

COLBY COLLEGE

**INVESTIGATION INTO CAMPUS EVENTS ON
SUNDAY, APRIL 12, 2009**

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**REPORT OF SPECIAL COUNSEL TO COLBY COLLEGE: REVIEW, ANALYSIS AND
RECOMMENDATIONS RELATING TO INCIDENTS OCCURRING ON
APRIL 12, 2009**

I. INTRODUCTION

In the early morning hours of Sunday, April 12, 2009, there was a series of encounters between Colby College security personnel, students, and CER (Colby Emergency Response) responders that resulted in the physical restraint of two students of color and their arrest by Waterville police officers. The restraints and arrests occurred as a result of events beginning within the SOBHU (Students Organized for Black and Hispanic Unity) room and ultimately moving out and into the Pugh Center as a dance attended by well over 100 Colby students was ending. The function room where the dance was being held was separated from the Pugh Center by a very short hallway. Almost all student witnesses to the events of that morning were very critical of the extent and duration of the restraint of the two students by Colby Security and the resulting arrests by the Waterville Police Department.

These events received coverage in the campus newspaper and local news outlets. A segment of the restraint of the students was captured on video and distributed across campus as well as on the Internet. A portion of the captured video showed students being restrained and immobilized on the floor and also recorded a student being sprayed in the face with pepper spray. The College administration received numerous emails and telephone calls from members of all College constituencies questioning the efficacy of the means used against the students and the security/safety of students – particularly students of color. At the same time, the administration received emails and communications from other members of the same constituencies supporting security's handling of the situation.

President William Adams announced that the College would investigate the incidents through the use of a committee comprised of College administrators who would "...interview the participants in a fair, impartial and non-threatening way." President Adams also announced that a person "...independent of the College [would be hired] to evaluate the facts, make determinations about what happened and suggest appropriate changes to Colby's policies and procedures." These measures were supported by a

statement from Joseph Boulos, Chair of the Colby College Board of Trustees. In that statement, Chairman Boulos reiterated the purpose of the investigation and stated that the investigator would be asked to advise Colby "...with an eye to avoiding such incidents in the future."

Working with the committee established by President Adams, this investigator has sought to evaluate the events of April 12th for the purpose of assessing the following:

1. Whether the level of restraint or force used by campus security was reasonable under the circumstances.
2. What role, if any, did student conduct play in precipitating and/or escalating those events
3. What, if any, racial or ethnic bias was exhibited during these events.
4. What revisions in security protocols and training should the College consider to enhance the ability of the administration and campus security to prevent recurrence of similar incidents?
5. Protocols and training that inform campus security about crowd control, de-escalation of tense situations, and circumstances requiring the assistance of outside law enforcement agencies. In this regard, outside expertise and/or technical consultants may be retained, subject to the approval of the College.

The investigator and Committee recognize that the events of April 12th were acute in nature and not representative of the type of restraint, civility and respect that is expected of all members of the Colby College community. In recognition of the higher aspirations of everyone who studies and works at Colby College, this report is prepared in the hopes of preventing similar incidents in the future.

II. EXECUTIVE SUMMARY

In the early morning hours of April 12, 2009 there was a series of encounters in the SOBHU room and Pugh Center that led to the restraint of two students of color by approximately five white security officers. After this restraint, outside police officers administered pepper spray to one of the two students before arresting both of them. At a certain point during these events, a separate altercation between two other students and a security officer occurred. These combined events were witnessed by a group of students

of various races who became upset about the length and severity of the restraint and the ensuing arrest.

The conflict that morning has provoked an examination of the circumstances, context and background in order to address issues related to the use of physical restraint; protocols related to calls for CER assistance, the dean on call, and outside police assistance; the role of students when campus security and CER are discharging their duties; and rebuilding the relationship between campus security and students.

The internal committee and investigator each views the events of April 12th as an “inflection point” in student-campus security relations. The College community’s response to the events can serve as an opportunity to bring the campus community together around the pursuits of community safety, mutual respect, and community engagement or it can create further polarization and friction.

The reaction to these events cannot be disaggregated from the visual that many students witnessed: five security officers using forceful measures to restrain two students of color who were significantly smaller than the security guards. The imagery became even more vivid when one student began to bleed. All of these elements created a polemical climate that needs to be rectified. This report acknowledges strengths of the community, including the presence of a security function whose primary mission is to protect the community. However, it is also necessary to acknowledge that there is a growing rift between campus security and students that is exacerbated by alcohol-related incidents, as well as a perception that respect has declined between the two constituencies.

This report also recognizes that the events of April 12th do not fall into neat categories of blame or responsibility, although there are some discrete observations where appropriate. For instance, the report finds that race was not a basis for the security officers’ actions on April 12. It also notes that the scope and extent of the restraint used by the officers was not the most enlightened way of dealing with the two students. But more importantly, the report tries to identify what went wrong and why and provides a discussion of potential curative measures. It is impossible to review the chain of events without finding that virtually everyone involved could have conducted themselves better.

At the same time, we understand that, for the most part, there were no malevolent actors that evening.

The report identifies opportunities for the Colby community to pursue that will require industry, creativity, planning, and patience in order to realize the contemplated benefits.

III. EVENTS AT THE PUGH CENTER

On Saturday evening, April 11, 2009, a student-sponsored “registered” dance party was held in the Page Commons Room of the Cotter Union. The dance party was the gathering for well over 100 students and has been described as a racially mixed party. Page is located within approximately 30 feet of a common area on the first floor of the Pugh Center, although one has to take two very quick turns within the corridor to get between the two locations. The common area features a glass door as well as an expanse of glass wall (almost floor to ceiling) that is approximately 15 feet in length that permits people to see from the common area into the open area adjacent to the SOBHU room.

