were told that Horace Mann would not discuss non-monetary compensation. “Todd” explained:

They said the settlement committee did not have authority from the full board to negotiate non-monetary items. They never saw it as anything other than something to win from a pecuniary perspective. Morals didn’t enter into it. It is tragic. They could so easily have set themselves up as one of the finest academic institutions and also a paradigm of morality by saying, what happened is terribly wrong; we’ll look into it and tell you what happened. For some victims, it was about the money but for many, it never

really was . . . When money was the only thing Horace Mann would engage on, it became a proxy for justice and healing.¹⁸⁰

The following Monday, negotiations opened and by Wednesday, settlements began to close. By Friday, all but a handful of those who were going to settle had.¹⁸¹ The victims' lawyers told the group that Horace Mann might have been concerned that if they conducted an independent investigation—thereby substantiating the facts of the abuse claims—it would buttress the strength of the victims' claims. This might lead to higher settlements or court awards and potentially cause more victims to come forward and give people who had not been abused the ability to construct fake stories.¹⁸² “The fact that that might help some people heal was clearly irrelevant to them,” said “Todd”. He explained:

They completely miscalculated how to discharge their fiduciary responsibility and were badly advised by their lawyers and fellow board members. In retrospect—and looking holistically—the focus purely on immediate potential litigation exposure and only on that was an incomplete and inaccurate way to assess the best way to benefit the school. If they had thought about the consequences to the school's reputation of continuing the cover up, they would have realized that the only way to discharge their responsibility properly, was to publish what had happened. There were lots of role models in other schools and institutions. It was clear that that was what you should do to protect your reputation and future.¹⁸³

Those victims who accepted financial settlements had to agree not to discuss either the mediation or the settlement terms, though they were free to talk about the abuse that had happened to them. Six victims declined to accept a settlement from Horace Mann. “Todd” explained:

They told people they were making an exploding offer. The offer is X and if you don't decide by the end of the day, we withdraw the offer. That compelled many people to settle, but others said they couldn't respond to the offer because it wasn't a complete offer. Six survivors, whether courageous or crazy, called their bluff. They ended up walking out with a binding offer that stated it was valid until the board was able to meet and circle back on the non-monetary items. A few of the victims who had taken their settlement on the understanding that it would not be valid beyond Friday were bereft and felt they had sold out their principles.¹⁸⁴

The six who had not settled wrote to the school with their requirements/demands for settlement and were told the requests would be addressed by the board. Though the board did eventually agree to meet some of the victims' demands, including writing an apology and removing former school head Eileen Mullady's portrait from the school, they did not agree to the victims' chief request -- an independent investigation. Two of the six settled soon after and another two eventually, but two continued to demand a neutral third party accounting.¹⁸⁵

Those who had been abused in the 1990s—and therefore were the most likely to have been able to challenge the statute of limitations for civil suits—received the highest amounts.¹⁸⁶ “The settlement payouts... don’t come close to compensating the victims for the horrendous abuse they endured during their formative years,” said attorney Rosemarie Arnold whose client rejected the offer and filed a lawsuit against the school in New Jersey. “My client, who is one of the most severely abused, has shown tremendous courage in refusing to accept a pittance in exchange for his entitlement to justice and desire to hold those responsible for his torment fully accountable,” she said.¹⁸⁷ Arnold said she felt her case was strong because of New Jersey’s “more flexible” statute of limitations policy.¹⁸⁸ In April 2015, Arnold’s client settled with Horace Mann for an amount rumored to be several million dollars.¹⁸⁹

Firestorm Redux

On March 28, 2013 – within a week after the mediation session had ended -- Paul Finn of Commonwealth Mediation wrote to Allred to tell her that he and the other mediator who presided over the mediation would be recommending that Horace Mann conduct an independent investigation into the abuse—though his firm would not be heading such an investigation. “We are neutrals and will remain the same. We will ask the Board to conduct an independent investigation as part of our recommendations, but we will not ask the Board to hire us to do that investigation,” Finn wrote.¹⁹⁰

