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<b>To:</b>	Susie Mitton Shannon, Interim Dean of Student Conduct   Deputy Title IX Coordinator for Students
<b>cc:</b>	Sandra Jones , Amherst College, class of 2014, John Doe , Amherst College, class of 2014
<b>From:</b>	Allyson Kurker, Esq., Kurker Paget LLC, External Investigator
<b>Re:</b>	Investigation into allegations of sexual misconduct (Sandra Jones , Complainant; John Doe , Respondent)
<b>Date:</b>	November 20, 2013

Amherst College promotes compliance with its sexual misconduct policy in part by investigating allegations of policy violations. This document memorializes the investigator's findings concerning the above-referenced matter.

## **I. Background**

The Complainant, Sandra Jones , and Respondent, John Doe , both are members of the Amherst College class of 2014. Ms. Jones reports that in February 2012, she and Mr. Doe consensually engaged in sexual activity, but that during that encounter, the sexual activity became non-consensual when Mr. Doe forced her to perform oral sex. Mr. Doe reports having no memory of the sexual encounter with Ms. Jones due to intoxication, but does not believe he is capable of such conduct. There were no witnesses to the alleged sexual misconduct.

Ms. Jones reported her complaint to Susie Mitton Shannon, Interim Dean of Student Conduct | Deputy Title IX Coordinator for Students, during the spring of 2013. At that time, Ms. Jones chose not to pursue the Hearing Board process due to the semester soon ending. At the beginning of the current semester (fall 2013), Ms. Jones met with her advisor, Rhonda Cobham-Sander, and prepared a Complaint Form. Mr. Doe submitted a Response to the Complaint Form. Ms. Jones identified two witnesses who she believes have relevant information: J.M. , Amherst College, class of 2012, with whom Ms. Jones shared some

details of the alleged misconduct approximately one month after its occurrence, and; L.R. , who spoke to the Respondent after he learned of Ms. Jones 's allegations about him from an AC Voice article. Mr. Doe identified four witnesses who he believes have relevant information, including: E.H. , E.K. , N.K. and R.M. . Each of these witnesses testified about Mr. Doe 's state of mind after he learned of Ms. Jones 's allegation. The College retained this investigator to conduct interviews of the Complainant, Respondent, and aforementioned witnesses, and to prepare this report summarizing her factual findings.

## **II. Investigation Procedure**

The investigator interviewed the following witnesses at the Lord Jeffery Inn on November 11, 2013 (unless otherwise specified):

1. Sandra Jones , Complainant (accompanied by her advisor, C. Rhonda Cobham-Sander, Professor of Black Studies and English)
2. E.H. , Amherst College, class of 2014, witness for the Respondent
3. E.K. , Amherst College, class of 2014, witness for the Respondent
4. N.K. , Amherst College, class of 2014, witness for the Respondent
5. L.R. , Amherst College, class of 2014, witness for the Complainant
6. John Doe , Respondent (accompanied by his advisor, Torin Moore, Assistant Dean of Students & Director of Residential Life)
7. J.M. , Amherst College, class of 2012, witness for the Complainant <sup>1</sup>
8. R.M. , Amherst College, class of 2014, witness for the Respondent<sup>2</sup>

The investigator asked, and each witness agreed to sign a witness acknowledgement, in the form attached as Exhibit A. The acknowledgement covers issues such as the role of the investigator, confidentiality, retaliation, and permits the investigator to audio record the investigation.

## **III. Witness Summaries**

### **A. Summary of Ms. Jones 's complaint**

Ms. Jones ran into Mr. Doe in the fourth floor common room of the Morrison Pratt dormitory (she lived on the third floor; he lived on the fourth floor) on the evening of February

<sup>1</sup> J.M. Amherst College class of 2012, lives out of state and was interviewed by telephone on November 11, 2013.

<sup>2</sup> Mr. Doe identified R.M. as a relevant witness during the investigator's interview of him. The investigator interviewed her by telephone on November 15, 2013.

4, 2012. They consensually left together and began to “hook up” in her room. At the time, Mr. Doe also was involved in a sexual relationship Ms. Jones ’s roommate, E.K. , who was away that weekend. The following summarizes Ms. Jones ’s testimony regarding the alleged sexual misconduct:

**Ms. Jones :** I was talking to [Mr. Doe ] for a certain amount of time....He got more aggressive as time went on, and he was moving into me a lot, and then, he grabbed me and would try to kiss me, and I was trying to stop, and I didn’t want to [kiss him], and then I did [want to kiss him], and we started making out. At some point ... a couple of [Mr. Doe ’s friends] were chanting “whore” at me, and I wasn’t paying attention at the time because I was a bit tipsy. So, at that point, I didn’t see any reasons not to [kiss him], because I felt that ... I was being blamed already. We went back to my room on the third floor and at first it was okay, and I was okay with what was happening. But then he was saying all these things about me and [ E.K. ], and saying I was being a bad friend for hooking up with him. I didn’t appreciate that and didn’t want to hear that from him. I told him to leave, and I didn’t like wanna keep going, he didn’t stop or pay attention to me. And so I didn’t, so I kept saying no, stop.

**Investigator:** Was it consensual for a certain amount of time?

**Ms. Jones :** Yeah, yeah.

**Investigator:** Okay, and I’m just making sure I’m understanding, so it started off consensually, and he started to make you uncomfortable when he started saying things about how he had also been hooking up with E.K. ?

**Ms. Jones :** Yeah.

**Investigator:** And it was at that point when you started to feel uncomfortable?

**Ms. Jones :** Yeah, yeah.

**Investigator:** Okay, so please continue.

**Ms. Jones :** I don’t know, he kind of pushed me down, so I was giving him a blow job, and I didn’t want to, and I told him-

**Investigator:** Did it start off that you were okay giving him a blow job [consensually] and then you felt uncomfortable?