The common area noted above is adjacent to another room that houses the SOBHU room and other rooms that are the locations for campus-based affinity groups and clubs. Students, faculty and administrators have acknowledged the importance of the SOBHU room on campus. It is considered to be a “safe” space for students to congregate, study, socialize and even sleep. The room houses a number of couches, tables and chairs, and it is not uncommon to see one or more people sleeping there at any time of the day or night. One of the couches is the location where a student was encountered by a security officer at the outset of these events and is commonly referred to as “Decadence” because of its hospitability as a sleeping environment.

Both security and CER personnel described themselves as being very busy in the hours preceding the events that occurred in the Pugh Center and the SOBHU room. They responded to three calls that required students to be transported to either the campus Health Center or the hospital for alcohol-related reasons. The events that are described within this section are a composite that is rendered from reviewing staff reports, statements and interviews with many of the students who were witnesses and/or involved with the events in the SOBHU room and Pugh Center. The events in question occurred

over the course of 35 to 45 minutes, from approximately 1:10 a.m. until 1:55 a.m.; however, it is not possible to pinpoint the time and duration of each specific engagement and interaction that is the subject of this investigation because records of the times of certain encounters and telephone calls are inconsistent and also differ greatly from the memories of event participants and witnesses. All times referenced herein are approximate.

The precipitating events began with an experienced and well-regarded senior security officer entering the SOBHU room during the course of his evening patrol. This occurred at approximately 1:00 to 1:10 a.m. on April 12th. He noticed two male students in the room: one was working on a computer at a desk; the other was apparently asleep on Decadence with his legs partially off the couch. Shortly after the security officer arrived, a female student arrived to put her jacket down. The security officer was white, and each of the students was “of color.” The officer asked the other two students about the condition of the student on the couch. They responded that he was “fine.” The officer expressed concern because the student appeared to be sweating profusely; the other two students told the officer that he had been dancing and that “he was fine.”

The officer attempted to waken the student by lightly tapping his leg. The student attempted to brush the officer’s hand away without knowing who he was. The security officer turned to the male student and asked, “Are you sure he’s fine?” and the student replied, “Yeah, he’s fine.” Throughout the course of a few minutes, the sleeping student was roused by the female student and the security officer. The two students remember him saying, “I’m fine” one or two times and also remember him spelling his last name for the officer and telling everyone that he wanted to go back to sleep. The officer called CER, and according to CER, seemed ambivalent about summoning them to the location. After a few pauses the officer stated, “Yeah, you better come,” and CER then proceeded to meet him in the SOBHU room. Both students of color who were watching were not alarmed or concerned about the decision of the security officer to call for CER assistance. CER took three to five minutes to arrive, and had some difficulty in locating the SOBHU room once they arrived in the Cotter Union.

Shortly before CER and additional security officers arrived in the room, an additional male student of color had entered the SOBHU room and watched as the senior

officer asked the sleeping student and female student questions. Both he and the female student recall the student waking up and saying, "Is there a problem sir?" They remember the officer asking him how much he had to drink and the student responding "not that much." This third student felt that the senior security officer was acting responsibly and left the room shortly before CER arrived. Upon locating the security officer in the SOBHU room, CER could see the security officer speaking with the student. They took the student's pulse, which was normal; they also determined that his pupils were "fine" and that his speech was "normal." CER asked if the student had been drinking and found the female student to be very cooperative. She stated that the male student was drinking much earlier in the evening and indicated that he had drunk some tequila shots earlier that evening, but that "he was fine." One CER student has stated that although a student may appear to be fine, the policy of the College Physician, which applies to the duties of CER, is to have any student who appears to be affected by alcohol transported to the Health Center or taken to a local hospital via ambulance for screening and/or treatment. Arriving almost at the same time as CER were three additional security officers who stationed themselves in the room. Two of these officers were much less experienced and seasoned than the senior officer who was tending to the student on the couch. At the time of this incident, they were both college seniors at a different Maine college and the same approximate age as many Colby College students. The third officer has had substantial other "work" experience and has worked a number of years as a Colby College security officer. All three officers have had the requisite training to become Colby College security officers. This training included MOAB (Management of Aggressive Behavior) which instructs personnel to utilize verbal commands before resorting to "soft hands" (arm-locks and escorts), and as a last measure, employing "heavy hands" (the use of take downs and restraints) before calling the Waterville Police Department.

There is only one entrance into the SOBHU room from the larger room that is adjacent to the common area of the Pugh Center. One student was seated at a round table, the female student was seated on the arm of Decadence, the student who was on the couch being administered to by the two CER personnel, and the security officer who had originally called for CER assistance was next to Decadence. The other three security officers were in the vicinity of the doorway to the SOBHU room. As the two CER and

single security officer were tending to the male student on the couch, another male student of color entered the room, saw what was transpiring and attempted to make his way in that direction stating, “What’s going on?” and “He’s my friend.” This student is approximately 5’7” and of average build. Memories and perspectives do not coincide at this point:

- The two students already in the room watching their friend being administered to knew the additional male student entering the room and could tell that he was concerned. The male student put his hand on the entering student’s chest and told the entering student to “chill” (or words to that effect) and he remembers the student saying, “Get your fucking hands off me,” either to him or to the security officer who attempted to prevent him from entering the room.
- The security officers acted to prevent this new student from entering the room for several reasons: Department of Security protocol is to keep others from interfering with CER when they are administering to a student because of safety and patient confidentiality issues; also, each of the security officers viewed this new student as “agitated” and “aggressive,” describing him as persistently seeking to move around them, occasionally chest bumping them and flailing his hands.
- The female student did not perceive him as being overly aggressive, describing him as someone who often “talks with his hands.” Both students already in the room could tell that he was concerned about his friend.

