



INVESTIGATIVE REPORT OF JULY 31, 2018 INCIDENT

OCTOBER 28, 2018

I. Executive Summary

Smith College (“Smith” or the “College”) employee [REDACTED] (the “Reported Party”) raised concerns on Facebook and in the press, related to events in the living room of Smith residence hall Tyler House on Tuesday, July 31, 2018 (the “Incident”). She specifically described that the police were called to investigate her presence in Tyler House, which she wrote “reflect[ed] a pattern of discrimination toward [her] as a black woman that has spanned throughout [her] year here from non-black staff and students at the college.”¹ See Exhibit 1. The College identified employee [REDACTED] (the “Caller”) as the individual who had contacted the Smith College Campus Police Department (“Campus Police”). Approximately a month after the Incident, the Reported Party also described in the press that [REDACTED] (the “Dining Employee”), who knew the Reported Party, told the Reported Party that she was not “supposed to” eat in the Tyler House dining area, and then was with the Caller and observed the Reported Party in the living room, before Campus Police arrived.

Promptly after the Incident, the College requested that Anthony Cruthird and Kate Upatham of Sanghavi Law Office, LLC (the “Investigative Team”),² conduct an investigation related to the Incident, to determine whether any employees violated the College’s Affirmative Action Policy (the “Policy”) in connection with the Incident. The College also asked that the Investigative Team, irrespective of its findings, share recommendations, based on the information gathered during this investigation, for ways Smith could improve its policies and practices related to observations of people in locations that they were not expected on campus (“suspicious persons”).³

The Investigative Team was given full access to witnesses and documentation in conducting its investigation. The Investigative Team identified eleven individuals to be interviewed. The Investigative Team also requested and reviewed extensive relevant documentation and visited Tyler House where the Incident occurred. This report records the relevant information gathered.

This report also records the Investigative Team’s analysis of the actions of: the Caller; the

¹ The Reported Party did not identify in her interview any other events that might have illustrated a “pattern of discrimination,” related to her time as a Smith student.

² For the sake of simplicity, the term “Investigative Team” is used throughout this Investigative Report to refer to any action, such as an interview, conducted by one or both members of the Investigative Team.

³ The term “suspicious person” is used throughout this report, since it was the term used to identify the Reported Party in Campus Police call logs during the Incident. The Investigative Team notes, however, that information provided by Campus Police members in interviews, and found in Campus Police documentation, reflected a shift by Campus Police to using the term “suspicious activity,” which focuses on behavior rather than identity.

Dining Employee; [REDACTED] (the “Dispatcher”), the Campus Police dispatcher; and [REDACTED] (the “Responding Officer”), the Campus Police Officer who responded to the call about the Reported Party. The information gathered was not sufficient to find any violations of the Policy by any College employee during the Incident.

Appendix A to this report records additional detail gathered by the Investigative Team related to protocols, relevant training, and practices related to “suspicious persons” by: employees such as the Caller; Dispatchers; and Campus Police.

Appendix B to this report records recommendations by the Investigative Team, in response to the College’s request described above. These recommendations relate to both the Incident itself and to the information gathered regarding protocols, training, and practices for response to “suspicious persons.”

II. Investigative Process

The Investigative Team interviewed the following 11 individuals (the “Interviewees”) on the following dates, for this investigation:

- August 8, 2018 – [REDACTED] (the “Director of Building Services”)⁴ – Director of Building Services
- August 8, 2018 – Dispatcher⁵ – Dispatcher
- August 8, 2018 – Responding Officer⁶ – Responding Officer
- August 21, 2018 – [REDACTED] (the “Chief”)⁷ – Interim Chief of Smith, Mt. Holyoke, and Hampshire Campus Police
- September 4, 2018 – [REDACTED] (the “Dispatch Supervisor”)⁸ – Dispatch Supervisor
- September 4, 2018 – Caller⁹ – Custodial Employee
- September 14, 2018 – [REDACTED] (the “Deputy Chief”)¹⁰ – Deputy Chief of Mt. Holyoke Campus Police
- September 14, 2018 – Dining Employee¹¹ – Dining Room Coordinator
- September 14, 2018 – Reported Party¹² – Summer Programs employee and Smith student
- September 24, 2018 – [REDACTED] (the “Lieutenant”)¹³ – Lieutenant, Interim Officer in

⁴ The Investigative Team interviewed the Director of Building Services in person.

⁵ The Investigative Team interviewed the Dispatcher in person.

⁶ The Investigative Team interviewed the Responding Officer in person.

⁷ The Investigative Team interviewed the Chief in person. The Investigative Team also spoke with the Chief by telephone on October 17, 2018.

⁸ The Investigative Team interviewed the Dispatch Supervisor in person.

⁹ The Investigative Team interviewed the Caller in person. The Caller was accompanied in his interview by Union Attorney [REDACTED] Local 263 Union President [REDACTED] and Local 263 Grievance Counselor [REDACTED].

¹⁰ The Investigative Team interviewed the Deputy Chief in person.

¹¹ The Investigative Team interviewed the Dining Employee in person. The Dining Employee was accompanied in her interview by Local 211 President [REDACTED] and Local 211 Sergeant at Arms [REDACTED].

¹² The Investigative Team interviewed the Reported Party in person. The Reported Party was accompanied in her interview by Attorney [REDACTED].

¹³ The Investigative Team interviewed the Lieutenant by telephone.

Charge Smith College Campus Police

- September 26, 2018 – [REDACTED] (the “Director of Precollege Programs”)¹⁴ – Director, Office of Precollege Programs

The Investigative Team also reviewed the following:

1. Social media posts by the Reported Party related to the Incident (Exhibit 1)
2. Smith College Affirmative Action Policy (Exhibit 2)
3. Diagram illustrating the layout of the first floor of Tyler House, including the foyer, annotated by the Investigative Team (Exhibit 3)
4. Picture of French doors leading into the living room from the foyer (Exhibit 4)
5. Picture depicting the large teddy bear in the living room (Exhibit 5)
6. Picture of couch viewed through French doors from living room to foyer (Exhibit 6)
7. Picture of couch in living room (Exhibit 7)
8. Audio recording of the Caller calling Campus Police (See Exhibit 8)
9. Call log related to the Incident (Exhibit 9)
10. Audio recording of dispatch of the Responding Officer (See Exhibit 10)
11. First video recording posted on Facebook by the Reported Party (Exhibit 11)
12. Image showing two videos posted by the Reported Party on Facebook (Exhibit 12)
13. Second video recording posted on Facebook by the Reported Party (Exhibit 13)
14. Audio recording of the Responding Officer call to dispatch (Exhibit 14)
15. Community Incident Report (Exhibit 15)
16. August 3, 2018 CBS Boston article about the Incident (Exhibit 16)
17. August 3, 2018 CNN article about the Incident (Exhibit 17)
18. September 11, 2018 Refinery 29 article about the Incident (Exhibit 18)
19. September 13, 2018 ACLU profile of the Reported Party (Exhibit 19)
20. Summer at Smith College Staff Handbook for 2018 (Exhibit 20)
21. “Reporting Suspicious Activity” from Campus Police website (Exhibit 21)
22. Relevant excerpts from Campus Police Department Policies & Procedures Manual (Exhibit 22)
23. Bias-Based Profiling Report 2015 Summary (Exhibit 23)
24. Bias-Based Profiling Report 2016 Summary (Exhibit 24)
25. Campus Police logs for reports of suspicious persons, suspicious activity, and suspicious autos from January 1, 2017 to August 10, 2017 (Exhibit 25)

III. The Policy

The Policy is relevant to this investigation, since the Reported Party was on the Smith campus in her capacity as a Summer at Smith College (“Summer Programs”)¹⁵ employee at the time of the Incident. See Exhibit 2. The Policy states in part that Smith College provides equal employment

¹⁴ The Investigative Team interviewed the Director of Precollege Programs by telephone.

¹⁵ According to its website, the Summer at Smith College program permits “high school girls who want to pursue their academic interests in and out of the classroom, [to] strengthen their college applications and meet other motivated and ambitious college-bound young women.” See <https://www.smith.edu/academics/precollege-programs>. During this investigation, the Investigative Team learned that other programs may use the Smith campus during the summer, but those programs are not discussed directly in this report.

opportunities without regard to race, color or national origin. See Exhibit 2. It states that its employees address and do “not tolerat[e] unlawful harassment in the workplace.” See Exhibit 2. The Policy states that “[i]t is the responsibility of each supervisor of the College to ensure affirmative implementation of these policies to avoid any discrimination in employment. All employees are expected to recognize these policies and cooperate with their implementation. Intentional violation of these policies is a basis for employee disciplinary action.” See Exhibit 2.

The following section of the Policy is relevant to this investigation:

Smith College affirms that diversity in all aspects of the educational environment is necessary for achieving the highest level of academic excellence. As a central element of this commitment to excellence, the College seeks to provide an environment that fosters the recruitment and success of a diverse student, faculty and staff community. The College aspires to create and maintain an educational, working, and living environment that is respectful of differences and free from harassing behavior.

It is the policy of Smith College to provide equal employment opportunities without regard to race, color, religion, sex, national origin, ancestry, age, sexual orientation, gender identity, disability, genetic information, veteran, special disabled status, pregnancy or pregnancy-related conditions. This policy relates to all phases of employment, including, but not limited to, recruiting, employment, placement, promotion, demotion or transfer, reduction of workforce and termination, rates of pay or other form of compensation, professional development and training, the use of all facilities, and participation in all College-sponsored employee activities.

Smith College employees carry out this commitment by:

1. Lawfully administering all employment policies;
2. Addressing and not tolerating unlawful harassment in the workplace;
3. Addressing and not tolerating unprofessional conduct in the workplace.

[. . .]