**Ms. Jones :** Yeah. Well it was a break, while we were like, moving around.

**Investigator:** When was it that it became non-consensual?

**Ms. Jones :** He was grabbing my head, and I didn’t enjoy that at all, and he kept saying all these things. It was a bragging tone as well, as if he was this amazing

guy who hooked up with us both, and I didn't appreciate that. So I stopped him and said "no," and I said "I don't want to keep going," but he was trying to convince me to keep going. And I was like "no, you should leave, I don't want to," and then it became not consensual.

**Investigator:** Just to make sure I understand. It was consensual, and then he was bragging, and making you uncomfortable. What did you say to him to demonstrate to him that it was no longer consensual?

**Ms. Jones :** So I pushed back, and I wanted it to be over, and so, after a bit, I just stopped, and allowed him to finish.<sup>3</sup>

**Investigator:** Explain what you mean by that.

**Ms. Jones :** He was holding down my head, so I pushed back against it, I was in an awkward position, from the back.

**Investigator:** Was he standing?

**Ms. Jones :** No. He was sitting up on my bed, and I was lying down kind of.

**Investigator:** He took your head, and pushed your head near his penis?

**Ms. Jones :** Yes.

**Investigator:** So you said you didn't want it to continue, [and] that he hadn't listened when you asked him to stop. When you said you "just let him finish," do you mean you finished giving him oral sex until he ejaculated?

**Ms. Jones :** Yes.

**Investigator:** Had you said no to him?

**Ms. Jones :** Yes, I did.

**Investigator:** How did he respond when you said no to him?

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<sup>3</sup> In her Complaint Form, Ms. Jones wrote that Mr. Doe "kept my head pushed down so I couldn't move, even though I was a choking with how hard he was holding me down. I pushed against his hand with my head and tried to support myself with my arms but eventually I just waited for it to be over."

Jones Complaint Form, attached hereto as Exhibit B. Ms. Jones provided a second written account of her complaint during the interview, attached hereto as Exhibit C. In that complaint, she wrote about the alleged sexual misconduct: "Then he tried to get me to give him a blowjob again. This time I said, 'No. I don't want to. You should leave. I don't want to do this anymore.' He ignored what I said and pushed his penis into my mouth anyway. He kept my head pushed down so I couldn't move, even though I was choking a little with how hard he was holding me down. I pushed against his hand with my head and tried to support myself with my arms but eventually I just waited for it to be over."

**Ms. Jones** : He said things like “come on,” and “it’s not a big deal,” that kind of thing.

**Investigator:** Then, he ejaculated, and then what happened next?

**Ms. Jones** : And then he went to the bathroom, and so while he was in the bathroom, I threw [his clothes, cell phone and ID] in the hallway, and then I locked my door.

**Investigator:** Was the bathroom outside of the room?

**Ms. Jones** : Yes

**Investigator:** Did he have clothes on?

**Ms. Jones** : I don’t think so, no.

**Investigator:** And when you threw the clothes out, did he eventually knock on your door?

**Ms. Jones** : No.

**Investigator:** How did you know that he had left?

**Ms. Jones** : Well, I heard him grab his things.

The next day, Mr. Doe returned to Ms. Jones’s room in search of his missing phone. The two briefly communicated about his missing phone, but neither mentioned anything about the events of the previous night. The following day, Mr. Doe sent Ms. Jones a text message stating that he

Wanted to be honest and say that I really don’t have recollection of Saturday. N.K. [Mr. Doe’s roommate, N.K. ] had to tell me. I hope I wasn’t being too weird. Buy anyhow, I was wondering if you were going to tell E.K. . She’s a really nice girl and I don’t want to upset her.

Text message exchange between Doe and Jones , attached as Exhibit D. Ms. Jones responded, “yeah I told her yesterday. I figured she deserved to hear it from me.” *Id.*

Mr. Doe responded “Fair enough. Thanks!” *Id.*

Ms. Jones did not tell anyone about the alleged sexual misconduct perpetrated by Mr. Doe in the days or weeks following the encounter. Approximately two months later, in April 2012, when Ms. Jones was intoxicated and upset, she informed J.M. (class of 2012, and a member of her choir group), about what had happened with Mr. Doe . In May 2012,

Ms. Jones informed two other friends about what had happened with Mr. Doe : P.T. and L.W. . Ms. Jones reports that P.T. and L.W. were angry with her (Ms. Jones ) because she had “hooked up” with Mr. Doe , who her roommate was seeing. Ms. Jones did not keep a journal; she did not email, text or otherwise reduce what had happened with Mr. Doe to writing.

While Ms. Jones was studying in London during the fall 2012 semester, she wrote an article about the incident with Mr. Doe for the AC Voice. Exhibit E, attached hereto. The article was edited by L.R. . Thereafter, Mr. Doe sought out L.R. to discuss Ms. Jones ’s allegations about him. Ms. Jones reports that she eventually reported the alleged sexual misconduct to the College because, according to Ms. Jones , L.R. told her that Mr. Doe “had said some things that could prove that he had been responsible. And [Ms. L.R. ] said that she would be willing to be a witness for me if I pursued it.”

Ms. Jones reported the alleged sexual misconduct in May 2013 to Dean Mitton Shannon. Ms. Jones chose not to pursue a Hearing Board at that time. At the beginning of the current semester (fall 2013), Ms. Jones filed a Complaint Form with the College to initiate a formal resolution of this matter. Ms. Jones would like Mr. Doe expelled from the College because she believes he will commit another act of sexual misconduct.

### **B. Summary of Mr. Doe ’s Response**

Mr. Doe reports being very intoxicated on the night that Ms. Jones alleges he raped her. After a night drinking with friends, he ran into his roommate, N.K. , and together, they headed back to their room. Mr. Doe ’s last memory of that evening is being in his room with Mr. N.K. . The following morning, Mr. Doe could not find his phone. N.K. suggested he ask Ms. Jones if he had left his phone in her room. Mr. Doe reports being surprised when Mr. N.K. informed him that he and Ms. Jones had hooked up in front of people in the common room, and then left together. See Mr. Doe ’s Response, attached hereto as Exhibit F.

Mr. Doe has no memory of being intimate with Ms. Jones .