At an April 23 faculty awards dinner—three days before the Bronx DA issued its investigation findings—Friedman told teachers that trustees’ chief concerns were protecting jobs, the endowment and the current students’ education.¹⁹¹ A month later, late on May 24th, the Friday of Memorial Day weekend, Friedman and Kelly posted a letter on Horace Mann’s website explaining that settlements had been reached with the majority of abuse victims. For the first time, Horace Mann acknowledged the abuse: “Based on what was reported by the Bronx DA’s office in its public statement of April 26 and what was learned through the mediation process, it is clear that between 1962 and 1996, former teachers and administrators in fact did abuse, in various degrees, students at Horace Mann School.”¹⁹² The letter included an apology and outlined additional steps the school was taking to prevent abuse in the future. The letter also said Horace Mann was preparing “an independent summary of the reported abuses” which would be drawn entirely from victims’ confidential impact statements given during the mediation,¹⁹³ rather than the independent investigation the victims had been demanding.

Members of the Survivors’ Group expressed anger over what they deemed a “weak and overdue” apology.¹⁹⁴ The Survivors’ Group responded with a letter of its own:

. . . The school has apologized, but the quality of that apology is undermined if the Trustees do not want to know fully the extent and nature of the problem for which the

school is apologizing. . . . The Trustees have still not responded substantively to our chief request—that they commission an independent investigation. The longer the Trustees resist this, the more they communicate that they do not want to know the full truth about the scale of the abuse or the cover-up perpetrated by the school. . . . If Trustees today still refuse an independent investigation of our reports, how can today’s students trust HM to investigate fully if, God forbid, they ever have reason to report similar abuse?¹⁹⁵

After reading Horace Mann’s letter, Allred contacted Commonwealth Mediation and asked whether it was in fact preparing a summary based on the victims’ accounts. Finn replied, “We have not been hired to do anything.”¹⁹⁶ Horace Mann’s lawyers did not respond to Allred’s inquiry about the summary.¹⁹⁷ In a later statement, Horace Mann maintained that it had “accepted the mediators’ offer to prepare a summary report at no fee.”¹⁹⁸ But before mediation, representative lawyers for Horace Mann and the victims had agreed in writing that the individual victim impact statements would be confidential.

On May 30, Allred responded to Horace Mann’s letter:

Horace Mann announced . . . that it would publish a report summarizing our clients’ statements. This “summary” is a betrayal. It was not what the survivors had asked for or wanted. It is contrary to the representations and agreements made to and with the survivors. This summary is also contrary to what the survivors had been told would be considered by the Board of Trustees at Horace Mann.¹⁹⁹

Allred wrote that the victims wanted a “full independent process that includes an examination of school records and interviews of not only abusers but of school board members, administrators and teachers who observed and/or knew of the abuse and either took no action or actively took steps to ensure that the abuses stay hidden.”²⁰⁰ Allred continued:

. . . In light of Mr. Finn’s response, we believe it is clear that Horace Mann has chosen falsely to state to the world that the mediators would prepare an “independent” report of what they learned at the mediation, knowing that no such report will ever be prepared. We believe this is a callous attempt to deflect attention from the fact that Horace Mann is continuing to refuse to conduct an independent investigation.²⁰¹

Later that day, a spokesperson for Horace Mann said that Allred “seriously misstates what has transpired.”²⁰² Nevertheless, the next day, the school released another statement, indicating that it would not release the promised report without the victims’ permission. “While Horace Mann is willing to make the report available, if the survivors wish that the report not be made public, it won’t be.”²⁰³

On October 16, Kelly confirmed that an independent investigation would not move forward. “The school will not participate in an independent investigation. . . . An investigation

would ruin the school's finances, and without evidence, would only be slanderous," Kelly told a gathering of the Horace Mann community, at an event sponsored by the Horace Mann Parent's Association.²⁰⁴