It is the responsibility of each supervisor of the College to ensure affirmative implementation of these policies to avoid any discrimination in employment. All employees are expected to recognize these policies and cooperate with their implementation. Intentional violation of these policies is a basis for employee disciplinary action. Employees and applicants shall not be subjected to harassment or intimidation because they have: (1) filed a complaint; (2) assisted or participated in an investigation, compliance review, hearing or any other activity related to the administration of any federal, state, or local law requiring equal employment opportunity; (3) opposed any act or practice made unlawful by any federal, state, or local law requiring equal opportunity; or (4) exercised any other legal right protected by federal, state, or local law requiring equal opportunity.

See Exhibit 2.

IV. Information Gathered Relevant to the Incident

The Caller, [REDACTED] told the Investigative Team that he had worked for Smith [REDACTED]

The Caller said that he had not called the Campus Police prior to the Incident, except to report a clock that he identified was stolen from a dorm. The Investigative Team learned that in June 2017, the Caller made a report to the Campus Police regarding an askew screen and a handprint on a window of a first-floor kitchenette. The report was categorized as a report of “suspicious activity.”

The Caller informed the Investigative Team in his interview that he had difficulties hearing.

A. 7:49 a.m. July 31, 2018 - The Caller Entered Tyler House

The Caller, the Director of Building Services, and the Dining Employee each told the Investigative Team that on the day of the Incident, the Tyler House dining area was being used by the Summer Programs participants, but no one was residing in Tyler House and it was not otherwise in use.

The Caller said that on the day of the Incident, he was working in Tyler House which, along with other dorms, was “open for cleaning, getting ready for” an upcoming program.

The Investigative Team learned that members of the campus community could access buildings and services using a card issued by the College.¹⁶ According to card swipe information for Tyler House on July 31, 2018, the Caller entered the building at 7:49 a.m. through the porch door of Tyler House. Card swipe data reflected that he entered and exited the building several times after that first entry.

B. 12:38 p.m. July 31, 2018 - The Reported Party Appeared to Enter Tyler House

The Reported Party, who identified as black, told the Investigative Team that at the time of the Incident she was a [REDACTED] Smith student. She said that during the summer of 2018 she was working as [REDACTED] [REDACTED] part of the Summer Programs. She said that at the time of the Incident,

¹⁶ According to the Smith website, the “Smith College OneCard is a multi-purpose photo ID card issued to eligible Smith community members. In addition to identifying your status at Smith, your OneCard provides access to a variety of campus services.” See <https://www.smith.edu/its/onecard/>. The Reported Party also described that she was issued a “Keycard” that gave her access to particular campus buildings related to her work as a Summer Programs employee.

[REDACTED] she had card access to Tyler House and Cutter-Ziskind for dining.

The Reported Party said that on the day of the Incident, she woke late¹⁸ and went to Tyler House, which was on her way to the gym, so that she could eat from the dining area before going to exercise. She said that she arrived at Tyler House at approximately 12:30 p.m. and she entered through the door that she said led to the living room.

Card swipe data for July 31, 2018 reflected that at 12:38 p.m. at the front door of Tyler House there was:

Rejected (Expired clearance) '[The Reported Party] [Default]' (Card: 28042) at 'Tyler House Front Reader Door [Default]' (IN).
Admitted 'Package 3, Summer Programs [Default]' (Card: 7989) at 'Tyler House Front Reader Door [Default]' (IN).

The Reported Party said that she “usually put [her] stuff down [in the living room] before going into the dining area,” and she did so that day.

C. The Dining Employee and the Reported Party Spoke

The Dining Employee, who said that she had worked for Smith Dining Services [REDACTED]

The Dining Employee and the Reported Party each described that they knew one another from the 2017-2018 academic year, when the Reported Party had worked in Dining Services with the Dining Employee. The Dining Employee said that her relationship with the Reported Party before the Incident was “fine.”

The Dining Employee and the Reported Party each described that they saw one another close to the middle of the lunch service on the day of the Incident. They agreed that the Reported Party had food on her plate when they spoke, and they agreed that their conversation was brief. Otherwise, they provided the following different descriptions of their conversation:

- **The Dining Employee:** The Dining Employee said that she said to the Reported Party, “I haven’t seen you, you’re in this camp?” or, “Hi, I didn’t know you’re working for this camp?” The Dining Employee said that the Reported Party replied, “Yes, I’m in this camp,” or, “Yeah, I’m working for [a group the name of which the Dining Employee did not recall].” The Dining Employee said that she replied, “Oh,” or “Oh, okay.” The Dining Employee said that the Reported Party did not show the Dining Employee her

¹⁸ The Reported Party said that she was scheduled to work from 4 p.m. to 11 p.m. that day.

identification, explaining that the Dining Employee “knew who she was.”¹⁹

- ***The Reported Party:*** The Reported Party said that the Dining Employee approached her and said, “You know you’re not supposed to eat here,” and the Reported Party replied, “Actually, I have access to this hall. No one let me in here.” The Reported Party said that the Dining Employee said, “It’s fine, I’m just letting you know.” Later in her interview, the Reported Party said that she offered to, but did not, show the Dining Employee her Keycard.²⁰ When asked about her understanding of the reason the Dining Employee would have told the Reported Party that she was not supposed to eat in Tyler House, the Reported Party said that she was “not sure,” and she described the interaction as “different” from her prior interactions with the Dining Employee.

The Dining Employee and the Reported Party agreed that after their exchange, they did not interact further in the dining area. The Dining Employee said that she did not see what the Reported Party did after their interaction, and did not observe her exiting the dining area. The Reported Party said that she left the dining area after speaking to the Dining Employee.

D. The Reported Party Moved to the Living Room

The Reported Party said that she took her plate of food to the Tyler House living room, where she sat down and read a book, and spent time on her phone and her iPad.

The Investigative Team observed that the living room was across the hallway (the “foyer”) from the dining area, inside Tyler House (Exhibit 3 illustrates the layout of the first floor of Tyler House, including the foyer). The dining area and living room were each separated from the foyer by French doors. (Exhibit 4 depicts the French doors separating the living room from the foyer).

E. 1:30 p.m. The Dining Area Closed

The Caller, the Director of Building Services, and the Dining Employee each identified that during the summer, lunch in the Tyler dining area ended at 1:30 p.m. The Dining Employee said that at times people would remain in the Tyler dining area after 1:30 p.m. The Caller recalled that by 1:30 p.m. in the summer, the Tyler dining area was usually empty, and he recalled that it was empty the day of the Incident.

F. At or Around 1:40 or 1:45 p.m. The Caller and the Reported Party, and Possibly the Dining Employee, Saw One Another

1. The Caller Saw the Reported Party

The Caller said that at around 1:40 or 1:45 p.m. on the day of the Incident, he was emptying kitchen waste and dining area waste after lunch when he heard a door or two close, which was

¹⁹ The Dining Employee said that in general, she had not ever asked any student to show her identification, since no card was required to be shown by any person inside the dining area.

²⁰ The Reported Party said that her Keycard was different from the OneCard, and it offered her access to certain buildings for [REDACTED].

“kind of off.”²¹

The Caller said that he did not see anyone in the hallway or front foyer of the building, so he walked through the foyer to investigate the noise. He said that he did not see anyone at the front door. He said that he then walked toward the back of the building, past the living room doors, where he “thought [he] saw some legs folded up on the couch” in the living room. The Caller described that the person’s feet were on the couch, and knees were in the air, with legs facing the French doors. The Caller said that the person wore shorts and he could see that the person was black from the skin on the person’s legs. The Caller said that a large teddy bear on the couch²² obscured his ability to see the rest of the person through the living room doors (Exhibit 5 depicts the large teddy bear). The Caller said that the sofa was 30 to 50 feet from the French doors he was looking through (Exhibit 6 depicts the couch as seen through the French doors to the foyer).

Related to how well he could see the person, the Caller said that the lights were off in the living room, but it was a sunny day. He said that he has “glasses for distance” and that he “didn’t have them on at the time.”

The Caller said that he told a woman who worked in the dining area that he believed there was a person in the living room. The Caller said in his interview that he was unable to recall the name of the woman at that time. The Caller said that he did know if the woman said anything back to him in response. The Caller said that he recalled that the woman “walked in front with [him] to the front foyer” but he did not know if the person “saw the individual herself.”

2. The Reported Party Said She Saw the Dining Employee and the Caller Outside the Living Room

The Reported Party described that she sat on the couch in the living room that had its back to the windows (Exhibit 7 depicts the couch). The Reported Party said that she sat sideways on the couch with her feet outstretched on the couch toward the large teddy bear that was on the couch, and toward the French doors to the foyer.

The Reported Party said that after she had been in the living room for over an hour, she noticed a “man pacing back and forth.” The Reported Party said that she recalled first seeing “the man” through the side door to the living room (See Exhibit 3). The Reported Party said that she then saw “the man” and the Dining Employee “pacing back and forth” in the foyer for approximately five minutes. The Reported Party said that it appeared that the Dining Employee and “the man” were “taking turns,” and the Dining Employee at one point looked at the Reported Party through the living room doors. The Reported Party indicated that she believed the Dining Employee would have recognized her, since the Dining Employee knew her and had seen what the Reported Party was wearing that day, including a white Vineyard Vines cap with a “rose

²¹ The Dining Employee said that the Caller did not empty waste from the dining area after lunch, because that was done by student employees during the summer months. The Investigative Team observed that it was possible the students removed waste from the dining area but the Caller was responsible for removing it from the building. This inconsistency in information from the Dining Employee and the Caller was minor in nature and did not negatively impact the strength of either of their accounts.

²² The Responding Officer told the Investigative Team that he thought that the teddy bear was a “dorm mascot.”

pinkish” whale on it.²³

The Reported Party said that while she saw the Dining Employee and “the man,” the Reported Party was on her phone and “not paying attention.” The Reported Party said that at the time she “didn’t think about anything other than this is strange.”

The Dining Employee said that she did not remember seeing or talking to the Caller on the day of the Incident, and she said that she did not recall entering the foyer that day,²⁴ or seeing anyone else enter the foyer. The Dining Employee said that the doors from the dining area to the foyer were closed because the air conditioning was on in the dining area.