The male student who had advised the new student to “chill” advised the student on the couch to “go to the Health Center” even though he did not believe him to be in need of attention, because he thought this would calm things down. While this new student was seeking to enter the room, the female student began advising him “[name], it’s fine.” Security officers described that they continued to tell him that he had to leave the room and he continued to try and move past or around them, and at times “body bumped” or “chest bumped” them. One of the CER students recalls that they were at the side of the couch for a total of three to five minutes, but that the “scene became difficult.” The other CER student said that he felt “threatened.” They recall that the student became more “aggressive” in trying to get past the officers, and that the senior officer warned the student that he had to calm down and leave.

This student, when interviewed, had no memory of being physically aggressive but does remember being concerned about his friend and trying to make his way to the side of the couch to help him. He is a former elected officer of SOBHU and was concerned when he saw security officers enter the SOBHU room because he has never seen security in the Pugh Center or the SOBHU room. He recalls that they grabbed him by his arm and that he responded by saying, "Don't touch me." He remembers that he tried to get through by angling around them, not by forcing his way directly through. He is aware that CER has a responsibility to help people, but does not believe that it is abnormal for CER to seek information from others about what a person had to drink and that he felt he had useful information.

One of the security officers who was present in the SOBHU room had an encounter earlier that evening with the student who was now trying to enter the room. Approximately one to one and a half hours earlier, the security officer was patrolling with another officer when they saw this student enter a campus building holding a cup and a cigarette. They stopped him to inquire about his possession of an open container of alcohol and for smoking a cigarette inside a building. When they asked him his name, he gave the name of another Colby College student; upon checking the name and mailbox number he provided, they were able to determine that this was not his proper name. When they asked him again for his name, they recall him saying, "Oh, you want my real name." He then provided his correct name. One of the officers said that his speech was somewhat slurred, he was swaying a little as he spoke and that although he was "not argumentative," he was "uncooperative" and appeared to be intoxicated. At the time of this incident, the Department of Security protocol authorized security officers to exercise discretion when encountering a student who appeared to be intoxicated unless the officer was responding to a call for medical assistance. At that point in the evening the security officers felt that it was appropriate to let this student proceed without any further action.

After what most people involved with this incident remember to be one to two minutes, the senior security officer asked the other officers to remove this student from the room. Prior to this directive from the senior officer, one of the officers remembers that the officers had already followed the protocol that they are instructed to use when confronted with a person who does not follow their directives: the student was given a

verbal command (told to leave the room); he was given a command with consequences (told to leave or that he would be removed from the room if he refused to leave). One of the students of color who was observing this also remembers the entering student being warned to stop and leave the room. At that point, after the directive from the senior security officer, the three officers used physical force to remove the student from the room. One of the other students saw an officer grab the student by his left arm, which is corroborated by the senior officer who saw one of the officers put his right hand on the left arm or shoulder as he began to escort the student out of the room. Another officer describes taking the student's other elbow and wrist into a locked position as they attempted to escort him from the room. Officers describe the student as saying, "Don't touch me" and attempting to struggle to pull away from them.

The female student and the senior officer describe seeing the officers escort the student out of the room, followed very quickly by a "commotion." The female student described hearing "shouting from everyone." The other male student already in the room described watching as the restrained student, with his hands up in the air, said, "Why are you putting your hands on me" and watching as they moved him six to eight feet outside and away from the SOBHU room. A new student who was just entering the Pugh Center from the dance to obtain a drink saw the actions of the officers and the student as they were moving out of the room. He has stated that there was a lot of yelling by everyone but no physical retaliation by the student. He saw the student shouting, "Why, why?" and "this is ridiculous."

Within seconds the three security officers pushed the student to the floor. The CER students recall hearing a loud noise within moments after the security officers forced the student out of the SOBHU room; they left the SOBHU room with the student that they had been administering to within 30 seconds of hearing the noise and passed the restrained student on the floor as they left the Pugh Center. Three to four students observed one officer put his knee in the student's spine and his forearm to the back of the student's neck so that the side of his face was pressed against the floor. They described seeing another security officer holding either the right or left arm of the student behind him in a twisted position. The female student walked to the doorway when she heard the shouting and looked out to see the officers on top of the student. In addition to observing

an officer holding the student's face down and another officer holding the student's arm behind his back, she noticed a third officer holding the student's legs in a bent position with the knees crossed in an "X" position. Another student observer saw the student being restrained and stated that he "...appeared to be very compliant..." A different student observer watched as the restrained student asked security to let him go, "...but they kept him down even after he had been down after so much time and was no longer aggressive."

At this point, memories and perspectives vary:

- Virtually all of the students who had witnessed the encounter with the other student and the security officers thought that the officers had him completely restrained and secure. While they saw him moving and squirming, they could not tell if it was from pain or fear. Many students remember hearing him say, "I am not resisting."
- The two officers securing the student described him as "flailing" around and attempting to get away from them.
- The senior officer put his hand on the student's head and asked him to stop resisting. He also described the student as trying to bite one of the officers.
- A different officer described how the senior officer moved away from the student to help control the crowd "...once hands and feet were somewhat controlled."
- The student who was the subject of this restraint remembers being in pain and incapable of resisting. He recalls that he stated, "I am not resisting" on several occasions while he was being held on the floor.

One of the more junior officers involved in the restraint has stated that he would have let the student up if he had stopped struggling and yelling; the more senior officer stated that it is protocol to call the Waterville Police Department once a student has been "taken down." As the student was being restrained, a fifth security officer who had not been present earlier arrived and asked the senior officer if he should call the Waterville Police Department. The senior officer responded affirmatively.