Mr. Doe went to Ms. Jones ’s room in search of his phone, and the two had a brief conversation.

**Investigator:** Did she say, you know, I threw your phone out? Did she say anything about what had happened?

**Mr. Doe :** She didn’t say anything about what had happened last night, and I didn’t say anything either. It was awkward ... especially because I had hooked up with her roommate before. But nothing that she had ever said or did made me think that there’s anything beyond that....I texted her the day after, and said I want to let you know I found my phone, and I asked her if and how she was going to tell her roommate....I wanted to know what she was going to do so...I would know how to act.

And we didn’t interact after that, I never saw her after that, we never interacted. I

had no sense of what was going on or what she thought had happened until November of that year, so 9 months later. I was out to dinner in town...when [R.M. ] who was apparently in the common room when she and I started hooking up, called me over, and...said to me "hey John , I just want you to know, that I don't think you're a rapist." At that point, I was caught off guard, that's the last thing I would ever expect someone to say to me at a restaurant. I said "what are you talking about?" and [R.M. ] said "don't worry about it."

Later that night, I was talking to my friends ... and I told them about this weird interaction I had with [R.M. ]. And that's kind of when the pieces started falling together, as one of my friend's had read an article that S.J. had wrote and kind of thought that was related, so he showed it to me.

I wasn't completely sure, so I sent that link to [R.M. ], and I sent it to her saying "hey, is this what you were talking about?" She confirmed that it was, and that was the first time I knew that this was what S.J. thought. And I mean, I didn't talk to [Ms. Jones ] about it at that point, and didn't have communication with her, no interaction, and nothing really happened until a couple weeks ago when I got a call from [Dean Mitton Shannon] saying that there were pretty serious allegations against me.

**Investigator:** Who did you talk to after you found out that this article had come out? Did you talk to any of her friends? Did you talk to any of your friends?

**Mr. Doe :** I had Facebook conversations with [R.M. ], where I asked her if this was what she was talking about. I was caught off guard as to why anyone would even say something like that. I talked to her roommate, E.K. , and neither could understand what had happened. I couldn't get a good grasp of what had happened or why she believes what she believes. I don't remember what happened and no one else knew what happened. All of her friends didn't have a sense or inkling that she had that kind of impression.<sup>4</sup>

**Investigator:** I know you also reached out to L.R. and E.H. Can you tell me about your conversations with them?

**Mr. Doe :** E.H. was one of the first people I told. She has been around a lot in terms of this. She's been someone who keeps on dealing with a lot, as far as my confusion, what to do, what to make of it. And L.R. I knew she was a strong voice in terms of this stuff on campus. I wanted to see if there was anything I could do to figure out what had happened, why S.J. thought the way she did. I wanted to know from a third party perspective because [L.R. ] is familiar with this stuff. If she had advice about how to deal with the situation. I guess my personality – I'd rather not sit there and have something not be addressed. I wanted to see if there was anything I could do, and that was the gist of my conversation with [L.R. ], just one conversation. Asking her if

<sup>4</sup>

Mr. Doe 's Facebook exchanges with R.M. and Ms. E.K. are attached as Exhibit G.

there was anything I could do to figure out what had happened.

**Investigator:** And did [L.R. ] give you any advice?

**Mr. Doe :** Her advice was basically “you’re not allowed to talk to this person, go and get help, go see a counselor,” that was kind of the gist of it.

**Investigator:** In the time since this evening happened, [have memories of] that night come back to you, as far as pieces of it?

**Mr. Doe :** For me, the longer time passes, the harder it is to remember what had happened. It’s hard – it was already hard to recollect anything, but it’s almost two years and not exactly easy to recall things the longer it’s been. Everything I told you is as much as I remember.

**Investigator:** [Ms. Jones ] alleges that things started out consensually, and that at some point they turned non-consensual. Do you remember hooking up with her at all?

**Mr. Doe :** No, everything I know is just from what my roommate told me. All he saw was while we were in the common room, and before she and I went to the elevator.

**Investigator:** Did anyone see you walking back from her room? She said she threw your clothes outside.

**Mr. Doe :** No, I asked my roommate if he had seen me coming back to the room. He said he hadn’t seen me, after we got in the elevator that was the last he saw of me all night. No one knows.

**Investigator:** Did you ever have any conversations with S.J. after? I know you texted her the following day. Did you talk to her after that?

**Mr. Doe :** No, just the text conversation, that was it.

**Investigator:** Has anyone ever accused you in the past of anything like this?

**Mr. Doe :** No.

**Investigator:** You have read what she has accused you of. And I think you said [in your response], knowing who you are, you don’t think you could have done something like that. Explain to me what you mean by that.

**Mr. Doe :** Her statement said that I forced myself on her and I don’t see myself ever doing that. It’s just a terrible thought, that anyone would do that. But for me personally, I always have been a very empathetic guy. I would never want to put



someone in a situation that would be emotionally or physically horrible, that would be a terrible thing. And do you want specific things in my past?

**Investigator:** No, I think you answered my question. I was wondering what it was that made you feel like you could never do this.

**Mr. Doe :** I've been in situations where someone's like "hey, I only wanna go so far." I've always respected that. I never pushed the boundaries or anything like that. I just don't know why in that instance that it would be different.

**Investigator:** That's all of the questions I have for you. Is there anything that I haven't asked about that you think would be important for me to know?

**Mr. Doe :** I have literally told you everything I remember. I guess, this may tie back to why I believe I would never do anything like this, is after I found out, I just took it really hard. It literally blindsided me. I had no idea, and even after that night, I didn't quite believe that anyone could actually believe that about me. But mentally it was pretty tough, that this is what she was trying to say about me. My friends who were around me at that point could [describe me as being] in a very dark place. It's just unimaginable how it all seems surreal, but yeah, don't have anything else to add. Not much has happened between then, no interactions between the two of us, not much else to add.

### C. Summary of other witness statements

#### 1. E.H.

Mr. Doe sought E.H.'s guidance immediately after he learned that Ms. Jones viewed their "hook up" as non-consensual (which Mr. Doe learned after a friend told him about the article Ms. Jones had written in the AC Voice).