G. 1:55 p.m. July 31, 2018 - The Caller Called Dispatch

The Caller said that he believed it was “strange” that a person would sit in the empty living room when the living room was not air conditioned, but the two dining areas across the hallway were air conditioned. The Caller said that he “didn’t know if the person was sick, [he] didn’t know what was wrong with them.” The Caller described that he had seen people walk between the front door and the dining area of Tyler House, but he had never seen anyone go into the living room when the house was not occupied, and the person seemed “out of place.” The Caller described that he had been trained to “call it in” if he saw “something suspicious or someone.” The Caller said that he felt that he had to call the Campus Police.

The Director of Building Services, who supervised the Caller the week of the Incident, said that employees may either approach unknown persons in areas they are not expected, or call the Campus Police. The Dining Employee said that if she saw a person in a building when she did not expect to, she would tell her Chef and they would together call the Campus Police.²⁵

The Caller said that he called the Campus Police using a phone “around the desk” in the front foyer.

The Dispatcher, who said that he had worked as a dispatcher for Mt. Holyoke College [REDACTED] described that on the day of the Incident he received a call reporting “what appeared to be a male party laying down or resting on a sofa in the common area in Tyler, who looked out of place because the building was empty.” The Dispatcher said that he understood the Caller to believe that no one was supposed to be in the building.

According to a recording of the Caller’s call to Dispatch, the following exchange occurred:

²³ The Responding Officer also recalled that the Reported Party was wearing a baseball cap on the day of the Incident. The Caller said that he did not recall her wearing a baseball cap, but he did not dispute the Responding Officer’s recollection that she had been wearing a baseball cap. Based on this information, it did appear that the Reported Party was wearing a baseball cap on the day of the Incident.

²⁴ The Dining Employee explained that she may have left the dining area to go into the back hallway to access a kitchen storage area, but that was behind the foyer area.

²⁵ As is described in Appendix A, the Campus Police wrote on their website that although many reported “suspicious person” scenarios “could have innocent explanations, your campus police department would rather investigate these situations sooner rather than be called when it is too late.”

Dispatcher: Campus Police, recorded line.
Caller: I was just walking through here in the front foyer of Tyler and we have a person sitting there laying down in the living room area over here. I didn't approach her or anything but um and he seems to be out of place ... umm ... I don't see anybody in the building at this point and uh I don't know what he's doing in there just laying on the couch.^[26]
Dispatcher: Can I have your last name please?
Caller: Say again?
Dispatcher: Can I have your last name please?
Caller: I'm not hearing you.^[27]
Dispatcher: Can I have your last name please?
Caller: [The Caller said his last name and then spelled it]
Dispatcher: And your first name?
Caller: [The Caller said his first name]
Dispatcher: Alright [Caller], I'll send someone over and check it out.
Caller: Okay. I'll wait over here.
Dispatcher: Alright, thank you.
Caller: Thank you.
Dispatcher: Bye.

See Exhibit 8.

The Dispatcher said that he did not ask for a description of the person being reported because the Caller was an employee who was “on scene,” and he was not going to “grill” a person about someone “sleeping on a couch.” He said that when an employee calls, his practice is to dispatch an officer to “address the situation as soon as possible.”²⁸

The Dispatcher said that when the Caller provided his last name, he entered the name into a database used by dispatchers, and he saw that the Caller was a Smith employee.

The Dispatcher said that he created a log for the call, identifying it as a “suspicious person” call. The call log for the matter indicated that the call came into dispatch at 1:55 p.m. on July 31, 2018. See Exhibit 9. The log reflected “Kitchen staff^[29] reported a male party that looked to be sleeping^[30] in the common area near the main entrance. Staff stated that he appeared to be out of place.” See Exhibit 9.

²⁶ The Caller said that in the call with Campus Police he “was questioning who was on the couch. [He] didn't know if it was male or female. [He] thought it was a male on the couch, and [he] went with that.” The Caller clarified that he had only seen legs at the time and he “wasn't sure [if the person was] male or female.”

²⁷ The Dispatcher said that the audio on the call was “pretty clear” and he could hear the caller well.

²⁸ The Investigative Team also learned from the Deputy Chief, the Dispatcher, and the Dispatch Supervisor that a few months before the Incident, the Dispatcher had been instructed to ask fewer questions in response to “suspicious persons” calls. The Dispatcher indicated that this instruction would not have impacted his response to this call, since the Caller was an employee who would remain “on scene,” and the call involved someone “sleeping on a couch.”

²⁹ The Dispatcher said that he assumed that the employee was a kitchen worker since the individual was calling from a kitchen phone in Tyler House.

³⁰ The Dispatcher said that he made an inference that the person was “sleeping” because he had “presumed it would be a transient person.” He said that he is trained not to make inferences, but “it does happen unfortunately.”

The Caller said that while he waited for the Campus Police, he “stood in the way of the stairs to go up to the dorms,” to prevent the person from entering any dorm rooms.

H. 1:57 p.m. July 31, 2018 - Dispatch Called the Responding Officer

The Dispatcher and the Responding Officer described that the Dispatcher called the Responding Officer to send him to look into the information provided by the Caller. The Dispatcher said that the Responding Officer did not ask questions but said that he would “be on his way.”

The Responding Officer recalled that he was dispatched to Tyler House for a report of a “suspicious male” who was “out of place.” He said that he did not receive any description of the person’s race, or physical appearance. He said that he was told that a staff member would meet him at the house.

According to a recording of Dispatch’s call to the Responding Officer, the following exchange occurred:

Dispatcher: Dispatch to Car 8.
Responding Officer: Go ahead.
Dispatcher: Can I have you respond to the front area of Tyler House? Report of a older male party, possibly sleeping in that location.^[31] Um, report came from a member of the kitchen staff. Staff is still on scene. Will speak to you give you more information. It was hard to make out what he was saying over the phone.^[32]
Responding Officer: Received.

See Exhibit 10.

The call log for the matter indicated that the Dispatcher called the Responding Officer to dispatch him at 1:57 p.m. on July 31, 2018. See Exhibit 9.

I. 1:57 p.m. July 31, 2018 - The Responding Officer Arrived at Tyler House

The Responding Officer said that he interpreted the Dispatcher’s description of a person in “front of the house” to mean that the individual was on the steps or lawn, so he first looked outside. He said that outside of Tyler House, he observed a white male, 65 or 70 years old, walking with a cane from the direction of Tyler House to the Sage Circle Parking Lot. He said that he saw no other males, and he therefore “assumed this was the suspicious person.” He said that the man “wasn’t acting suspicious, just walking.” He “circled Tyler House,” then parked his cruiser in the rear of the house, and entered Tyler House. Card swipe data reflected that the Responding

³¹ The Dispatcher said that in the call, he said “older” because he had made an inference based on his “presump[tion] it would be a transient person.”

³² The Dispatcher said that he had to ask the Caller his last name three times, and the Dispatcher said in the dispatch call that he “was having a hard time hearing” the Caller, but meant to say that the Caller “was having a hard time hearing” him.

Officer entered Tyler House by the porch door at 1:59 p.m. on July 31, 2018.

J. The Responding Officer and the Caller Met

The Responding Officer and the Caller described that they saw one another and spoke. The Caller said that the Responding Officer arrived “five to six minutes” after he called the Campus Police. The Responding Officer said that he recognized the Caller³³ and asked him: “are you the person who called about the suspicious person?” and the Caller responded, “Yeah.” The Responding Officer said that he asked, “Is it the guy walking with the cane on the circle?” and the Caller said, “No” and pointed to the living room door. The Caller also recalled that the Responding Officer asked about a “man with a cane” outside.

The Responding Officer said that he looked through the windows of the French doors from the foyer to the living room (See Exhibit 6) and saw the “subject.” He said that he could only see “someone with a ball cap on” who was sitting on the couch³⁴ with their head down, possibly looking at a cell phone. He said that the individual’s profile was visible. He said that it was difficult to see the person, and he could not identify the person’s race or gender from outside of the living room doors.

K. The Responding Officer and the Caller Approached the Reported Party

The Responding Officer and the Caller described that they entered the living room and approached the Reported Party. The Caller said that he “was walking a couple steps in front of” the Responding Officer. The Reported Party said that when Campus Police approached her, she “was like, ‘What’s happening?’” and felt “really scared.” When asked by the Investigative Team whether she recognized the Responding Officer, she said that she “see[s] a lot of police officers. They drive around all day.”

The Responding Officer said that when he got closer to the Reported Party, he “recognized her right away as a student” since he had seen her around campus. The Responding Officer said that the question in his mind was, “She’s a student. What are we doing here?”³⁵ He said that she had a plate of food on the table next to the couch and she was “clearly in there eating her lunch.”

The Reported Party posted a video recording of the start of her interaction with the Responding Officer and the Caller, on her personal public Facebook page.³⁶ See Exhibit 11. Below is a record of the audio from the video (note that the Investigative Team could not distinguish with certainty which male was speaking during this video, but it was clearly distinguishable when the

³³ The Responding Officer said that he had worked at Smith ██████████ and the Caller had worked at Smith for ██████████ and they did not “associate outside work” and were not friends, but they knew one another.

³⁴ The Responding Officer said that the report was of a person sleeping, and it was possible the Reported Party had been laying down when the Caller first saw her, but she was sitting when the Responding Officer arrived.

³⁵ The Responding Officer said that “at worst she stayed longer in the building than she should have” although he did not believe that any policy required the Reported Party to leave the building after lunch.

³⁶ The Reported Party wrote over the image of the video: “So I’m sitting down minding my damn business and someone calls the cops on me while I’m just chilling This is why being black in America is scary.” See Exhibit 12. As of October 27, 2018, the video was still available:

<https://www.facebook.com/oumou.kan/videos/pcb.2079194112329065/2079188668996276/?type=3&theater>.

Reported Party spoke):

Reported Party: Hi
Male voice: How you doin'?'
Reported Party: Good, how are [interrupted]
Male voice: [interrupting] We were wondering why you were here?
Reported Party: Oh, I was eating lunch. I'm working the summer program. So I was just relaxing on the couch.
Male voice: Oh you're just taking a break?
Reported Party: Yeah
Male voice: Oh you're – you're with one of the summer programs?
Reported Party: Yeah, I'm actually a TA.