Colby College Department of Security Emergency Protocols state that in instances of an assault, the official notification protocols require calls to the Director of

Security or Assistant Director of Security and the dean on call. A September 5, 2006 memorandum from the Director of Security to “All Personnel” advises security officers that “[I]f it’s a matter of **life safety** for you as the officer or a threat to anyone else, or a serious crime in progress, any one of you may **call the police immediately**. If it’s a matter of a party out of control with underage drinkers, or too many students in a room, or a noise complaint, call for back-up within the Department 1st and if necessary call the DOC (Dean on Call) and/or me. We should be able to handle the alcohol issues unless someone becomes violent or threatening.” (Emphasis in original). The dean on call did receive a call from the Department of Security, however it was not until 25 to 35 minutes after both this initial takedown and a subsequent takedown 10 to 15 minutes after the first, and after the outside police departments had arrived on campus, arrested two students, and departed.

While the restrained student was on the floor, he asked others to take pictures. The senior officer noticed approximately half a dozen people standing in the room and that people were taking pictures. He tried to “work with the crowd” to back them up and sensed that the crowd was beginning to grow as people left the dance. The senior security officer estimated that there were perhaps 25 to 30 people in the room; the female student thought that there might have been 20 people in the room, most of whom were female students; the other male student estimated that there were approximately 10 to 15 people in the room at this time.

By all accounts, those students who were in the room were dismayed, angry and upset. Some were yelling at the officers (“get off of him,” “get the fuck off of him”, “leave him alone”) while others were crying, and some were taking pictures with cell phone cameras. Some of the security officers, as well as some students, remember students accusing security officers of being “racist.” All of the security officers involved in this incident were white. The senior security officer was becoming increasingly concerned about the crowd’s agitation and its increasing size while waiting for the Waterville Police Department. Various estimates gauge that during seven to 10 minutes of this activity, the restrained student was continuously pinned on the floor by two, sometimes three, officers. During this time, both the female and male student attempted to comfort him by saying “[name], it’s going to be okay.” The female student was yelled

at by a security officer, and the male student was pushed by a security officer. Some students described the security guards' actions as very aggressive – on a scale of 0 to 5 with 5 being the most aggressive, the aggressiveness of the security officers was a “4” according to one student witness.

After the student had been restrained on the floor for a period of approximately 10 to 15 minutes, several people noticed another student of color enter the room. He was noticed by the senior officer because he was yelling loudly and attempted to walk between the senior security officer and the crowd to get to the student restrained on the floor. This student, approximately 5'8” and of slender build, remembers being encountered by another student of color who tried to deter him from getting any closer; he told this person, “Don't worry about me.” He then saw the senior security officer, who he remembers saying “[name], get the hell out of here.” He had never been approached by security in that way and he became more curious about what was happening. As he moved around the security officer, he saw his friend underneath two other security officers with blood coming from his mouth. He remembers taking his jacket off because it was hot and he thought he would be there for awhile. He does not remember making bodily contact with the security officer or trying to push past him but he does remember being very concerned about his friend.

One student who was already there said he could tell that this student was agitated and tried to grab him; the student told him to “let me go.” A different student tried to grab his arm and stop him from moving forward, but he continued to move ahead. A number of students described the security officers as addressing him by his name, suggesting that the officers were familiar with him. Both the senior officer and the two students who attempted to deter him noticed that he was upset. The first student who encountered him as he entered the area observed him walking toward the senior officer, who himself seemed agitated. He could see the senior officer's arms moving as if he was protesting or attempting to stop the student as he approached him. Both the student and at least two other officers observed the approaching student take his blazer off and throw it aside. The senior officer heard him say, “This is bullshit” and “I'm going to put an end to this.” The senior officer described the student as then clenching his hands and walking aggressively toward him; the student observing this encounter saw the student walk straight toward the

senior officer, who then grabbed the student's right arm. He heard the student say to the officer, "Get your hands off me" and then saw the student being bear hugged by the senior officer and taken to the floor. The officer described telling the student that he had "to go to the floor"; the officer was then assisted by another officer. As both officers attempted to subdue and restrain the student, the senior officer had to let go of the student's arm because he was afraid the student would injure himself due to his constant efforts to tilt or spin from one side to the other. While the officers were trying to restrain the second student, the student was kicking and flailing while saying, "Leave me alone, I am not resisting." Those students interviewed during the course of this investigation or who supplied statements described the second student as being aggressively restrained and unable to move. One student described his back as being arched; and, another student stated that knees, elbows and fists were "violently used" to press the bodies of the students, "...especially on the student's head and face..."

While the senior officer was attempting to restrain the second student, he could see more and more students amassing on the other side of the glass wall that separates the Pugh Center common area from the hallway that leads from the Page Commons Room. Those students in the room were increasingly agitated. He could see students approach the officers involved in the restraint, yell something, then step away. Estimates of the total crowd size within the room and on the opposite side of the glass wall that separates Pugh from the hallway leading to Page Commons range from 20 to 50. He was concerned that an extended period of time had passed without any assistance from the Waterville Police Department as a result of the initial call. He then called for all available Colby security units, and after a short period of time he called for "all available outside police units," also known as a "10-74" call. Shortly thereafter the senior officer recalls that a Waterville Police officer appeared, assessed the situation, and then reiterated the 10-74 call for all available outside police units.

While two officers were attempting to restrain the second student, the officer who had previously escorted the student to the Health Center returned to the scene of the Pugh Center incident and was seen by several students to lend assistance to the two officers restraining the second student. Two students observed one of the officers using the bottom of his fist to "jab" or strike the second student in the side of his torso. Another

student bent down to speak to one of the officers and said, “He’s my friend. I can talk to him. You are agitating the situation.” The officer stood up, shoved him, and told him to leave.