According to E.H., Ms. Jones's allegation "really shook him to core. He was caught so off-guard. The reaction he had even to the possibility of this accusation was horrible for him. He didn't know what to do and he got very depressed.... Last week he called me after Dean Mitton Shannon called him. He said no matter how the hearing went, it's still devastating that S.J. thinks he did this to her."

E.H. reports that Mr. Doe is an incredibly caring person who supported her when she struggled with a private, emotional problem. She finds him to be someone who can make people laugh, but who in turn, can be serious and grounded. (E.H. and Mr. Doe are not, and never have been romantically involved). She knows of some women who have "hooked up" with him, and who have described him as "really sweet."

## 2. E.K.

E.K. was casually dating Mr. Doe at the time Ms. Jones alleges he raped her. Ms. Jones and E.K. also were roommates. She no longer is involved romantically with Mr. Doe.

E.K. was off-campus at a squash match at the time Mr. Doe allegedly assaulted Ms. Jones. When E.K. returned to campus, Ms. Jones informed her that she and Mr. Doe had kissed and that she (Ms. Jones) felt bad about it. When E.K. spoke to Mr. Doe about what had happened, he informed her that he did not remember anything and was “really sorry.” E.K. did not discover that Ms. Jones believed that Mr. Doe had raped her until she was studying abroad during the fall of 2012 and read Ms. Jones’s article in the AC Voice. E.K. and Ms. Jones no longer are close; they never have discussed Mr. Doe’s alleged rape of Ms. Jones.

E.K. can think of no reason why Ms. Jones would fabricate an allegation against Mr. Doe, except perhaps because she lost her group of friends (who were angry with Ms. Jones for “hooking up” with Mr. Doe, who E.K. was dating).

When Mr. Doe and E.K. were dating, he never was sexually aggressive with her. She states that “he was really a gentleman he was always asking me ‘is this okay?’” E.K. is unaware of any complaints about Mr. Doe, save for the one raised by Ms. Jones.

## 3. N.K.

N.K. and Mr. Doe lived together in the Morrison Pratt dormitory on the fourth floor. On the night in question, he and Mr. Doe returned to their dorm together. They heard people in the common room, and left their room to join the group, which included Ms. Jones and R.M. (R.M. also lived on the fourth floor of Morrison Pratt). N.K. witnessed Mr. Doe and Ms. Jones “making out” in the common room, and then leaving together, presumably to go to her room. He returned to his room, and went to sleep. N.K. did not awaken when Mr. Doe returned to their room from Ms. Jones’s.

The next morning, Mr. Doe could not find his phone. N.K. suggested that Mr. Doe look in Ms. Jones’s room. N.K. testified that Mr. Doe was “baffled” at this suggestion because Mr. Doe “didn’t remember that he had hooked up with S.J.”

N.K. first learned of Ms. Jones’s allegations when a friend told him about Ms. Jones’s article in the AC Voice. When Mr. Doe discovered Ms. Jones’s allegations about him, he “was very upset, that someone thought he had done something wrong by them.”

4. L.R.

Approximately two weeks after Ms. Jones's article appeared in the AC Voice, Mr. Doe sought L.R.'s counsel because she is "a sexual respect advocate on campus" and has "done a lot of stuff that's been pretty public, including writing a lot of articles." L.R. believes her background is material because Mr. Doe contacted her asking for advice because of her experience on the sexual assault task force.

L.R. reports that Mr. Doe

told me that he thought he had assaulted a girl and asked what he should do about it. I asked him for more detail about what he thought had happened and what her response had been. He told me that he had been pretty drunk. He had been with a group of friends in the common room when he and the girl had started making out. Then they went up to the girl's room. He said that he was really drunk and that he was sort of blacking out. He said he knows they had sex but he doesn't really remember a lot of it, but that he felt really shitty.

He asked me what I thought he should do about it. I told him I thought he should seek counseling and that he should learn as much as he could about sexual assault so that he didn't repeat that action again. He asked me if he should apologize to her and I told him that it would probably be re-triggering, and that she probably didn't want to engage with him. He seemed surprised by that.

I contacted S.J. the next day and let her know that John had spoken to me. I didn't tell her what he told me. I just said that he had spoken to me and I thought that if she wanted to go forward with the case she should know that I could be a witness. Because at that moment the system for hearings was really, really messy. I wasn't sure if I reported if they would be able to validate that information and connect it to her case.

**Investigator:** I think you said [Mr. Doe] admitted to you that he thought he had sexually assaulted someone, and so I'm wondering how you drew that conclusion?

L.R. : How I drew the conclusion?

**Investigator:** Did John say "I think I sexually assaulted someone" because that's his memory, or did he say "I think I sexually assaulted someone because people are telling me I did." Those feel like two very different things to me.

L.R. : I mean my retelling of it is confusing because his telling of it was confusing. I think he kind of went back and forth between those two things. He said he was blacking out which, yeah, I guess is not really remembering the encounter. He [told me he] sorta ran out of the room in a great hurry, and the only

thing that he remembers was that he felt very out of control because he was very drunk. And the fact that he can't recall a lot for him was one of the reasons that he felt like he might have assaulted her.

I'm not sure he was very clear with me why what happened that night was specifically assault. I think he felt like he had doubts about what happened that night that weren't just based off of rumors; they were based off of his recollection of the night.

**Investigator:** Do you remember at this point anything specifically about what he told you?

L.R. : He didn't tell me anything more specifically. He didn't tell me anything she said; he didn't tell me anything she did, or said. He told me that he felt uncomfortable and unhappy and he doesn't remember a lot of it. It was not something that he'd liked to recall even before he heard rumors of anything else because it had been an unpleasant experience and an experience where he felt out of control.

**Investigator:** He told you he was really out of control and drunk. Did he tell you anything specifically about how the night started?

L.R. : He told me that before he went to her room he was with her and a bunch of friends in a common room. I think that they were like making out there and then they went up to her room.