See Exhibit 11.

The Reported Party and the Responding Officer agreed that the Responding Officer greeted the her.³⁷ She said that before she could respond, “How are you?” the Responding Officer asked her why she was in the living room. The Caller and the Responding Officer each described that the Caller asked the Reported Party why she was in the living room.

The Caller, the Reported Party, and the Responding Officer each described that the Reported Party said that she was a Teaching Assistant in the summer program, and she showed identification³⁸ to the Caller and the Responding Officer. The Reported Party said that after seeing her identification, the Responding Officer “took a step back and apologized.”

The Responding Officer said that the Caller asked the Reported Party a second time what she was doing in the Tyler House living room. He said that the Caller’s repetition of his question “might not have come off as polite.” He said that he did not believe that the Caller “was being impolite, or grilling her” but instead repeated his question because he is hard of hearing.

The Caller, the Reported Party, and the Responding Officer each recalled that the Caller or the Responding Officer said something to the Reported Party about being in the living room. The Responding Officer said that the Caller said “that the building is generally closed at this time, there’s no one residing here.” The Caller recalled that he “just came out with, ‘She seemed out of place’ instead of saying to her that she wasn’t using the large dining [areas].” The Reported Party said that either the Caller or the Responding Officer said, “It’s unusual for someone to be in the house when it’s not occupied by residents.”

The Caller and the Reported Party said that the Caller left the living room before the Responding Officer. The Caller said that “everything was good” after he saw her identification showing she

³⁷ The Responding Officer stated that he could be heard in one of the video clips saying, “something to the effect” of “How are you doing?” while the Reported Party recalled that the Responding Officer said, “Hi.” The Caller said that he did not recall “if we said hello or not.”

³⁸ The Reported Party described that she showed the Caller and Responding Officer her Keycard, which was in a pouch that contained her identification. The Caller recalled that the Reported Party showed her student identification. The Responding Officer recalled that she showed her lanyard, which the Investigative Team understood to refer to her identification.

was a student, and he left.

The Responding Officer recalled that he left the living room with the Caller and spoke to him outside the living room. The Caller did not describe speaking to the Responding Officer outside the living room. The Responding Officer recalled that he said to the Caller, “it’s obvious she’s a student” and the Caller responded somehow saying that “it looked suspicious to him.”

L. The Responding Officer Again Approached the Reported Party

The Reported Party and the Responding Officer agreed that they spoke after the Caller left (although the Reported Party did not describe the Responding Officer leaving the room with the Caller before he spoke to her the second time). The Responding Officer said that he returned to speak to the Reported Party because “she was a student, [he] wanted to explain why we were there in the building and why we were doing what we were doing.”

The Reported Party and the Responding Officer each described that the Responding Officer spoke to her about what had occurred. The Reported Party said that he told her, “I know what you’re thinking. It’s not what it seems like.” She said that he apologized and told her that “there was a man sleeping on the floor outside or inside of the front of the house.” She said that the Responding Officer “seemed confused about what was told to him, which made [her] more confused.”

The Responding Officer said that he told her, “I think I know what’s going on here, I think I know why we were here.” He said that he explained that the house had no residents, it was only open for meals, lunch was over, and he thought the Caller was “concerned that someone was in here and he couldn’t see who you were from the doors.” He said that he told her, “I recognize you now, but I couldn’t see you either from the doors.” He said that these statements were not captured on her video posted on Facebook.

The Reported Party posted a second video³⁹ on her Facebook page. See Exhibit 13. The following audio could be heard in that video:

Reported Party: Okay
Responding Officer: So that’s what it was.
Reported Party: Allright.
Responding Officer: He just didn’t – from the doorway he didn’t know who it was.
[indecipherable]
Reported Party: M-Hmm
Responding Officer: [indecipherable]
Reported Party: Yeah. I, I, it’s okay. It’s just like, kind of stuff like this happen way too often where people just feel, like threatened. And [cut off]

³⁹ The Reported Party wrote over the image of this video: “Now he is apologizing on behalf on the racist punk who called the police on me for absolutely nothing” over the image. See Exhibit 12. As of October 27, 2018, the video was still available:

<https://www.facebook.com/oumou.kan/videos/pcb.2079194112329065/2079188672329609/?type=3&theater>.

See Exhibit 13.

The Responding Officer recalled that the Reported Party responded to the information he shared, “It’s okay. It’s unfortunate that people call the police on people of color.” He recalled that she said, “You frightened me when you came in the room,” and he replied, “I’m sorry, I didn’t know.”

The Responding Officer, who is white, said that the Reported Party did not appear upset when he left, and “[i]f she seemed or acted like she was traumatized, [he] would have explained more.” He added that he recognized that for her, “it’s totally different. [He] ha[s]n’t had this happen to [him]. Not as a person of color.”

The Reported Party said that after the Responding Officer left, she “was pretty shaken up and just wanted to get out of there. [She] left and went for a run at the gym.” She said that she did not see anyone as she left. She said that she “was trying hard not to break down in public.”

M. The Responding Officer Called Dispatch

The Responding Officer called the Dispatcher and reported that a student was “relaxing” in the living room.

According to a recording of his call to Dispatch, the following discussion occurred:

Responding Officer: Car 8
Dispatcher: Go ahead.
Responding Officer: All clear. That was a student relaxing in the living room. They had lunch here I guess, and they decided to stay for a little while.
Dispatcher: Received.

See Exhibit 14.

The call log for the matter indicated that the Responding Officer notified dispatch that he had completed his response to the call at 2:02 p.m. on July 31, 2018. See Exhibit 9. It recorded: “Officer made contact with party. Officer confirmed party to be student. Unit clear.” See Exhibit 9.

N. Community Incident Report

The Chief and the Responding Officer each told the Investigative Team that no police report had been generated. The Chief noted that the call had been “unfounded.” The Responding Officer told the Investigative Team that he created a “Community Incident Report” for the “Dean’s office” related to the Incident (See Exhibit 15), which is standard when the Campus Police interact with students. The Community Incident Report contained information consistent with that provided by the Responding Officer during this investigation.

O. August 1, 2018

1. The Reported Party Social Media Posts

The Reported Party posted messages on the Overheard at Smith Facebook page and on her public personal Facebook page on July 31 and August 1, 2018, regarding the Incident. On the Overheard at Smith, on August 1, 2018, she wrote:

On the afternoon of Tuesday July 31, while I was sitting inside of a common space at Smith, someone reported me to the police on the pretense that I was an unidentified man engaging in suspicious behavior. I believe that the person who reported me was an employee of Smith College, and their behavior reflects a pattern of discrimination toward me as a black woman that has spanned throughout my year here from non-black staff and students at the college. I'm sending this message because I want to identify the 9-1-1 caller to confirm that this person was a staff member or student of Smith College, and I want this person to acknowledge the distress and harm they have caused me from calling the police while I was simply taking my mandated break from my job.^[40] It's wrong, and this person needs to confront the consequences of that error.

For sitting in a [living] room at Smith, I have been misgendered and racialized as a threat simply based on my appearance.

Share this and let our administrators know this is not okay.

See Exhibit 1.

The Reported Party also wrote in part on her public personal Facebook page on August 1, 2018 that "there was a recent incident in which a white staff member at the school reported me to the police as a suspicious black male sitting in the [living] room." See Exhibit 1. She wrote that "Smith College routinely outsources their summer security to the Northampton Police Department, so it was particularly traumatizing to realize that someone with a lethal weapon, and the full authority of the state of Massachusetts might have been called to respond to the incident."⁴¹ See Exhibit 1.

2. Campus Police Response to Incident

The Chief and the Lieutenant (who was the Officer in Charge for the Smith Campus Police at the time) each described that they learned about the Incident the day after the Incident, and each spoke with the Responding Officer about the Incident. Their recollections of what the Reporting Officer told them about the Incident were consistent with the Responding Officer's account to

⁴⁰ The Reported Party did not tell the Investigative Team that she was on a mandated break from her job, at the time of the Incident. She did, however, describe that she was on campus that summer because she was employed by two programs on the Smith campus, and she described that she was not scheduled to work until later the day of the Incident.

⁴¹ The Responding Officer said that the Reported Party apparently had assumed that he was a Northampton police officer. He said that he was not a Northampton police officer, and he did not have a gun during the Incident.

the Investigative Team.

The Chief said that he also spoke to the Dispatcher, and reviewed the call log, after learning about the Incident. The Chief said that he had no concerns regarding the level of detail gathered by dispatch in the call, since it was “pretty standard” to have the responding officer gather details when “a complainant stays on scene.” The Chief said that in his assessment, the call that came into dispatch was “routine,” he believed that the Dispatcher “probably treated it as routine,” and he believed that the Responding Officer “responded appropriately.”

The Dispatch Supervisor said that he learned about the Incident a few days after it occurred.⁴² He said that he listened to the recording of the call to dispatch, which he thought was “run of the mill.”

3. Summer Programs Response to Incident

The Director of Precollege Programs said that she learned about the Incident the day after it occurred, and she emailed the Reported Party “to see how she was doing and acknowledge the incident.” She said that the Reported Party did not respond to that email. She said that she “reached out” again that afternoon to offer the Reported Party an option to not work her next shift, but receive pay. She said that a similar offer was made for the Reported Party’s next scheduled shift, which was the last shift she was scheduled to work that summer.

The Director of Precollege Programs also described that, in response to the Incident, she arranged multiple meetings for members of the Summer Programs who “wanted to talk” to “come together.” She said that all members of the Summer Programs were invited to attend, but no member was required to attend. She said that the Reported Party did not attend these meetings.

P. August 3, 2018 - The Reported Party Statements in the Press

The Incident was featured in several news articles, including an August 3, 2018 piece by CBS Boston in which the Reported Party was quoted as stating:

“Next thing you know, I see the cop walk in with a Smith employee whom I've never seen before and the man said, ‘We were wondering why you’re here?’”
[the Reported Party] said.