At some point during the 15 to 20 minutes that the first student was on the floor, he began to bleed onto the floor. The students assembled in the room became vociferous, angry and animated in their protestations. They asked the officers to let him go, shouted, “He can’t hurt you,” and called the officers names. The male student who was present from the beginning of the events saw another male student talking to one of the security officers restraining the second student on the floor. He observed this student say to the officer, “That’s excessive force.” He then saw the officer stand up and shove the student repeatedly until the student was completely outside the room. The student who was the subject of the shoving by the security officer has confirmed that he asked, “Why are you doing this? That’s excessive force.” He stated that the officer jumped up and asked him if he (the student) wanted to “start something?” The officer then began to push him in his chest area, out of the Pugh Center, into the hallway, down an internal set of stairs (causing the student to have to jump down some of the stairs to avoid falling). When the student got to the door leading to the outside of the building, he opened the door, and the officer continued to push him even as he was outside of the building until the student was standing with his back against an exterior wall. During the time that he was being pushed, the officer repeatedly stated, “You want to take this outside?” Once they were outside the officer’s statement changed to, “Do you want to do something now?” The officer then asked him for his ID; when the student attempted to hand it to him, the officer slapped it out of his hands so that it landed behind the officer on the stairs that they had both just descended. This student then described how this was witnessed by another student who stated to the officer, “Sir, he just handed it to you.” An additional student witnessed this sequence of pushing by the security officer and saw the student’s ID being slapped from his hand onto the stairs. He saw the security guard yell at the student while the student was trying to explain that it was slapped out of his hand. The officer then picked up the ID and walked away; this student had to retrieve it from a female van driver shortly afterward. Most of this incident was witnessed by a friend who had attended the dance with him. She observed the officer get up from the floor and stand less than a foot from

her friend. When the officer asked if her friend wanted “to start something,” her friend said, “No, I just want an answer to my questions.” She stated that the officer sounded like “someone trying to start a bar fight rather than calm the situation down.” She then described the security officer pushing her friend out of the room and down the steps to the exterior door while stating, “Do you want to take this outside? Do you want to start something with me?” She was standing behind her friend when this encounter first started and had to back up to get out of the way. She could not hear what was said outside, but when the officer reentered the building she spoke to him and said, “Excuse me, sir, that was awful. You are trying to provoke [name]. This is bullshit.” She described the officer as grabbing her left arm just above the elbow, pushing her back a few steps and staying, “Do you want to get involved in this too?” She described herself as becoming visibly frightened; the officer then let go of her and walked away. By this time, her friend had reentered the Pugh Center and witnessed the officer grabbing her by the arm.

The security officer involved in this exchange remembered the sequence and timing differently. He stated that his exchange with the male student occurred after the arrest of the two subdued students and that he backed the student through the room, down the hallway and outside the door – approximately 30 to 40 feet – in order to clear the room. The security officer states that he pushed the student to move him away from the room and that the student kept stating, “You don’t want to do this.” He took this statement to be aggressive and admits stating to the student, “If you want to go (meaning fight) then do it, but you’re going to leave.” The officer states that the student threw his ID onto the steps, differing from the student’s account of the ID exchange.

After this engagement, the student went back to his room with his friend where she noticed several abrasions on his chest and neck. Pictures were taken and shown to the College committee and this investigator. The pictures clearly show abrasions/ lacerations on the student’s upper chest and lower neck area.

As a result of either the single Waterville Police 10-74 call or the senior security officer’s call for all available outside police units, officers from several police departments (Waterville, Fairfield, Winslow, Oakland) as well as Maine State Troopers and deputies from the Kennebec County Sheriff’s Office responded to the SOBHU room at Colby College. By the time these departments arrived at the College, the first student

had been restrained on the floor 15 to 20 minutes; the second student had been restrained for approximately five minutes. The first student had been bleeding for five to six minutes. When the police arrived, one of them administered pepper spray to the second student, administering two or three “doses” while the student was lying on the ground. Here, some witnesses have him face down while others have him lying face-up. The security officers described the officers asking the students to stop resisting so they could handcuff them. After the two students were handcuffed and transported to the Waterville Police Department, a number of outside police officers began to assist security officers in warning students to return to their rooms or they would be arrested.

Attendees at the dance were students of color along with some white students. Some of the students felt that the outside police officers were preoccupied and particularly focused on following students of color and ensuring that they returned to their rooms. One student overheard an outside police officer remark to others that “we would have tasered them, but there were too many student witnesses.” She inferred this to mean that the officers would have tasered the two students being restrained. Other students recall outside police officers making provocative and inflammatory comments as they were assembled with security officers.

IV. ANALYSIS OF INCIDENT

The committee appointed by President Adams, as well as this investigator, understand that there is a dichotomy between the understanding and perceptions of Colby security officers who were involved in the events of April 12th, and those students who were involved in or witnessed the events. It is important to articulate the perceptions of those two constituencies within the context of existing protocols and practices. Each of these variables – perceptions, protocols and practices – are relevant to how the events occurred and what might be done to prevent similar events in the future.

A. Security Overview

The Colby College Department of Security has to be mindful of Colby College policies related to student alcohol consumption. This policy recognizes that “Colby College has a long tradition of significant alcohol consumption which this Policy along with other educational and consciousness-raising programs on Campus seeks to address.” (Section 3, Department of Security Policies). Security officers are asked to be mindful

that they are not "...a Police Officer or Liquor Inspector," and that "...the Officer should attend to the needs of any person who may be found in need of assistance due to the effects of alcohol consumption or any accident or injury resulting therefrom." Id.

Section 3 of these policies goes on to identify the circumstances under which students should be escorted to the Health Center for a medical assessment, or in the alternative to the emergency room of Maine General Hospital (if the security officer feels the situation is serious enough). Security officers are instructed to assess: whether the student is able to walk without difficulty, breathe, speak or identify themselves, is violent or threatening, is obnoxious and unruly [or] is a risk to themselves or others. The officer is also asked to make judgments about whether the student is passed out, has a fever, chills, or other injuries. Also relevant is whether the student is reported to have consumed a large quantity of alcohol, or "chugged," within the last 30 minutes. Any one or combination of these circumstances would justify an officer, under the existing policies, to have a student escorted to the Health Center. However, even if none of these criteria are evident, security is instructed to still take the student to the Health Center for a medical evaluation if the officer's intervention is as the result of a medical call. The policy dictates that "only the Health Center personnel will decide if a student must stay in the Health Center, go to the hospital or be released." Finally, even if the seemingly intoxicated student is conscious, alert and appears to understand the risks in the situation and in all other respects does not seem to be at risk, the College policy is to transport or walk the intoxicated student to the Health Center for further evaluation or have the student taken to a local hospital via ambulance. The context to all of these considerations is student safety, and that was the basis of the request for CER assistance by the senior officer who first arrived in the SOBHU room.