**Investigator:** Did he tell you any details about what happened when they hooked up?

L.R. : Like when they were having sex? Just that he was blacking out and felt out of control. I don't have a corroborative anecdote about anything else other than that he was very drunk and out of control and felt out of control and felt unhappy about what was happening.

**Investigator:** What did S.J. tell you after you called her and told her about this conversation you had with John ?

L.R. : She thanked me for contacting her. She said she wasn't sure what she should do. I said she didn't have to do anything with that. I just wanted her to know that if she did want to do something, she probably shouldn't tell me about anything because I might be a witness for her, but that if she needed support in any way I would be happy to direct her towards the survivors' group.

### 5. J.M.

J.M. is an Amherst College alumna, class of 2012. She and Ms. Jones both were members of the Women's Choir. In April 2012, they were out together at a choir party and they ran into Mr. Doe (who at the time was part of the glee club). Ms. Jones ran out of the room, crying, and confided in J.M. that Mr. Doe had raped her. Ms. Jones did not share specific details about the alleged sexual assault.

Ms. Jones described to J.M. her reluctance to "do anything about it" because Ms. Jones knew people who had been raped and not believed. J.M. offered Ms. Jones whatever support she could provide. They did not discuss the subject often, but J.M. tried to help Ms. Jones if she and Mr. Doe happened to be out at the same social gathering (either by watching for him, or offering to leave with Ms. Jones when Mr. Doe arrived).

### 6. R.M.

R.M. was with Ms. Jones in the fourth floor common room on the night at issue. She describes Mr. Doe as "barely able to stand," that he "threw himself" at Ms. Jones, and that she reciprocated.

R.M. stopped speaking to Ms. Jones because Ms. Jones had hooked up with E.K.'s boyfriend (Mr. Doe). In her article in the AC Voice, Ms. Jones referred to a friend (R.M.) who did not believe her story of rape. R.M. describes it as a misunderstanding – that she only meant that Ms. Jones voluntarily left the common room with Mr. Doe – not that she necessarily knew whether whatever happened next was (or was not) consensual.

R.M. described Mr. Doe's shock when she told him "I don't think you're a rapist" after Ms. Jones's article had been published in the AC Voice. R.M. believes that Mr. Doe does not recall anything about the evening with Ms. Jones, and did not know that Ms. Jones viewed their sexual encounter as non-consensual.

## IV. The Investigator's Impressions

The investigator found no material discrepancies between Ms. Jones's Complaint Form and her testimony during the interview. Likewise, the investigator found no material discrepancies between Mr. Doe's Response and his testimony during the interview. J.M.'s testimony provided insight into Ms. Jones's state-of-mind in the month following the alleged sexual misconduct. The testimony of E.H., E.K. and R.M. provided insight into Mr. Doe's state-of-mind when he learned of Ms. Jones's complaint about him.

Portions of L.R.'s testimony raised questions, such as her testimony that Mr. Doe told her (L.R.) that

- "he thought he had assaulted a girl;"
- "he knows they had sex;"

- “one of the reasons that he felt like he might have assaulted” Ms. Jones was because he could not recall the evening;
- he “sorta ran out of the room in a great hurry, and the only thing that he remembers was that he felt very out of control because he was very drunk,” and;
- the night with Ms. Jones “was not something that he’d liked to recall even before he heard rumors of anything else because it had been an unpleasant experience and an experience where he felt out of control.”

This investigator questions this testimony because it deviates so dramatically from the testimony of the witnesses who testified about Mr. Doe’s shock at learning of Ms. Jones’s allegations about him, and Mr. Doe’s consistent position that he remembered nothing about that evening. L.R.’s contention that Mr. Doe admitted “having sex” with Ms. Jones also raises questions. Neither Ms. Jones nor Mr. Doe testified that they had sex with each other, consensual or otherwise. (Ms. Jones referred to Mr. Doe forcing her to “give him a blowjob” but did not describe the alleged assault as forced sex). Finally, the investigator questions Ms. L.R.’s testimony that Mr. Doe told her that he believed he could have sexually assaulted Ms. Jones because he could not recall the events of that evening.

#### V. Conclusion

In conclusion, the investigator reviewed and considered the testimony of the Complainant, Respondent and the witnesses referenced herein, as well as the exhibits attached hereto, and has drawn the factual findings described in this report. The investigator will be at the Hearing Board to provide further details of her investigation, as needed.

## **Exhibit A**



**Amherst College  
Witness Acknowledgment**

I have been advised that I am being interviewed in connection with an investigation being conducted by Amherst College.

1. The Investigator's job is to gather information. She is an impartial investigator and is not an advocate for any party involved in the investigation.
2. I consent to having this interview audio-recorded.
3. All answers must be truthful.
4. I understand that the matter under investigation and the investigation itself are confidential matters and that I should not discuss either of them with anyone without first checking with the Investigator. I understand that any unauthorized discussion by me could compromise the investigation or could violate someone's privacy and expose me and the College to liability.
5. I understand that the College will share my statement with others only on a need-to-know basis in order to conduct its investigation or to meet its legal obligations.
6. I understand that any retaliation against me or any other person for cooperating in this investigation is prohibited by College policy and could be illegal. I understand that I should report any suspected retaliation immediately to the College's Title IX Coordinator.

I have been given a copy of this Acknowledgment. I have had an opportunity to discuss it with the Investigator, I understand it, and I agree to abide by its terms.

Date: \_\_\_\_\_

\_\_\_\_\_  
Witness name (please print)

\_\_\_\_\_  
Witness signature



## **Exhibit B**

# **AMHERST COLLEGE** **Disciplinary Referral Form**

## Complainant Information (person making complaint)

Last Name JonesFirst Name SandraEmail @amherst.eduClass Year 2014 Phone \_\_\_\_\_
☐ Student
 ☐ Staff
 ☐ Faculty
 ☐ Other

## Respondent Information (accused party)

Last Name DoeFirst Name JohnEmail Respondent EmailClass Year 2014 Phone Respondent PhonePolicy Allegedly Violated Sexual assault☐ AMDate Occurred 2/4/2012 Time 2:00 ☐ PM Location Morris Pratt Dormitory

Incident Description – Use space below or attach additional sheets or file if more space is needed.