She says police told her an employee had called about a suspicious black man.

See Exhibit 16.

CNN on August 3, 2018 wrote that:

[The Reported Party] said she was eating lunch and reading a book in a [living] room on

⁴² The Dispatch Supervisor told the Investigative Team that a personal matter had kept him away from work on occasion, around the time of the Incident.

campus that requires keycard access when she noticed a white man and a white woman pacing outside the room's entrance.

Campus police arrived a short while later. [The Reported Party] said the officer told her that an employee reported "a black man demonstrating suspicious behavior."

See Exhibit 17.

Q. On or About August 3, 2018 – The Caller was Put on Leave

The Caller stated that he was notified that he was being placed on administrative leave. He and the Responding Officer recalled that they spoke about the Incident, close in time to the Caller being placed on administrative leave. The Caller recalled that in this conversation, the Responding Officer said that the Reported Party had been wearing a baseball hat, which was not part of the Caller's memory. The Responding Officer recalled that in this conversation, the Caller said that he was unaware that the Reported Party was a student, or a person of color, before calling the Campus Police. The Responding Officer recalled telling the Caller that if he saw social media around the Incident, he would know that she was "very upset." The Responding Officer said that he realized in this conversation that the Caller was hard of hearing.

R. August 21, 2018 – The Reported Party Identified the Dining Employee as Involved in the Incident

On August 21, 2018, the Reported Party wrote in a post on the Overheard at Smith Facebook page that she:

was able to identify the man and woman who I saw pacing back and forth looking into the [living] room before the cop or campus police officer arrived.

This woman knows for a fact that I am a student at Smith and has seen me in the dining halls during the academic year. There must have been some sort of exchange between that man and woman.

See Exhibit 1.

With this post, the Reported Party provided a photograph and the name of the Dining Employee, and a photograph and name of another Smith employee who was not the Caller. See Exhibit 1. The Reported Party later apologized for misidentifying the other Smith employee. See Exhibit 1.

S. September 11, 2018 – The Reported Party Statements in the Press

In a September 11, 2018 Refinery 29 piece, the Reported Party was described as sharing information similar to the information she provided in this investigation, related to the Dining Employee's actions in the cafeteria:

"As I grabbed a plate, an employee came up to me and told me I wasn't supposed to eat

there. I had told her I can go get my keycard and show that I'm with this program that gives me permission to eat there and have access to this dining [area]," [the Reported Party], who is on a pre-med track, told Refinery29 in an interview on Monday. "She said. 'It's fine, I'm just letting you know.'"

See Exhibit 18.

T. September 13, 2018 - The Reported Party ACLU Profile

In a September 13, 2018 ACLU profile, the Reported Party wrote in part:

I was greeted by a woman: "You're not supposed to eat here," she said.

I informed her of the mentorship program I work for and offered to get my card to prove it. She then allowed me to go on my way.

But the employee apparently wasn't satisfied. As I was sitting in [living] room, I noticed a man pacing by the glass doors. Soon he was joined by the same woman who had approached me as I was fixing my plate. The two of them, both white, whispered to each other as I sat on the other side of the glass, wondering what was happening.

See Exhibit 19.

U. Interviewees Perspectives on Race Related to the Incident

The Investigative Team asked Interviewees their perspective on race, related to the Incident. No Interviewee identified information that, on its face, indicated that race was a motivating factor for the Caller, the Dispatcher, or the Responding Officer.

The Reported Party said that she perceived race playing a role in the Incident. She said that she was a "student and a worker of the college" who was eating lunch and not "disturbing anyone." She questioned why she was identified as suspicious. She said that she did not understand why the Caller did not approach her himself.

V. Findings Related to the Incident

This report assessed employee conduct during the Incident, under the Policy. The Policy states in part that Smith College employees address and do "not tolerat[e] unlawful harassment in the workplace." The Policy states that "[a]ll employees are expected to recognize these policies and cooperate with their implementation. Intentional violation of these policies is a basis for employee disciplinary action."

In considering whether any employee engaged in or allowed unlawful harassment in the workplace, this report considered, related to the Dining Employee, the Caller, the Dispatcher, and the Responding Officer: 1) what more likely than not occurred, and 2) whether their words or actions indicated intentional different treatment of the Reported Party or that they were

otherwise knowingly causing her harm because of her race or color.

A. The Dining Employee

The Reported Party and the Dining Employee each described interacting in the Tyler dining area the day of the Incident. The Reported Party described that during this interaction, the Dining Employee told the Reported Party that she was not “supposed to” eat in that dining area, which was different than the Dining Employee’s description of the interaction. The Reported Party also described that the Dining Employee was in the foyer with the Caller, which the Dining Employee denied.

1. What More Likely Than Not Occurred

a. In the Dining Area

The Reported Party alleged in her interview that when she was putting food on a plate, the Dining Employee approached her and said “You know you’re not supposed to eat here” and, when the Reported Party said that she could eat in Tyler House, the Dining Employee said “It’s fine, I’m just letting you know.” The Reported Party did not indicate that she was prevented from eating in the dining area, or that she was required to show identification.

As is described above, the Dining Employee provided a different account of her encounter with the Reported Party in the dining hall on the day of the Incident, saying that she had told the Reported Party that she did not know the Reported Party was in that program. The Investigative Team was not able to identify any witness to this exchange that could corroborate the Reported Party’s or the Dining Employee’s description of this encounter. Nor did the Investigative Team identify any record of the exchange, that was created close in time to the exchange.

The Investigative Team noted that the Reported Party discussed the exchange in her public statements, more than a month after the Incident.⁴³ The lack of any mention of the exchange in her public statements for the first month after the Incident somewhat lessened the strength of her account of that exchange.

Without any information available to support the Reported Party’s description of the interaction with the Dining Employee, the information was not sufficient to determine that the interaction more likely than not occurred as the Reported Party described. There was not, therefore, sufficient information to find that the Dining Employee had engaged in any actions that violated the Policy while in the dining area.

⁴³ A month after the Incident, the Reported Party provided descriptions of the encounter in her Refinery29 and ACLU articles. These descriptions were similar to the description of the exchange that she provided in this investigation. Before these mentions of the Dining Employee, the Reported Party had identified the Dining Employee as someone who walked by the living room doors with the Caller, but she had not otherwise expressed concerns about the Dining Employee’s actions.

b. In the Foyer

Shortly after the Incident, the Reported Party described that a woman walked with the Caller in the foyer, before the Campus Police arrived. A few weeks after the Incident, the Reported Party identified the Dining Employee as the woman who had walked with the Caller in the foyer. During this investigation, the Reported Party said that the Dining Employee looked in the French doors to the living room and the Reported Party believed that the Dining Employee would have seen and recognized her. She suggested that the Dining Employee could have prevented the Caller from calling the Campus Police, since the Dining Employee knew her.

The Dining Employee denied interacting with the Caller on the day of the Incident, and she denied entering the foyer. The Caller recalled interacting with a woman who worked in dining services, but he was not able to identify the woman. This information did not support the Reported Party's description that the Dining Employee saw the Reported Party in the living room and spoke to the Caller before Campus Police arrived on the day of the Incident. The Investigative Team noted that, even if the Caller had identified the Dining Employee as the woman he spoke to, the Caller did not indicate that the woman he spoke to in any way influenced his decision to call Campus Police. The information was not sufficient, therefore, to find that the Dining Employee engaged in any actions in the Tyler House foyer that violated the Policy.

B. The Caller

1. What More Likely Than Not Occurred

The Investigative Team determined that the Caller contacted the Campus Police related to the Reported Party. The Campus Police log identified the Caller as the reporting party, and he acknowledged that he contacted the Campus Police after he observed the Reported Party sitting on a couch in the common area of Tyler House.

The Investigative Team also determined that when the Responding Officer arrived, the Caller entered the living room with the Responding Officer, and the voice heard in the recording asking the Reported Party, "We were wondering why you were here?" was more likely the Caller's. Although the Reported Party identified that she believed this question came from the Responding Officer, both the Caller and the Responding Officer attributed the question to the Caller.

2. Whether Words or Actions Indicated Intentional Different Treatment of the Reported Party or Otherwise Knowingly Causing Her Harm Because of Her Race or Color

This report considered whether the call to the Campus Police showed that the Caller had intentionally treated the Reported Party differently or otherwise knowingly caused her harm because of her race or color.

The Investigative Team was not able to identify any other scenario in which the Caller had encountered a person of a different race or color in a Smith building where he did not expect to see that person, and he responded differently. The Investigative Team therefore considered

whether the Caller had knowingly caused harm to the Reported Party because of her race or color.

The Investigative Team noted that the Caller did not, in this investigation or in his recorded call to dispatch, identify the Reported Party's race or color as a reason for his call to the Campus Police. Nor did the Investigative Team find any other direct information, such as comments or actions from the Caller, to indicate that his call to the Campus Police was motivated by the Reported Party's race or color. The Investigative Team nonetheless considered whether there was circumstantial or other evidence indicating that the Caller was motivated to call the Campus Police because of the Reported Party's race or color.

The Responding Officer said that he could not identify the Reported Party's race or color from outside of the living room, since it was hard to see her, but the Caller said that he did see that the Reported Party's legs and identified her as "black" before he called the Campus Police. The Investigative Team noted that the Responding Officer said that the Caller had described not knowing the Reported Party's race or color before he called the Campus Police. This contradictory information did not negatively impact the strength of the Caller's account, since it would have been against the Caller's interest to admit to knowing the Reported Party's skin color before he made the call.

The Investigative Team considered the Caller's stated reason for his actions: that he called the Campus Police because he thought it was strange that a person was in the un-air-conditioned living room of Tyler House, when the nearby dining area was air conditioned, and the building was "closed." The Caller's observation that the dining area was air conditioned, but the living room was not, was corroborated by information from the Dining Employee. Both the Dining Employee and the Director of Building Services corroborated the Caller's description that Tyler House was not occupied the week of the Incident, and that only the dining area was in use at that time. Based on this information, the investigation determined that the Caller's had a legitimate, non-discriminatory reason for believing it was "out of place" for a person to be in the Tyler living room.