B. Colby Security's Handling of the Pugh Center Incident

Students, faculty and parents have questioned the efficacy of Colby security officers making the following decisions:

1. The "taking down" of two Colby College students;
2. The duration of the physical restraint and the physical force exerted during the restraint;
3. The arrest of the two Colby College students; and

4. The decision to call for Waterville Police, and ultimately “all available outside police units.”

During the course of interviews and discussions conducted by the College investigators, as well as this outside investigator, students and faculty articulated concerns about the inconsistency of “policy” v. “practice”: essentially that previous observations and experiences lead them to believe that there have been incidents in the past where white Colby College students have engaged in decidedly more abusive and/or assaultive conduct toward security officers and not been physically restrained or taken down by Colby security officers. They have also witnessed, heard of, or been participants in altercations with Colby security officers in which students have not been arrested even though the abuse directed toward the security officers was more severe than the conduct of the two students on April 12th. It should be pointed out that most of the students and faculty who made these observations and/or voiced these concerns were white. Many members of the community have articulated that race *must* have been a factor because they cannot discern any other reason for the treatment that the two students of color received on April 12th. These expressions of concern are also based upon the recognition that take downs combined with on-campus arrests are campus rarities.

During the course of this investigation, inquiry was made of the frequency of take downs, whether or not they are memorialized in written form, and whether or not take downs always result in an arrest. Interviews of representatives from the Dean of Students office and the Department of Security resulted in inconsistent answers: one security officer stated that once a person has been restrained and taken down, the Waterville PD is always called to effectuate the arrest and he only knew of one exception to that; another security officer stated that students are not always arrested after a take down; and, a representative from the Dean of Students office stated that students are not always arrested after a take down. Here, there seems to be a substantial opportunity to articulate a policy to the entire Colby community about what kinds of actions will likely result in a take down and the consequences of a take down. Publishing the number of times these actions occur as well as the outcomes (without identifying any of the parties involved) will help the College community, including the Department of Security, determine

whether the use of this tactic has any effect in keeping both the community and its security officers safe.

C. The Role of Security While CER is Administering to a Student

The role of Colby security to assist CER when a student is in need of medical assistance due to the effects of alcohol consumption, minor injury or illness are articulated in the Colby College Department of Security Emergency Protocols as well as the aforementioned Student Alcohol Policy of the Colby College Department of Security. The emergency protocols articulate several steps that are supposed to occur when a security officer responds to a location to assist a student who is believed to be ill or suffering from the effects of alcohol consumption. The policy specifically states that “a person meeting any of the criteria set forth in the guidelines (see page 16, *Infra*) should be taken to the Health Center for evaluation.” The emergency protocol requires the Colby Department of Security to dispatch CER to the exact location to administer to the student.

The discussions with CER personnel, security and students reveals that there is considerable inconsistency among these constituencies about what should happen if any one of the following scenarios occur:

1. When a Student Appears to Have Consumed Alcohol

The CER personnel indicated that a person *must* be transported to the Health Center if they appear to be under the effects of alcohol. At the Health Center, they can leave after a Breathalyzer has been administered and their blood alcohol content is less than .08; if their blood alcohol is between .08 and .20, they must spend the night; and, if their blood alcohol exceeds .20, they must be transported to the hospital. This is inconsistent with the existing policy that permits an officer to allow an intoxicated student to proceed without intervention – as the two officers did when they encountered the first restrained student earlier that evening. They exercised their discretion in a way that is most likely consistent with the expected ethic on campus, but these inconsistencies do pose a dilemma to the College community. If a student is believed to be intoxicated at or beyond the limits that CER would see as requiring him/her to at least be transported to the Health Center, but the officer gives the student “a

break,” does that make the student and the community less or more safe? Does the availability of this discretion create vagaries based on relationships and other unquantifiable criteria? This concern is also consistent with the perceptions of students from Colby College who perceive the Department of Security to enforce this practice in a very ambiguous way.

2. Approaching Security and CER While a Student is Being Administered to

The security officers interviewed by the investigators had a strong sense that it was their duty to keep students and others away from a student who is being administered to by CER; they clearly see that as part of their safety function. CER also relies on security for this vigilance. Students interviewed during this investigative process were unaware of any clear standard or practice that would inform them of what was expected of them under these circumstances. Some students stated that they have seen situations in which student input is welcome and other circumstances in which a student has been physically repelled for seeking to assist a friend.

The protocols, guidelines and rules articulated within this section form the basis of campus security’s approach to the events of Sunday morning, April 12th. The senior security officer was seeking to assess the condition of the student resting on the couch. He had knowledge of the student’s consumption of liquor and that the College’s guidelines require a student to at least be evaluated by CER for possible referral to the Health Center. At the early stages of this encounter, there were at least two other students within close proximity to the officer and student. They both understood the officer’s concerns and cooperated with his questions.

This security officer, together with other officers who arrived at the scene, was appropriately alert to their responsibility to minimize potential intrusions while CER was assessing the student’s condition. Regardless of the intruding student’s intentions, he was warned multiple times to “calm down” and “leave the room.” The two students who witnessed this encounter also advised him to “chill” and that things were all right. It is quite possible that this student’s consumption of alcohol affected his judgment. Even accepting the student’s representation that he was there to help his friend, his refusal to

follow the instructions of the security officers and advice of two other students and his continued attempts to move past and around the officers left them with no alternative to making him leave the room.