After a night of light drinking I returned to my dorm on a Saturday night and ran into John Doe . We went down to my room on the third floor and started to hook up. John started to say some weird things about me and my roommate since he had now hooked up with both of us—things like, “You’re a really bad friend for doing this” and “I can’t believe I can have you both in this same room.” That made me uncomfortable so I said, “We shouldn’t be doing this,” “You should leave,” and variations on that. He didn’t respond to those and kept going. He was trying to get me to give him a blow job, he was standing over me, naked, while I sat on the bed, but I really didn’t want to. I asked him if we could just go back to making out instead because I didn’t think he would leave if I kept saying that and I wanted to retain some control over what was going on. He got on the bed with me and we made out for a bit and he took off my clothes. Throughout this whole time I kept saying that maybe he should leave. Then he tried to get me to give him a blowjob again. This time I said, “No. I don’t want to. You should leave. I don’t want to do this anymore.” He ignored what I said and pushed his penis into my mouth anyway. He kept my head pushed down so I couldn’t move, even though I was a choking with how hard he was holding me down. I pushed against his hand with my head and tried to support myself with my arms but eventually I just waited for it to be over. Finally, he got up because he was feeling nauseous since he’d been drinking that night. When he left to go to the bathroom, I threw all of his clothes out into the hallway along with his phone and ID and locked my door so he wouldn’t come back in.

Witness	<u>Full Name</u>	Email	<u>Email</u>	Phone	<u>Phone</u>
Witness	<u>Full Name</u>	Email	<u>Email</u>	Phone	<u>Phone</u>
Witness	<u>Full Name</u>	Email	<u>Email</u>	Phone	<u>Phone</u>
Witness	<u>Full Name</u>	Email	<u>Email</u>	Phone	<u>Phone</u>

Signature Sandra Jones Date 10/28/2013

Return to: Susie Milton Shannon, Dean of Students Office, Converse 105

The accused party will receive a copy of the complaint. The Dean of Student Conduct maintains the original.

## **Exhibit C**

Late on Saturday night, February 4, 2012, I came back to my dorm, Morris Pratt, with my friend R.M. . We had been at the socials and were both a little drunk. She lived on the fourth floor so we went up to the fourth floor common room to hang out before we went to sleep. There we ran into some other people who lived on that floor, including John Doe . I knew John because he had been hooking up with my roommate E.K. for the past few weeks. E.K. was out of town that weekend.

and I were talking for a while and then he tried to kiss me. I was reluctant at first, but then I kissed him back. Some of John's friends, I remember mostly N.K. , said we should get a room. John asked me if I wanted to and I said sure.

We went down to my room on the third floor and started to hook up. John started to say some weird things about me and my roommate since he had now hooked up with both of us—things like, "You're a really bad friend for doing this" and "I can't believe I can have you both in this same room." That made me uncomfortable so I said, "We shouldn't be doing this," "You should leave," and variations on that. He didn't respond to those and kept going. He was trying to get me to give him a blow job, he was standing over me, naked, while I sat on the bed, but I really didn't want to. I asked him if we could just go back to making out instead because I didn't think he would leave if I kept saying that and I wanted to retain some control over what was going on. He got on the bed with me and we made out for a bit and he took off my clothes. Throughout this whole time I kept saying that maybe he should leave. Then he tried to get me to give him a blowjob again. This time I said, "No, I don't want to. You should leave. I don't want to do this anymore." He ignored what I said and pushed his penis into my mouth anyway. He kept my head pushed down so I couldn't move, even though I was a choking a little with how hard he was holding me down. I pushed against his hand with my head and tried to support myself with my arms but eventually I just waited for it to be over. Finally, he got up because he was feeling nauseous since he'd been drinking that night. When he left to go to the bathroom, I threw all of his clothes out into the hallway along with his phone and ID and locked my door so he wouldn't come back in.

The next morning, John came by my room to ask about his phone since he hadn't picked it up from the hallway. He acted like nothing had happened. I told him I'd thrown it out in the hallway and didn't know where it was. He later found it after our RC D.R. sent out a dorm-wide email asking about it.

When E.K. got back from her trip later that day I told her John and I had hooked up, I didn't tell her that he had raped me. I felt guilty since she had been hooking up with him and I thought to a certain extent I had deserved what happened. Later that day John texted me saying something to the extent of "Sorry I was so weird last night" and asked me if I had told E.K. I said I had, and then I erased all contact with him from my phone.

I didn't tell anyone what really happened for several months because I thought by doing so I could forget it. That didn't work and I was really struggling until I started talking about it in April or May of that year. Still, I didn't think I could bring it to a hearing because I didn't think I would be believed or that even if I was John wouldn't face any real punishment.

Then fall 2012 Angie's story came out in the Student. I was abroad in London, but I was writing for AC Voice and decided to write an article about my own rape. This went through my editor, L.R. , and apparently got to John through R.M.

who had read the article and confronted him about it, even though she and I were no longer on speaking terms.

Then that spring I came back to campus. On April 24 I was approached by L.R. who said that John had talked to her about my own article and his culpability (presumably because she was a part of the Special Oversight Committee on Sexual Misconduct, but I don't really know why he approached her specifically). She didn't tell me what exactly he said and I didn't ask, but she said that he had said enough to her that she could testify against him in a disciplinary hearing if that was what I wanted. It was then that I started to explore my options in that area. I met with Molly Mead in the CCE shortly after and then went on to meet with Dean Milton Shannon. By the time I met with her, however, it was nearing the end of the year and I decided I wanted to wait until the fall to pursue this so I could focus on wrapping up the academic year.

## **Exhibit D**

Back (14)

Sandra

Contact

Feb 6, 2012, 1:05 AM

Hey, good news! Found my phone. Now I just wanted to be honest and say that I really don't have recollection of Saturday.