The Investigative Team also considered whether, after the Caller determined that the Reported Party appeared "out of place," his decision to call the Campus Police instead of approaching her, was more likely than not based on the Reported Party's race or color. The Caller described that he had been trained to "call it in" if he saw "something suspicious or someone." Information from the Dining Employee and the Director of Building Services indicated that although an employee has the option of approaching an individual they find in an unexpected location, employees may also contact the Campus Police rather than approaching the individual. The Campus Police wrote on their website that although many reported "suspicious persons" scenarios "could have innocent explanations, your campus police department would rather investigate these situations sooner rather than be called when it is too late." This statement on the Campus Police website indicates a belief by the Campus Police that they were an appropriate resource when a member of the campus community identified another person as possibly "suspicious." Based on this information, although the Caller had the option to approach the Reported Party directly, his decision to instead contact the Campus Police was consistent with information provided on the Campus Police website and the practices of some employees. The

Investigative Team did not find sufficient information to show that this decision was based on the Reported Party's race or color, or violated the Policy.

The Investigative Team considered that the Reported Party identified that she had been "misgendered" by the Caller (i.e. the Caller referred to her by a pronoun that did not match her gender identity). The Caller said that when he called dispatch he had seen only the Reported Party's legs, and he "didn't know if it was male or female" and he "thought it was a male" and "went with that." The Investigative Team observed that the Caller referred to the Reported Party in the call to dispatch as "her," "he," and "he," which was consistent with the Caller's description that he was not certain of the gender of the person he saw in the living room. The Responding Officer described that it was difficult to see the Reported Party from the French doors, which supported the Caller's description that he could not see the Reported Party well enough to assess her gender.

The Investigative Team did not find that the "misgendering" of the Reported Party was intentional. Instead, the mixed pronouns used by the Caller appeared to result from the Caller's inability to see the Reported Party well from the living room doors, when she was partially obscured by the large teddy bear. The information was not sufficient to find that the Caller intentionally "misgendered" the Reported Party, or that she had been "misgendered" because of her race or color.

The Reported Party did not raise any specific complaint related to the Caller's statements to her in the living room, but the Investigative Team nonetheless considered whether any information showed that the Caller's statements to her in the living room may have been motivated by the Reported Party's race or color. The Investigative Team observed that the comments did not, on their face, reference the Reported Party's race or color. The Investigative Team considered that the Responding Officer indicated that the Caller's statements could have been perceived as "impolite" since he was repetitive, but the Reported Party did not identify repetition of statements as a concern, related to the Caller. As is stated above, the Investigative Team found that the Caller had a legitimate basis for believing that the Reported Party's presence in the living room was unusual. The Caller's statements to her appeared consistent with the Caller's belief that it was strange that she chose to sit in the living room rather than the air-conditioned dining area. Based on this information, the Investigative Team did not find sufficient evidence to establish that the Caller's statements to the Reported Party were motivated by her race or color, or that they violated the Policy.

Based on the above information, the investigation determined that the Caller provided a legitimate, non-discriminatory reason for calling the Campus Police on the day of the Incident. The investigation did not find that his asserted reason was a pretext for discrimination. Nor did the investigation reveal other evidence that would indicate that it was more likely than not that the Caller's decision to contact the Campus Police was motivated by the Reported Party's race or color.

C. The Dispatcher

This report considered whether the Dispatcher engaged in any action that showed he was

intentionally treating the Reported Party differently or otherwise knowingly causing her harm because of her race or color.

Although the Dispatcher was not a Smith employee, he was employed by Mt. Holyoke College that had agreed contractually to provide the Dispatcher services to Smith. This report considered whether the actions of the Dispatcher comported with Smith's expectations for members of its community.

1. What More Likely Than Not Occurred

The information gathered reflected that the Dispatcher made additional inquiry of the Caller only related to his identity. The information gathered reflected that the Dispatcher sent the Responding Officer to meet with the Caller. The Investigative Team noted that the Dispatcher made "inferences" that the Caller was a "kitchen worker" who was reporting a person who was "old" and "sleeping," although these "inferences" did not appear to materially alter any aspect of the Incident. The Dispatcher also understood the Caller to be reporting a male, which was reasonable given the Caller's use of male pronouns the second and third time he referred to the Reported Party.

2. Whether Words or Actions Indicated Intentional Different Treatment of the Reported Party or Otherwise Knowingly Causing Her Harm Because of Her Race or Color

The information gathered reflected that the Dispatcher was unaware of the Reported Party's race or color. Nothing said by the Caller communicated, directly or indirectly, the Reported Party's race or color. Nor did he know the identity of the Reported Party or have any other means by which he could become aware of the Reported Party's race or color. Since he did not know the Reported Party's race or color, the Investigative Team did not find that the Dispatcher's actions could have been motivated because of the Reported Party's race or color. The evidence was not sufficient, therefore, to find that the Dispatcher treated the Reported Party differently or otherwise knowingly caused her harm because of her race or color.

The Reported Party implied that, regardless of whether her race or color motivated his actions, the Dispatcher could have asked additional questions of the Caller to "screen" his call, which she implied could have prevented the Responding Officer from being dispatched. The Investigative Team learned, however, that an officer would almost always be dispatched in response to a call of a "suspicious person" or activity because the risk of failing to respond to calls of concern from the public are too great (as is described in Appendix A). It is possible that the Dispatcher could have asked additional questions of the Caller, but the information gathered indicated that the additional questions would not have altered the decision to dispatch the Responding Officer. Additionally, the Chief indicated that the Dispatcher's level of questioning was appropriate in the circumstances, since the Caller was a Smith employee who would remain on scene to provide further information to the Responding Officer.

Based on the information gathered, therefore, there was not sufficient evidence to find a violation of the Policy by the Dispatcher, related to the Incident.

D. The Responding Officer

Although the Reported Party expressed fear that a police officer approached her, the Reported Party did not express concerns about any specific action of the Responding Officer. This report nonetheless considered whether any actions by the Responding Officer indicated that he intentionally treated the Reported Party differently or otherwise knowingly caused her harm because of her race or color.

1. What More Likely Than Not Occurred

The Investigative Team determined, based on the Community Incident Report, the dispatch recordings and call log, and information from the Caller, the Dispatcher, and the Responding Officer, that the Responding Officer responded to Tyler House, found a man walking outside with a cane, spoke to the Caller, and was notified that the Reported Party was in the living room. Information from the Caller, the Reported Party, the Responding Officer, and the video posted by the Reported Party, reflected that the Responding Officer entered the living room and asked the Reported Party “How you doin’?” before the Caller asked the Reported Party about her presence. The Investigative Team also learned from the Reported Party and the Responding Officer, as well as the video posted by the Reported Party, that after the Caller left the room, the Responding Officer spoke to the Reported Party, provided some information regarding his understanding of why he had been called, and apologized to the Reported Party.

2. Whether Words or Actions Indicated Intentional Different Treatment of the Reported Party or Otherwise Knowingly Causing Her Harm Because of Her Race or Color

The Reported Party did not express concerns about any of the Responding Officer’s specific conduct, and no other information raised concerns about his conduct. The Investigative Team nonetheless considered the actions of the Responding Officer to assess whether any information showed that they were taken because of the Reported Party’s race or color.

The Responding Officer described that his view of the Reported Party was poor from outside the living room doors, in part because of the large teddy bear that obstructed his view. His inability to see the Reported Party clearly from outside the room meant that he had to enter the room and interact with the Reported Party (the only person in the room) in order to assess whether any activity of concern was occurring.

The Investigative Team observed that if the Caller had remained outside of the room, or had remained silent so that the Responding Officer could lead the discussion with the Reported Party, the Responding Officer may have engaged differently with the Reported Party, and the Reported Party may have had a different experience. This observation is based in part on the Responding Officer’s description that he recognized the Reported Party as a student, as soon as he could see her clearly. Nothing in the Responding Officer’s initial approach of the Reported Party, or his second approach when he attempted to explain what he believed had occurred, indicated that he was acting in a way that was based on her race or color. Based on the information gathered,

therefore, the Investigative Team did not find that the Responding Officer violated the Policy, related to the Incident.

The Investigative Team notes that the Reported Party speculated regarding the harm that she could have experienced during the Incident, related to the Responding Officer being armed. The Responding Party specifically expressed that it “was particularly traumatizing to realize that someone with a lethal weapon [. . .] might have been called to respond to the [I]ncident.” The information gathered, however, reflected that the Responding Officer was not armed at the time of the Incident. Moreover, the Investigative Team learned that the Campus Police officers do not carry firearms.

VI. Conclusion

The investigation did not find that the evidence was sufficient to show that the Reported Party was discriminated against with respect to the Incident. The investigation did not find that the Dining Employee engaged in the behaviors complained of by the Reported Party. The investigation determined that the Caller had a legitimate, non-discriminatory reason for contacting the Campus Police, and there was insufficient information to conclude that the Caller’s stated reason was a pretext for discrimination on the basis of the Reported Party’s race or color, in violation of the Policy. Nor did the investigation find evidence that Responding Officer or Dispatcher violated the Policy by discriminating against the Reported Party on the basis of race or color. As indicated above, the Dispatcher was not aware of the race or color of the Reported Party when he dispatched the Responding Officer, and the Responding Officer was unaware of the Reported Party’s race or color until he entered the room, at which time he recognized her as a student. No information reflected that, when in the room, the Responding Officer responded to the Incident based on the Reported Party’s race or color. Accordingly, this report did not determine that the Dining Employee, the Caller, the Dispatcher, or the Responding Officer, violated the Policy in connection with the Incident.

APPENDIX A

The College asked that the Investigative Team, irrespective of its findings, share recommendations, based on the information gathered during this investigation, for ways Smith could improve its policies and practices related to “suspicious persons” calls to Campus Police. This Appendix records the information gathered by the Investigative Team related to protocols, relevant training, and practices for response to “suspicious persons” by: Campus employees such as the Caller; Dispatchers; and Campus Police.