When the senior officer directed the other officers to “get him out of the room,” it was for the purpose of preventing a continued disturbance and to enable CER to finish administering to the student on the couch. CER completed its assessment and left the SOBHU room within 30 seconds. Once they were gone, the need to restrain the student on the floor was over, at least for the purpose of preventing him from interfering with CER. The only other purposes, based upon statements of participants and witnesses, would have been to detain him to see if he would stop resisting or until the police arrived to arrest him. On this last point, the notification protocol that would have resulted in a telephone call to the dean on call did not work as contemplated in the Department of Security guidelines and protocols. By the time that the dean received the call from dispatch, all of the events that are the subject of this investigation had transpired, leaving the dean with no ability to acquire more detailed information, render assistance, engage in problem-solving or make decisions about what, if any, further actions should be taken.

The duration of the first restraint and the extent to which arm and leg locks were used while the student’s face was forcibly pressed into the floor is an extreme tactic for any college to have to use. If a person is unarmed and not otherwise violent, the College should have other options available to prevent further disruption. Furthermore, the use of these forceful tactics, in front of other members of the College community, would not inspire the confidence of the campus community in the ability of its security force to administer its responsibilities in a professional manner. While it was jarring for students to witness these actions, especially given the sight of five white officers restraining two students of color, there is nothing to indicate that the officers bore any hostility toward the two students because of their race. The security officer who first arrived at the scene was engaged in helping another student of color in consultation with three other students of color. The other officers were there rendering assistance and the fact that they all used restraint methods against two other students of color was circumstantial – created by other events and not the animus of the officers.

These methods also limit the ability of the College to take deliberative action. Once an outside police department is called to arrest a student, especially before a representative of the Dean of Students office has been alerted to the relevant facts, the College is foreclosed from any intervention at that point. Police officers arriving on campus are responding to what they see as an emergency, especially, in this case, after two 10-74 calls for “all outside available units.” They are, understandably, inclined to enforce the law and control the scene, and they lack tolerance for the kind of give-and-take that may be part of the culture of the College. They may leave behind a more complicated set of issues than if they were not called. Calls for outside assistance are rare, and calls for “all available outside units” should be approved, time permitting, by someone who is not as enmeshed in the incident.

V. INVESTIGATIVE FINDINGS

Upon consideration of all of the information, interviews and circumstances of the events of April 12th, the following findings are issued:

1. Security and CER acted responsibly and appropriately in assisting the student who was sleeping on the couch in the SOBHU room. There was sufficient reason to believe that he needed to be screened by the Health Center in connection with the consumption of alcohol, and this student willingly accompanied security and CER to the Health Center.
2. Security officers were unable to discern the intent of the student who entered to find out about his friend’s condition. They understandably were concerned about his agitated state and acted responsibly in trying to keep him from interfering with the functions of the senior security officer and CER.
3. The senior security officer gave an appropriate directive to the other security officers when he instructed them to remove this student from the room, especially after the student failed to respond to their combined instructions to leave the room.

4. The student entering the SOBHU room, however well-intended, behaved in a way that required the security officers to escort or force him from the room.
5. The three officers acted within appropriate levels of discretion, as well as the directive of the senior officer when removing the student from the room; their take down of the student was understandable given their inability to ensure that he would not seek to return to the room where his friend was.
6. The period of time that the student was restrained and the means by which he was restrained were beyond what was necessary to enable security and CER to administer to his friend.
7. Once this friend, the student who had been lying on the couch, had left the Pugh Center, other means should have been available to the security officers, since there was no need to continue to restrain him from entering the room.
8. Race was not a motivating factor of the officers in their decision to escort the student to the Health Center and to remove the other student from the room and ultimately restrain him on the floor.
9. The decision to use physical force to restrain the student on the floor should have immediately triggered a call to the Director of Security and the dean on call to inform them of the use of such force and to discuss potential options to de-escalate the situation.
10. There was sufficient time between the initial restraint of the first student and the arrival of the second student to have sought the input of the Director of Security and Dean of Students office before calling for the police.

11. The student entering the Pugh Center to assist his friend, however well-intended, behaved in a way that required the senior security officer to restrain him.
12. The decision to physically restrain the second student was reasonable under the circumstances at that point in time. Race was not a motivating factor of the officers in their decision to restrain the second student.
13. The security officer who pushed the student out of the Pugh Center room, down the stairs, out of the building and against the wall behaved unprofessionally and improperly and used improper force.
14. The security officer, in slapping the student's identification out of his hand, used unprovoked and improper force.
15. The security officer, in grabbing the student's female friend by the arm, used unprovoked and improper force.
16. The decision to use pepper spray while the second student was restrained was not made by a Colby security officer.

VI. RECOMMENDATIONS

There are many ambiguities that have been identified as a result of this investigation. These ambiguities include, but are not limited to:

- The perceptions about the level of interaction that should be permitted when security and CER are administering to a student;
- When security and CER should escort a student to the Health Center for medical attention due to the effects of alcohol;
- What level of restraint and force is appropriate for the Department of Security to use, and under what circumstances,
- Whether, when, and how physical restraint and force should result in a call to the Waterville Police Department; and,

- The precise timing and circumstances under which the Director of Security and the dean on call should be called and what decisions should be made by them. This report makes several recommendations below to address these ambiguities.