Horace Mann's Finances

In 1998, the board of trustees, then chaired by Michael Hess, planned a significant expansion to include a new middle school, library, theater and cafeteria.²⁰⁵ To pay for the construction, the school took on two tranches of debt in the late 1990s and early 2000s, totaling \$103.5 million—more debt than any other independent school in the nation at that time.²⁰⁶ The school floated bonds certified by the city's Industrial Development Agency (IDA). According to documents filed with the IDA, Horace Mann's total debt was scheduled to reach \$339 million, including principal and interest, over the 42-year life of the bonds.²⁰⁷

The debt was structured to require payments of interest only for the first ten years (approximately \$5 million per year) followed by 20 years of interest and principal (approximately \$10 million per year). According to a former administrator, Horace Mann, despite its significant endowment, was under extreme financial pressure, which would continue until 2031, making it important to defend the school's cash flow.²⁰⁸

* * *

On July 3, 2012, the school notified its insurance companies of abuse claims being made by former students. The school asked the insurers to attend the mediation. Though some did, three insurers, New Hampshire Insurance Co., Granite State Insurance Co., and their claims administrator, Chartis Claims—all divisions of American International Group (AIG)—refused to attend the mediation, citing Horace Mann's conditions: namely that the insurers would have to destroy all documents after the meeting and were prohibited from investigating any of the claims they heard during the mediation.²⁰⁹ The AIG insurers had issued policies to the school that covered liability for sexual abuse between June 1992 and June 1996.²¹⁰ In December 2012, Chartis denied Horace Mann's claim, citing its failure "to provide timely notice of the claims."²¹¹

After the mediation was concluded and the settlement deals were made, the school sent the AIG insurers a bill for the \$1.05 million that Horace Mann paid victims who had been abused between 1992 and 1996: Ben Balter's mother (\$900,000) and another victim (\$150,000). The insurers refused to pay on the grounds that the school failed to share information about the abuse with them. "The attitude of Horace Mann, after its cooperation was sought, was undoubtedly one of willful and avowed obstruction," the companies said.²¹²

In August 2013, Horace Mann filed suit against the AIG companies for breaching their policies. “Not only did AIG deny coverage, but it refused to even participate in the mediation that resulted in the settlement of the vast majority of claims against the school,” a school spokesman said. “AIG now stands alone as the only insurer that has not lived up to its responsibilities under its policy. AIG’s allegation of obstruction is unsupported by the facts and is consistent with its poor behavior throughout this process.”²¹³ In a statement, the school admitted that the statute of limitations precluded the victims from suing, but said that the school wanted to settle the majority of the claims because the victims “are entitled to be embraced by the warmth and ethic of care characteristic of Horace Mann School.”²¹⁴

In their filings with the Manhattan Supreme Court, the companies wrote that the victims’ claims were “fully defensible due to New York’s statute of limitations. . . . Neither of the two pertinent asserted claims was legally viable and should have been vigorously defended rather than settled.”²¹⁵ Horace Mann’s “chosen strategy was to preserve its reputation by quickly settling all purported claims regardless of viability and then foisting responsibility for payment onto its insurers,” the companies said in a motion to dismiss the case, adding that “member companies are not the guarantors of Horace Mann’s reputation.”²¹⁶ The insurers also noted that while the victims’ lawyers granted them permission to use the mediation documents for purposes of assessing insurance coverage claims, the school continued to “cloak the basic facts [of the abuse] in perpetual secrecy.”²¹⁷

Horace Mann asked the court to seal documents related to its settlement with the two victims to protect their privacy. The documents included Balter’s 1993 letter to Foote as well as questionnaires both victims had answered about their abuse and the amounts of the settlements.²¹⁸ Howard Epstein, Horace Mann’s attorney, said that the AIG companies were responsible for bringing “this dispute into a public forum” when it refused to reimburse the school, but that “the former students’ right to privacy should not suffer as a result.”²¹⁹ One of the attorneys who represented a victim during the mediation, Rosemary Arnold, said the school’s efforts to seal the documents were not to protect the victims but to protect the school. “This is Horace Mann lawyers saying we want these records sealed because it’s better for us,” she said.²²⁰ Indeed, Horace Mann’s submissions to the court indicated it wanted the seal to shield the school from future claims from other victims. “Given that additional claims are pending and new claims remain a possibility, it would be detrimental to potential future settlements if settlement related documents were made public at this time,” wrote Epstein in papers filed in Manhattan Supreme Court.²²¹ He also wrote that doing so would give victims “an unfair negotiating advantage.”²²²