I. Campus Employee Response to “Suspicious Activity” or “Suspicious Persons”

A. Relevant Protocols

The Investigative Team did not identify any staff policies that would inform the Caller how to respond to “suspicious persons” or “suspicious activity.” The Investigative Team did identify that since the Summer Programs served minors, their employees were trained to respond to people who were not expected in their program areas. The Investigative Team also heard from more than one Interviewee that the “see something, say something” initiative had influenced campus employees’ responses to “suspicious persons.”

1. Summer at Smith College Staff Handbook for 2018

The Summer at Smith College Staff Handbook for 2018 (the “2018 Handbook”), dictated the requirements for Summer Programs staff, including the Reported Party. See Exhibit 20. The 2018 Handbook did not apply to the Caller, who was a permanent employee of the College and not a Summer Programs employee.

The 2018 Handbook instructed staff that “[i]f a person who is not affiliated with the Summer at Smith program enters or attempts to enter a house or location where an activity is being held, firmly and professionally inform them of our strict no visitor policy.” See Exhibit 20. The 2018 Handbook stated that “[i]f the individual is disgruntled (i.e. a parent or friend of a participant) refer them to the Office of Summer Programs Director,” and “[i]f at any time you feel uncomfortable or in danger, remove yourself and students from the situation and call the Smith College Campus Police.” See Exhibit 20.

2. “See Something, Say Something”

The Director of Building Services, the Dispatch Supervisor and the Lieutenant each referred to the slogan “see something, say something” related to encountering people on campus in places that they did not expect.

The Lieutenant elaborated that she tells people “they’re the ears and eyes of our campus. [T]he officers can’t be everywhere.” The Lieutenant stated that the Campus Police: “encourage people to call us and then leave it up to campus police to check on the person or situation or item or whatever.”

The Dispatch Supervisor described that the “whole see something say something has taken on a life of its own.” He described that the Campus Police investigate many matters, some of which are concerning and some of which turn out to be “someone belonged there and the caller just didn’t know that.”

The Campus Police website stated in part that “Campus Police receive numerous complaints about suspicious activity on our campuses.” See Exhibit 21. The website stated that “often the person about whom a concern is filed is perhaps walking late at night alone on campus, and is here for legitimate purposes like visiting a friend or attending an event.” See Exhibit 21. It stated that many situations “could have innocent explanations, [but] your campus police department would rather investigate these situations sooner rather than be called when it is too late.” See Exhibit 21.

B. Relevant Training

The Investigative Team inquired regarding training that would have informed the Caller regarding how to respond if he saw someone in a location or space where he had reason to believe the person did not belong. The Director of Building Services indicated that employees do not receive training on this topic and she suggested that such training could be useful. The Caller, by contrast, said that he believed he had received training several times in the past regarding what to do if he saw or encountered an individual in a location on campus he did not expect them to be. The Caller indicated that he understood from these trainings that if he saw something or someone “suspicious” or “out of place” he was supposed to “call it in.”

The Investigative Team also asked the Director of Precollege Programs about training provided to her staff. The Director of Precollege Programs described that she trained her team on protocols, including those for responding to “intruders.” The Director of Precollege Programs stated that since her program serves minors, their “intruder training is very different than the rest of campus.” She said that her staff receive training on how to approach individuals, if they feel safe and are comfortable doing so.

C. Practices

The Director of Precollege Programs described that her staff were expected to approach an “intruder” “if they feel safe and comfortable” and “ask what they can help with, explain kindly we have a no visitor policy and why, giving them options on how we can still meet their need.”

The Director of Building Services and the Dining Employee described that staff in buildings may call the Campus Police if they encountered someone unexpected in a space. The Director of Building Services said that some staff, including herself, might not call the Campus Police, but might instead approach the person and ask if they were okay or needed help.

The Caller said that he recalled calling the Campus Police once before the Incident, when he reported a “stolen clock missing out of one of the dorms.” He said that he could not recall calling the Campus Police for a “suspicious person” prior to the Incident. The Investigative Team did identify that the Caller had called the Campus Police once in the past year, but it related to an

askew screen and a handprint on a window, not a person who was “suspicious.”

D. When “Suspicious” Persons May Be Reported

The Deputy Chief, the Director of Building Services, the Dispatcher, the Dispatch Supervisor, and the Lieutenant each described the types of calls that may come to the Campus Police regarding “suspicious persons.” The Director of Building Services, the Dispatcher, and the Lieutenant each described that people may be reported to the Campus Police as “suspicious” if they were not members of the Smith community but they had entered Smith buildings seeking to escape extreme weather. The Dispatcher added that these individuals “don’t cause trouble, usually,” but he noted that the College buildings are supposed to be secure and that someone sitting in a room who is not supposed to be there can make people think “the system is not working” and “question their safety.”

The Dispatch Supervisor said that with “suspicious person” calls, “9 out of 10 times” it is someone waiting for someone else, or the person is gone by the time Campus Police arrive.

II. Dispatch Response to “Suspicious Activity” or “Suspicious Persons”

A. Relevant Protocols

The Investigative Team did not identify specific protocols for dispatch related to “suspicious persons” calls.

The Investigative Team reviewed an “Investigating Suspicious Activity” policy, issued on November 21, 2009. See Exhibit 22. The Investigative Team learned that this policy was in existence at the time of the Incident, but may not have been consistently implemented. The policy contained guidance that could be helpful in responding to reports of “suspicious persons,” such as its “Call Taker Responsibilities” that required dispatchers to obtain information regarding the behavior that made the person “appear suspicious.” See Exhibit 22.

B. Relevant Training

The Chief said that dispatchers should all be certified by the Association of Public-Safety Communications Officials (“APCO”),⁴⁴ and trained on campus policies, the campus layout, and software used by dispatch. He said that they all receive weeks of in-house training.

The Dispatch Supervisor, who said that he had worked in dispatch for 12 years and who was Operations Manager for Dispatch at the time of his interview, said that he oversaw dispatch personnel, day to day operations, emergency contact information, procedures and schedules for dispatch. He said that he was an APCO instructor, and he trained his dispatchers.

⁴⁴ According to its website, “APCO International is the world’s oldest and largest organization of public safety communications professionals and supports the largest U.S. membership base of any public safety association. It serves the needs of public safety communications practitioners worldwide - and the welfare of the general public as a whole – by providing complete expertise, professional development, technical assistance, advocacy and outreach.” See <https://www.apcointl.org/about-apco/>.

The Dispatcher said that he received APCO training as well as on the job training that included shadowing a dispatcher and going over standard operating procedures.

C. Practices

The Chief said that the category of “suspicious persons” is broad. He indicated that the category was complicated because people have different opinions on what is suspicious. The Chief said that a “really good dispatcher hopefully could draw that out,” but noted that he did not think it was possible to do so all of the time “because of human nature.”

The Chief, the Deputy Chief, the Dispatch Supervisor, and the Dispatcher each described that a Campus Police officer would always be dispatched in response to a report of a “suspicious person” or a “suspicious activity.”⁴⁵

The Deputy Chief and the Dispatch Supervisor described that the risk of not responding to a “suspicious person” or “suspicious activity” call that turned out to be a report of legitimate illicit behavior was too great to not respond to such a call. The Deputy Chief explained: “We don’t know what that call is until we get there. If something happened to somebody and they say, ‘I called in and no one did anything about it,’ [. . .] [t]hat would be very very bad.”

The Chief, the Dispatch Supervisor, and the Dispatcher each described attempting to strike a balance in calls, between gathering sufficient information to understand the reason for a caller’s concern, and not asking so many questions that a caller is offended. The Chief explained that a caller asked for a greater description of what they had observed could “jump to, ‘You don’t believe me,’ or, ‘You don’t trust me,’ so then there are public trust issues.” The Dispatcher said that he understood that he was not to ask “what’s suspicious” or “grill” a caller on “particulars.”⁴⁶ The Dispatcher said that when a person calls to report a suspicious person, he believed that “Did you approach that person?” is the “type[] of question[]” that he was “not supposed to ask because it could make the caller feel uncomfortable.”

The Chief and the Dispatch Supervisor described that there were no protocols dictating the level of inquiry expected of dispatchers in “suspicious persons” calls. The Dispatch Supervisor and the Dispatcher each described that in calls reporting “suspicious persons” or “suspicious activity,” dispatchers may not always receive a clear explanation of the reason a person called. The Dispatch Supervisor said that, for example, callers may say someone “looks sketchy,” or, “This guy is creeping me out,” or, “There’s a guy over at the computers” who “looks weird” or “seems off.”

⁴⁵ The Chief did state that an exception to this would be not dispatching an officer if Campus Police already had an officer at a location.

⁴⁶ The Deputy Chief, the Dispatch Supervisor, and the Dispatcher each described that a few months before the Incident, the Dispatcher had been instructed to ask fewer questions in “suspicious persons” calls.

III. Campus Police Response to “Suspicious Activity” or “Suspicious Persons”

A. Relevant Protocols

The Campus Police Department Policies & Procedures Manual (the “Manual”) included a policy, effective February 17, 2017, which stated, “Bias-based profiling is prohibited.” See Exhibit 22. This policy defined “Profiling” as “The selection of individuals to be subject to police activity based solely on their inclusion in a demographic group; demographic categories include: race, ethnicity, gender, sexual orientation, religion, economic status, background, age, culture.” See Exhibit 22.

The Investigative Team also reviewed the “Investigating Suspicious Activity” policy, issued on November 21, 2009. See Exhibit 22. This policy contained information that could have been useful in guiding response to the Incident, such as in the “Officer Procedures” which noted that: “the vast majority of our suspicious person calls turn out to be bona fide members or guests of our community doing nothing suspicious. While officer and bystander safety is paramount, a respectful non-accusatory response is preferred when there are no increased safety concerns such as violent behavior or weapons.” See Exhibit 22. This policy stated that observation “from a covert location may be appropriate, and no approach may be required” if the information provided by a caller does not indicate “truly suspicious” behavior. See Exhibit 22.