A. Accountability and Clarity

The events of April 12th are viewed by many on campus – security officers, students, faculty and staff – as being representative of a decline in the level of engagement and respect, particularly between security officers and students. Students have complained that security officers seem to have the discretion to make decisions that favor certain groups, individuals or circumstances; security officers believe that respect for their function seems to be declining; and administrators are concerned that alcohol-related incidents and disorder take up the brunt of security’s working time, particularly on the weekends. Starting with the fall semester of 2009, it is recommended that the College begin by affirming the level of engagement and responsibility expected of students, security, and administrators. This would not only include affirming the standards of conduct that are already expected of all parties; it would also include articulating new standards of conduct where appropriate: For instance, there are currently no published standards relating to:

1. Specific responsibilities of security and CER when administering to a student;
2. The responsibility of students when security and/or CER are tending to a student.
3. The responsibilities of students when receiving instructions from security; and,
4. The avenues of redress that students can avail themselves of if security conducts itself improperly.

These standards should be articulated and published.

Members of security and others have expressed concern about the unevenness with which the Dean of Students office has held students accountable for disrespectful, abusive and assaultive behavior when those incidents are reported to the administration. Similarly, members of the Dean of Students office have voiced concern about the

inconsistency with which security officers submit reports of such incidents. At a minimum, security officers should be required to submit written reports of all assaultive behavior. There should be a standard that is codified in writing requiring the Dean of Students office to communicate with both the Department of Security and student(s) once the report is submitted to the Dean of Students office. There should also be an expectation, codified in writing, that the College's disciplinary process will be triggered once a written report of assaultive behavior is submitted to the Dean of Students office. The consequences of the disciplinary process should be reported to the Department of Security and the student, as well as the student's academic advisor. The results of the College's disciplinary process should be published on a quarterly basis, without any identification of the complaining security officer(s) or the student who was the subject of the complaint. Similarly, the results of any review of security officer misconduct should be published on a quarterly basis.

There should also be a presumption – in writing – that the Director of Security and the dean on call will be notified before one or more police departments are asked to assist on campus. There will be life-threatening or public safety emergency circumstances that will require a security officer to make a decision to call for police back-up (some of these are already articulated in the Department of Security Emergency Protocols); however, whenever time and circumstances permit, the operational rules and protocols should require these calls to be made.

B. Training

On a college campus where civility and respect are part of the community's values system, the reaction to the events of April 12th, as reported and as depicted on video, are understandable. Thankfully, the events of April 12th are an aberration. Nevertheless, the events represent an opportunity for the College to undertake a review of the current Department of Security protocols to determine if they are aligned with "best practices" that are employed in similar environments. This review should be undertaken by a professional consultant who is experienced in examining these protocols and consulting with other similarly situated institutions. Simply put, the take down of a student to the floor, the restraint of the student by two or three officers pressing his face against the floor, pinning his legs and arms, and restraining him in this manner for 10 to

20 minutes can almost never end with a good outcome. Currently, Colby security officers are trained in the four-stage procedures taught to law enforcement agents at the Maine Criminal Justice Academy. There have to be alternatives to these procedures that could be employed by properly trained personnel on a college campus.

C. Community Engagement

Many of the people interviewed during the course of this investigation also cited these events as an opportunity for a new level of engagement between security and students. Security administrators, students and College administrators identified the need to cure what appears to be an increasing divide between security personnel and students. Security officers live outside the College campus and come to “work” on campus and many of them do not have the opportunity to “know” the community that they are charged with protecting. Similarly, the College does not have the means, currently, to integrate the officers into the everyday fabric of the campus life. The College’s investigative committee and this investigator envision several concrete ways that the College, Department of Security leadership, student leadership, and faculty can remedy this situation. We propose the following recommendations for consideration:

- 1. Facilitated Interactions and Focus Groups:** Very few students know what the work-day life of security officers is like. Even fewer know and appreciate the training that they have received and the options that are available for security officers to employ when dealing with difficult personalities, intoxicated and/or disorderly people, and the array of calls that security officers receive. Similarly, for many – if not most – of the security officers who come to work at Colby College, the campus is their first experience working in and among a much more diverse environment than they have previously experienced. Students and faculty come from many different environments from around the country and the world, and have had experiences and/or perceptions about police and security officers. The College should foster facilitated discussions, perhaps utilizing the Student Security Advisory Committee as one (but not the only) constituency group to host these sessions. Here it would be

important for other student groups, including minority student groups to have the opportunity to host these sessions and lead the interaction.

2. **Student Leadership:** The College administration should consider adding an element of responsibility to student leadership positions that would require student leaders to help facilitate interactions with the Department of Security. Student Government and affinity group leaders should be expected, as part of their leadership responsibilities, to help their groups engage the Department of Security. Similarly, athletic team captains could be expected, as part of their leadership responsibility, to help their team members develop relationships with the Department of Security. The basis for these particular recommendations is to recognize the fundamental premise that a bridge cannot be built from only one side. If there is a divide to be conquered, people from all sides must have the responsibility of bridging the gap.
3. **Department of Security Responsibilities:** While there are some singular examples of security officers who have developed relationships with certain members of the community, the leadership of the Department of Security should encourage, mentor, and measure success in the area of relationship building with campus constituencies. For instance, knowing where the various affinity group meeting spaces are and being seen in those spaces in a non-intervention capacity should be part of the relationship building that is encouraged by the Division of Security leadership and students. Security officers should be encouraged to make presentations to student groups, at residence hall events, to athletic teams and other clubs and at other venues where their “protective” function is highlighted more than their “enforcement” role.

VII. CONCLUSION

There are many lessons that can be derived from these events. As one faculty member stated: “Anytime you combine youth, race, alcohol consumption, class and the

use of authority, you only need one small thing to go wrong to find yourself in the midst of a much larger problem.” The Colby College community prides itself on being an inclusive institution, committing resources to support the pursuit of inclusion, and in this investigation has recognized the areas in which more work is required. This recognition distinguishes Colby College from other institutions that deny these challenges exist, or avoid discussing them all together. It is sincerely hoped that this report serves the community well in support of its pursuit of the College’s ideals.