During a hearing on March 6, 2014, Manhattan Supreme Court Justice Charles Ramos, himself a Horace Mann alumnus, ordered the school into mediation after telling its lawyers they “might have a weak case.”²²³ Judge Ramos asked why Horace Mann administrators waited 25 years to notify its carriers of the abuse allegations, and wanted to know if the school’s trustees

had been notified of Balter’s letter. Epstein said, “There was no evidence of that.” But when Judge Ramos pointed out that court filings indicated that trustees had been aware of the abuse claims, Epstein acknowledged: “Well, some trustees.” “One will do,” said Judge Ramos, indicating that if any of the trustees knew about the allegations and did not report it, the insurance companies may not be responsible for a payout. “They’ve got some good defenses here. This (public legal fight) doesn’t do anybody any good,” Judge Ramos told the lawyers at the bench.²²⁴

The next day, a New Jersey judge ruled that one victim’s lawsuit, filed in that state because some of the abuse occurred there, could proceed. Though Horace Mann lawyers argued that New Jersey did not have jurisdiction, the victim’s lawyer, Rosemary Arnold, noted that the victim was abused on Glee Club trips in New Jersey: “They tried to get off on a technicality.”²²⁵ Of Horace Mann, Arnold said, “Now they have to answer questions about what happened and why they didn’t stop it,” adding that the ruling might clear the way for other victims to file suits. “The main issue in our case is the fact that Horace Mann knew that Somary was a sexual predator before my client even went to the school,” said Arnold.²²⁶ In her decision, Judge Lisa Perez Friscia wrote that the court found “plaintiff has set forth sufficient facts to maintain a claim for negligent supervision in New Jersey.”²²⁷

The Future for Horace Mann

Between the fall of 2012 and August 2013, nine of 35 Horace Mann trustees had resigned from the board. Four were reported to have left specifically because of concerns over the school’s handling of the scandal.²²⁸ Departures included Jonathan M. Meltzer (class of 1983), a partner with Goldman Sachs; retail developer Robert Heidenberg (class of 1976), journalist Beth Kobliner, investment firm partner Daniel Shuchman, philanthropist Jamshid Ehsani, and attorney Deborah C. Cogut, whose husband was founder of private equity firm, Pegasus Capital.²²⁹

On March 13, 2015, after nine years as board chair, Friedman announced his retirement. In his farewell letter to the Horace Mann community, he noted that while he had found his role exhilarating and challenging, it had also been also “deeply satisfying”:

I believe we have “left it on the field” in terms of initiatives in curriculum and program development, in arts, athletics, diversity, community service, and sustainability, to name but a few, while creating the financial strength to help those in need . . .and to try to help heal the wounds in our community created decades ago.²³⁰

Exhibit 2: Letter from Benjamin Balter to Headmaster Foote

September 29, 1993

Dear Mr. Foote,

I am writing concerning the faculty member Johannes Somary, chairman of the arts department. I have known Mr. Somary for almost five years and have respect for him as a musician. However, recently, Mr. Somary has made grossly inappropriate sexual advances towards me. This behavior has persisted for several months now, and I feel it only appropriate that the administration be notified. I am not simply making an unfounded accusation or exaggerating perfectly innocent events. Mr. Somary's actions have only one possible interpretation and are clearly unjustified on a professional or personal level. The purpose of a school such as Horace Mann is to provide a safe and comfortable learning environment. This goal is clearly made impossible by the inappropriate actions of teachers such as Mr. Somary. It is unfair to me and to other students to have such teachers in our midst for they compromise not only the goals of the Horace Mann school, but also the integrity of education in general.

Yours Truly, Benjamin Balter (12)

Source: Letter from Benjamin Balter to HM Headmaster Foote in 1993,
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