N.K. had to tell me. I hope I wasn't being too weird. But anyhow, I was if you were going to tell E.K. . She's a really nice girl and I don't want to upset her

Feb 6, 2012, 9:53 AM

Yeah I told her yesterday. I figured she deserved to hear it from me.

wanted to be honest and say that I really don't have recollection of Saturday.

N.K. had to tell me. I hope I wasn't being too weird. But anyhow, I was if you were going to tell E.K. She's a really nice girl and I don't want to upset her

Feb 6, 2012, 9:53 AM

Yeah I told her yesterday. I figured she deserved to hear it from me.

Fair enough. Thanks!

Delivered



## **Exhibit E**

## Culture of Silence

(S.J. [redacted])—[Trigger warning for sexual assault] Obviously, Amherst policy when it comes to sexual assault needs to change. Everything from the complete mismanagement to the basic lack of empathy in [Angie's article](#) screams out for reform. Some of the changes necessary, however, are not so obvious. In the recent [It Happens Here project](#), Amherst rape survivors hold up the words of administrators and peers who hurt and silenced them. These portraits depict a more comprehensive problem that pervades Amherst culture, that goes beyond the college's official stance on sexual assault. We have created a culture of silence, of complicity even, in the effort to maintain our reputation and #2 spot.

Being abroad during this turning point in Amherst history is strange. There seems to be nothing to do here in England but read up and spread the word. When I saw my fellow Amherst students (one studying at UCL and another visiting from Copenhagen) after Angie's article went viral, there was little more to say than: "Wow, I can't believe we aren't home right now," before launching into: Did you read Biddy's response, the letter the facebook group is sending, the call to protest, the meeting recap...?

Of course there is much more to say. I went abroad for many, many reasons. I had always planned on it, as an English major and somewhat of an Anglophile. Studying at Shakespeare's Globe has always been a dream of mine; I'm ecstatic that I get to live it. I loved London even before I came here with my parents at seventeen. I found it how I expected it: an oddly comforting mix of old and new, cosmopolitan in an almost American way... I could write a love letter to London, and maybe I will someday, but that is not this post. What I am trying to say is I also went abroad to run away.

There were the usual reasons, sure. I had reached the apathy of sophomore year. Amherst is a small college in a small town of like-minded people. I needed to see *new faces*. But then I was raped spring semester. It began consensually, but evolved into something that was decidedly not. If you read Angie's article, you know the Amherst administration has handled sexual assault horribly. However, I never made it to the official process. Before I even told my full story to a friend, I was called a liar. More specifically, I was told, "Oh, so he 'raped' you now? Bullshit." I can put quotes around that because I remember it perfectly. Every word. And I probably always will. That was the first time anyone, myself included, had associated rape with what happened to me that night out loud. There was much more messy fall out that put me in self-denial for months. Was it rape if at first I said yes? Was it rape if he was "too drunk" to stop himself? By the time I could answer those questions with a definite yes or even think about going to the dean and face what seemed an endless process of proving myself, the semester was over.

Study abroad was a perfect fresh start. I chose a college where no one else from Amherst was going. I could almost forget what and who is waiting for me next semester. Who do I tell. How do I tell. Until, of course, Angie's article. The link I clicked had a pretty obvious trigger warning on it, but I've never been able to stop myself from reading anything. Since then, I've been consumed with the latest updates and thinking over my own situation in the minute detail I did

the last three months of last year. It's caught up with me. As it would have, sooner or later. There's only so far I could run.

I wasn't sure I was going to write this post before I started. I had back-up topics including an amusing two hours my friend and I spent at Victoria station, coffee shops US vs. UK, voting abroad, and living in a big city (obviously this was less of a fully formed idea); but my heart wasn't in it. "*Silence has the rusty taste of shame.*" I'm still not sure if this is the right time or place for my story to come out. But I won't wait. I can't hold off for the right moment with every person I am close to, worried that with a subtle word choice they won't understand.

I'd like to give the former friend who said those words to me the benefit of the doubt, and assume she had no idea the damage she caused. But I can't, just as I can't give the Amherst administration the same benefit in relation to the many stories I've heard of their incompetence in this arena. We all have to take responsibility for our culture of silence. All I can hope, as I periodically check on Amherst from London, is that we demand not only new policy but new ways of discussing sexual assault that educate, not ignore; that respect, not shame; that elucidate, and never, ever silence.

## Exhibit F

On February 4<sup>th</sup>, 2012, I had been drinking with some of my friends on that evening up on the Hill. At some point in the evening I realized that I had gotten much drunker than intended and decided to stop drinking for the night. Some time after that, I decided to start walking towards campus to the socials. I remember taking the path down by the Town Police station and past Cohen Dormitory. At some point after that, before I reached the socials, I ran into someone who knew me, and told me I was too drunk. I agreed, and acknowledged that at this point I was fading quickly. I do not recall who the person I spoke to was. At some point after that, I remember walking back to Morris Pratt with my roommate and returning to our room and getting in my bed. When I woke up the next morning, and began getting ready for the day. I realized that I was missing my phone and asked my roommate if he was aware of where it might be. At that point, he told me that we had both gone back out to our common room at some point after we got back to our room. He then said that we had run into S.J. and her friend in the common room on our floor. He then said he saw the both of us get into the elevator to go to her room after we starting making out in front of him and her friend in the common room. I do not have any recollection of these events. I reached out to S.J. and in my two interactions with her afterwards never gave me any indication that something was wrong.

11 months later, in November 2012, I was out at dinner in town with some friends when I was called over by S.J.'s friend who was present with us in the common room on February 4<sup>th</sup>. She said something along the lines of, "Hey John Doe just wanted to let you know that I don't think you're a rapist." I was thoroughly confused. It was not until later that evening when I learned about and read an article written by S.J. that I began to think that she felt something was wrong.

It was and is a surprise, given that I haven't heard or had any interactions with her since those immediate days following the night in question. It wasn't until Friday, November 1<sup>st</sup>, 2013 that I learn from Dean Mitton Shannon of these allegations against me. Given the details in S.J.'s statement, I do not believe those are actions that I would do.