B. Relevant Training

The Lieutenant described that officers learn how to best approach “suspicious persons” in the academy, as well as through on the job experience.

C. Practices

The Chief said that his department did “quite a bit of work around diversity, bias” and they had “protocol written around a lot of bias type incidents” that are based on procedures from the Massachusetts Police Accreditation Commission.

The Lieutenant and the Responding Officer each described that many Smith Campus Police have worked on the campus for years, and would recognize by face many members of the campus community. The Responding Officer, who said that he worked for the Campus Police [REDACTED], described having a strong belief in the importance of knowing his community in his policing. The Responding Officer said that “unless they were hired today,” he knows all the “members of campus” by name or by sight.

The Lieutenant described that in responding to a “suspicious person” in a non-emergency situation, a responding officer who did not recognize the person reported as “suspicious” would ask for identification or inquire what the person was doing there.

D. Bias-Based Profiling Reports

The Campus Police provided summaries of reviews they had conducted of their policing activity

for 2015 and 2016. See Exhibits 23 and 24.

The Bias-Based Profiling Report 2015 Summary (the “2015 Summary”) detailed the number of “Suspicious Person Calls – by Race” and noted that “[m]embers of the community reported 76 persons as suspicious in 2015,” while “[o]fficers initiated 3 suspicious person calls.” See Exhibit 23. The 2015 Summary stated that “[d]iscounting the calls where race was not identified we did not receive a disproportionate number of calls for suspicious persons for non-Caucasian students,” and that “[o]f the 78 suspicious persons calls, only 39 involved descriptions in which race or ethnicity was identified.”⁴⁷ See Exhibit 23. The 2015 Summary noted that of the 39 calls in which race or ethnicity was identified, 10 percent of those calls were about African-American individuals, while 74 percent of those calls were about Caucasian individuals. See Exhibit 23. The 2015 Summary found that:

[b]ased on the review of all available sources of data where bias could be identified, it does not appear that officers on the Smith campus acted with any obvious bias motivation. The number of persons reported as suspicious (all by community members) who were African-American is above the college and local population, but the number of reports was still very small (4 persons rather than 2, which would represent the campus population).

See Exhibit 23.

The Bias-Based Profiling Report 2016 Summary (the “2016 Summary”) detailed the number of “Suspicious Person Calls – by Race” and noted that “[m]embers of the community reported 102 persons as suspicious in 2016, up from 76 in 2015,” while “[o]fficers initiated 3 suspicious person calls.” See Exhibit 24. The 2016 Summary stated that “[d]iscounting the calls where race was not identified we did not receive a disproportionate number of calls for suspicious persons for non-Caucasian students,” and noted that “[o]f the 105 suspicious persons calls, only 47 involved descriptions in which race or ethnicity was identified.” See Exhibit 24. The 2016 Summary indicated that of the 47 calls involving descriptions of race or ethnicity, 15 percent of those calls were about African-American individuals, and 72 percent were about Caucasian individuals. See Exhibit 24. The 2016 Summary stated that “it does not appear that officers on the Smith campus acted with any obvious bias motivation,” and “[t]he vast majority of community complaints of suspicious persons where race was provided as a descriptor were Caucasians, and that race group was most likely to be trespassed or asked to leave the campus.” See Exhibit 24. The 2016 Summary noted that “[m]ost calls continue to involve no race identified, due to either lighting or weather conditions, distance of reporting party from the suspicious person, or lack of identification in the call.” See Exhibit 24.

⁴⁷ The Investigative Team noted that there appeared to be a discrepancy in the numbers of suspicious persons reported, since the 2015 Summary identified first that “[m]embers of the community reported 76 persons as suspicious in 2015” but it reported “78 suspicious persons calls.” See Exhibit 23. The Investigative Team observed that it was possible that only 76 individuals were reported, with 78 calls, if one or more individuals were reported as suspicious by multiple callers.

E. Review of Campus Police Logs

The Investigative Team reviewed Campus Police logs related to reports of suspicious persons, suspicious activity, and suspicious autos for the period of January 1, 2017 through August 10, 2018. See Exhibit 25. The Investigative Team reviewed log entries related to 183 incidents. See Exhibit 25. A review of the logs related to these reports indicated a wide range of conduct or circumstances that were identified as suspicious, including, but not limited to, reports of public exposure, harassing comments, attempts to gain access to buildings, and encounters with people observed in buildings or other locations on campus. See Exhibit 25. Although the logs reflected that the reporting party often described the specific conduct or activity that prompted the report, there were a number of instances in which a reporting party either did not, or was unable to, provide specific information regarding how the person was acting suspiciously. See Exhibit 25. There were a few incidents, including the Incident that is the subject of this report, where it was noted that the person appeared “out of place” or did not “belong.” See Exhibit 25. The race of the person was noted in three incidents, one involving a “black male” and two involving “white males.” See Exhibit 25.

The Investigative Team noted that the vast majority of the log entries did not contain information regarding the race, color or ethnicity of the persons involved. See Exhibit 25. Where race, color or ethnicity was noted, it was not always clear whether the information was requested by the dispatcher or disclosed by the reporting party. See Exhibit 25. For the period reviewed, race, color or ethnicity were referenced in 46 incidents. See Exhibit 25. Of the 46 incidents, there were eight incidents where the people were described as black or African-American; 31 incidents where the people were described as white or Caucasian, and three incidents where the people were described as Hispanic. See Exhibit 25. In addition, there was one incident involving two individuals, where one was described as “Caucasian” and the other as “Hispanic/Asian.” See Exhibit 25. There were two incidents where it was noted that the subject of the call was “dark-skinned” or with “darker skin,” and one incident where the individual was described as “possible middle eastern descent.” See Exhibit 25.

The Investigative Team noted that there were instances where the person who was the subject of the report was determined to be a student, faculty member, or staff. See Exhibit 25. One incident involved a report of “someone sleeping” in Helen Hills Chapel. See Exhibit 25. The log indicated that it was determined that the individual was a student. See Exhibit 25. There was also a report by a custodian of a “suspicious male” walking around a Seelye Hall. See Exhibit 25. The log indicated that the officers believed that the individual was a faculty member who frequented the area around the same time of the day that the incident was reported. See Exhibit 25.

APPENDIX B

This Appendix records the Investigative Team’s recommendations, provided at the College’s request, for ways Smith could improve its policies and practices for responses to “suspicious persons.” These recommendations relate to both information gathered related to the Incident itself (recorded in the report) and to the information gathered regarding protocols, training, and practices for response to “suspicious persons” (recorded in Appendix A).

1. The investigation found that after the Responding Officer arrived, the Caller entered the living room with the Responding Officer and engaged with the Reported Party. To provide greater clarity on roles and expectations in such circumstances, the College may consider developing protocols for staff when they are engaged in, or in the vicinity of, an interaction to which Campus Police are responding. Protocols that are developed should specifically include guidance for staff on what to do when the Campus Police are responding to a report or event, to ensure that in such instances the roles of Campus Police and staff are clearly defined.
2. This investigation revealed that although the Summer Programs (because it served minors) provided substantial direction to its employees on how to respond to people in locations they were not expected, other employees were not provided such clear training.⁴⁸ Information from interviews and Campus Police logs indicated that Campus Police respond to a number of “suspicious person” calls only to discover that the person has a reason to be in the location. This indicated that Smith employees would benefit from additional direction regarding how to respond to individuals they find in locations they did not expect. The past Bias-Based Profiling Reports can be helpful in this assessment, as they record Campus Police experiences with past reports. The Biased-Based Profiling Report 2015 notes that “[i]n recent years, the logs from which the data was pulled have been clearer as to the activity that was suspicious rather than the person themselves, which is a better practice and encourages the community reporting suspicious persons to identify what they are doing that is suspicious.”
 - a. Review past Bias-Based Profiling Reports and consider ways to facilitate reporter focus on behaviors, rather than persons, reported as “suspicious.”
 - b. Review what information the College provides to community members regarding what to do if they observe an activity that they perceive as suspicious. Update or revise that information as necessary to ensure that it is consistent with the goals of the “Biased-Based Profiling Policy.”
 - c. Consider developing protocols for staff for responding to unanticipated encounters with individuals in buildings, rooms, or other locations on campus. The College should carefully consider how it would prefer staff to respond to a number of scenarios, including scenarios in which there may be real or perceived danger. Protocols that are developed would benefit from clear illustration of the

⁴⁸ The Caller did describe he was trained to “call it in,” but the Director of Building Services said that such training was not provided to Building Services employees, and she suggested that employees may benefit from such training.

various responses that might be appropriate depending on the specific circumstances and the comfort level of the staff member.

3. In the Incident, the Caller and the Reported Party had different understandings related to whether community members were expected to use the Tyler House living room, including after dining hours. The Incident may not have occurred if they did not have these different understandings. The College, therefore, should evaluate the information provided to community members regarding access to buildings and spaces on campus, especially during the summer time or other times of the year where building or spaces may not be in use or are used for limited purposes. The College should also assess its current methods of communicating such information to community members, and consider whether there are more effective ways to disseminate the information to the various constituencies on campus.
4. Since responses to “suspicious persons” calls can pose numerous challenges, it is recommended that the College consider asking the Campus Police to review the “Suspicious Activity Policy,” dated November 21, 2009, and assess whether it can be improved. After review and modification of the policy, the College should consider asking the Campus Police to reissue the policy and provide related training.
5. This investigation did not identify evidence sufficient to determine that any employee’s actions during the Incident violated the Policy. However, the Investigative Team observed that some members of the Smith community expressed distress about the Incident, believing the Incident to have been motivated by racial bias. The College should assess its current efforts related to racial and other bias, and consider whether further steps (e.g., climate surveys, focus groups) can be taken to improve its understanding of the experiences and perceptions of community members. The College should also continue its ongoing efforts to provide Implicit Bias training for staff and other members of the College community.