## **Exhibit G**

11/4, 2:44am

John Doe

E.K.

I hate to be any disrupt to your travels abroad...but I am fairly sure that this is about me <http://acvoice.com/2012/10/25/culture-of-silence/>

I cried my eyes out tonight. I can't believe that anyone would think that of me and I am just beyond words in terms of how awful that short article makes me feel.

I beg that you don't share my reaction with anyone else, for I fear it would add fuel to a fire that I wish did not exist.

Best wishes on your travels, John

Culture of Silence

11/4/2012

S.J.

11/5, 2:20pm

E.K.

I am in shock. This can't be about you. First of all, just so you know I'm not the friend she is talking about. Second, from the way I heard her tell the story to other people, her close friends, it wasn't like this. She has a lot of other hook ups spring semester, and I honestly assure you that I don't believe this is you, and if it is, I don't think this is what went down. If so, the story she told me would be a lie.

11/5, 2:35pm

E.K.

reasons why I don't think this is you or could be you:

right after it happened someone else spent the night with her. Didn't u guys start hooking up in front of other people in the common room? So if she wanted to she could have screamed/asked people to put you to bed, and I could keep going.

this has to be someone else, and if not I'm so angry and I'm so sorry. Don't worry, I won't share your reaction.

11/5, 8:07pm

John Doe

R.M. said that it was about me. And I am aware of the other stuff too, but it doesn't change the fact that she is calling it rape.

11/6, 2:55pm

E.K.

I'm so so sorry. I'm pretty upset too. Here's how I'm trying to explain it to myself: She has lots of emotional issues, and I think this was meant as an attack on R.M. I hate to think how much you must be beating yourself up right now, because I don't even think she meant to direct this at you. I just can't believe she would be immature enough to do this not thinking about how it would effect other people. Considering how nice I was to her last semester, she should have come to me before posting this.

Don't let this fuck with your head. You're a good person. I've hooked up with you before when you were really drunk and you were still a gentleman. Let me know if there's anything I can do/if you want to rant. I'm so so sorry that you have to deal with this. I can't imagine being there right now.

11/6, 2:57pm

E.K.

also, btw, don't think that you're disrupting my travels



11/4, 2:28am

John Doe

<http://avoice.com/2012/10/25/culture-of-silence/>

Was this what you were referencing by any chance?

#### Culture of Silence

ALYSSA BROWN

S.J.: I'm really worried for [friend's] safety. [friend] is a very private person and I'm really not sure if I should be talking about this. I'm really not sure if I should be talking about this.

11/4, 3:02am

R.M.

yup,

not a big fan of this article,

also i hope it's ok that i said that in front of P. he's a close friend of ours and knows the story anyway.

11/4, 9:58am

John Doe

No, it's fine. I was just really caught off guard and didn't know what you were really talking about. Someone showed me the article when I go back to my room last night and I put it together and I just broke. I feel so insanely awful that someone would think that of me. I honestly couldn't sleep last night and didn't know what to make of it.

11/4, 2:02pm

R.M.

I thought you'd already seen it which is why I wanted to let you know that, as someone who actually knows what went on, I don't think that of you. And if it's any consolation, neither do the few people that know about that night. I'm sorry you had to learn about it that way. In case you hadn't figured it out already, I'm the former friend she quotes in the article. I just don't think she's being very clear and transparent in her article and a lot of things are out of context. I got very angry at her last year because she

suggested, while apologizing to E.K. that you had kind of forced yourself on her. It was clearly some pathetic excuse to make up for what she'd done to E.K. and since I had seen her half drag half carry you to her room I knew it was bullshit so I got angry and told her so. Besides, not once did she mention rape to any of us who were her friends. I know that she hooked up with another guy after you left that same night. Our friend Dan spent the entire summer with her and she never once brought it up. Which is why we are all a little skeptical reading this. I hate thinking that way because it sounds a little like the whole legitimate rape crap but I just don't think S.J. is being very clear or fair. Anywho, I don't think you're a rapist. You were the asshole who hurt my friend. But not a rapist.

1/28, 8:09pm

John Doe

Hey R.M.

I have somewhat of an awkward question to ask you but I would really appreciate your advice.

I'm having quite a difficult time dealing with the article and the events surrounding it. I find it hard to explain the rush of strange emotions I get whenever I see S.J. or E.K. At this point, I still don't know what to make of things since I've read the article.

I don't think I could do anything to "fix" the situation, and I might not be able to make things better- but I do want to do something and hopefully the right thing, if it exists. However, I'm really just clueless. E.K. seems averse to seeing me and S.J. is plainly avoiding me. I find the whole situation pretty unsettling and just want to do what's right. I'm hoping you could offer some words of advice.

I apologize if this is out of the blue or inappropriate, but I really don't know where to turn.

Best, John

1/29, 5:24pm

R.M.

Hey John,

I understand that all this stuff must be pretty tough for you. I wish I had some words of wisdom to give you but I'm just as stumped as you are. I haven't spoken to S.J. since last year so I can hardly advise you on what to do about her. If I were you though, I would want to know exactly what happened and maybe confront her about it (I'm not saying that's what you should do but I would want to know exactly what I've done wrong, at least in her eyes). But then again, I'm as much of a villain in her story as you are so I'm not the best person to comment on that.

As for E.K. I know she still feels really awkward around you and has come to associate you with all that unpleasantness from last year. I know she doesn't entirely buy what S.J. wrote in her article but I think she's just really hurt by all that other stuff from last year. I'm not saying this to make you feel guilty but she really did like you and is still hurt by the fact that you didn't really like her as much. She just needs time to move on from all of that. I think you should give her space and leave her alone for a bit. I don't think there's anything you can do make things right with her. Let time do the trick. She's said herself that she's probably going to be more comfortable around you but that it's going to take time.

I think it's great that you want to make amends. And I don't think your message is inappropriate at all. I've always thought you were a decent guy and E.K. is my friend so if there's anything I can do to make things better between you guys, I will.