

STRICTLY CONFIDENTIAL

REPORT OF INVESTIGATION

TO: Paula Raffaelli, Acting Title IX Officer

FROM: Elizabeth Rome, Senior Complaint Resolution Officer (“CRO Rome”), Office for the Prevention of Harassment and Discrimination (“OPHD”)

RE: Investigation into ██████████ Clover’s Complaint against ██████████ ██████████

DATE: November 25, 2019

INTRODUCTION

OPHD investigated whether ██████████ ██████████ (“Respondent”), a professor at the University of California, Berkeley (“UCB”), engaged in conduct with or towards ██████████ ██████████ (“Complainant”), a professor at the University of California, Davis, which violated the University of California’s 2016 Policy on Sexual Violence and Sexual Harassment (“2016 SVSH Policy”).¹

Specifically, as stated in the Notice of Allegations, OPHD investigated whether:

- On or around May 5, 2018, Respondent communicated with Complainant via Twitter. On or around May 22, 2018, Respondent emailed Complainant and wrote, “And hey, you’re making me uncomfortable as hell.” On or around May 23, 2018, Complainant sent Respondent an email stating, “I will not respond to further communication ... Please do not write to me any further.”
- On or around the beginning of November 2018, Respondent corresponded with Complainant’s significant other and one of his female colleagues. In that correspondence, Respondent identified Complainant and alleged that he hacked her and had been harassing her. To Complainant’s professional colleague, Respondent wrote, “He seems totally into you, so why not? Give him a chance. He might treat you great. He might think you’re worth what other people are not ... And you might very well be. It seems to me you are.”
- On or around mid-November 2018, Respondent opened a new public Twitter account and followed Complainant, a magazine Complainant works for, and several of

¹ The definitions in the 2016 SVSH Policy apply to these allegations because it was the policy in effect when the alleged conduct occurred. The investigation was conducted following the procedures described in the 2016 SVSH Policy (the policy in effect at the time this investigation was initiated) and the version of the University of California’s Sexual Violence and Sexual Harassment policy that came into effect on July 31, 2019 (“2019 SVSH Policy”) (which came into effect after this investigation was initiated, but while it was still ongoing). The procedures outlined in the 2019 SVSH Policy (and the July 31, 2019 Senate Faculty Investigation and Adjudication Framework) apply to the process of issuing this Investigation Report, the Investigation Outcome, and any subsequent adjudication procedures, as relevant.

Complainant's friends. The background image is of a scene from the movie, "Thelma & Louise."

- On or around December 30, 2018, Respondent entered Complainant's locked residential building and knocked on his apartment door. He asked who Respondent was and Respondent identified herself. He asked Respondent to leave immediately and he did not open the door. Respondent announced that she would be waiting indefinitely. At some later point, Respondent slid four notes under Complainant's apartment door. One of the notes stated, "If you make me leave, it'll be worse. I'll keep doing this you can be sure of that." The notes promised that Respondent would continue harassing him and she wished him a happy birthday. Complainant had not provided her with any information about his home address or his date of birth.
- On or around January 2, 2019, Complainant received a postcard from Respondent in the mail. While the postcard was unsigned, Complainant compared the handwriting on the postcard with the handwriting on the notes Respondent slid under his apartment door and noted the similarities.
- In early April 2019, Respondent sent two emails to Complainant. In one of the emails Respondent wrote, "organize with her [REDACTED] her name is [REDACTED] [REDACTED] [REDACTED], and she is hot, yes and you've been having an 'affair' whatever that means. [sic] and it's totally OK."
- On or about May 3, 2019, Respondent emailed Complainant and closed by writing, "Please don't force me to go to the UCD harassment office."
- In a June 1, 2019 email to Complainant, Respondent acknowledged creating several twitter pages "denouncing" Complainant. When tweeting as Complainant, for example, Respondent wrote, "I'm a dirty old man," "I'm hunting for women," "I'm LUCKY and handsome. DM your email or phone and we're in for some fun," "I also like this song ... I'm going to 'ride' my horse—get it?," "I love electronic, psychic, imaginary sex," "I see her (the sister) taking showers and in her bed and then I masturbate or that's what I say," "my thing IS PORN," "I have a very strong libido and can't stop being a pervert," and "My name is [REDACTED] and I hack women's phones and computers to make X rated 'movies.'"
- On or about June 18, 2019, Respondent called Complainant's office phone at least ten times within a 90-minute timespan and left ten voicemail messages for him. In those voicemail messages Respondent identified herself and addressed the message to Complainant. In the voicemail messages Respondent stated things such as: "I know that I've been calling a lot ... I'm going to be calling you every day if I want to ... so I can do whatever the fuck I want piece of shit;" "I have every right to be calling [Complainant] every five minutes for the rest of my life ... I have every right to do this and I'll keep

doing it and next semester or quarter when you start your classes, I'm gonna be there" and distribute leaflets or keep lists "about the kind of sick dog that you are;" "I cannot begin to tell you how much I despise you ... I'm so fucking tired of you and now to have the guts to say that I'm harassing you motherfucker;" and "You need to still call me and apologize or you'll see what I'm going to do. I'm not afraid of you ... I'm not afraid of anything because I am right."

- During the week of June 16, 2019, it is reported that Respondent called Complainant's home phone approximately 14 times in 30 minutes and may have tried to open the door to Complainant's apartment in the middle of the night and vandalized Complainant's car.
- Between the end of May 2019 and through June 2019, Respondent sent Complainant more than 15 emails.
- On or around June 23, 2019, Respondent began forwarding email correspondence about Complainant to Complainant's mother and Respondent also wrote to her directly stating, "Your son, who as you know, has a wife already and electronic 'lovers' all over the place ... has systematically harassed me for 9 months now."
- On or around July 3, 2019, it is reported that Respondent vandalized Complainant's apartment stairwell and the door to his apartment within the building. The spray painting on the hallway read, "[REDACTED] Harasser and Bet." The spray painting on his apartment door read, "Sex addict [REDACTED] a sick harasser lives here."

As explained below, CRO Rome finds that the preponderance of the evidence establishes that Respondent engaged in the conduct alleged in the Notice of Allegations. Accordingly, CRO Rome finds that the allegations that Respondent violated Section II.B.2.a.ii. (Sexual Harassment—Hostile Environment), Section II.B.1.d. (Stalking) and Section II.C (Retaliation) of the 2016 SVSH Policy with respect to Complainant are SUBSTANTIATED.

BACKGROUND

Complainant is a professor at University of California, Davis. Respondent is a professor at UCB. The alleged sexual harassment and stalking conduct occurred after Complainant presented at a UCB event, Respondent introduced herself, and the two met up for a drink a few weeks later. The alleged retaliation conduct occurred after Respondent became aware that Complainant had reported her conduct to the UCB.

Complainant reported his concerns to OPHD after Respondent emailed his romantic partner and his female colleague. He also provided evidence of Respondent's communications with him in spring 2018. At that point in time, OPHD evaluated the information and determined it was not clear that the matter fell within OPHD's jurisdiction. Complainant reported further contact from Respondent in the end of December 2018—Respondent leaving a note for him at his gym

and entering his locked residential building to sit in front of his door and putting notes under his door. At that time, the information evidenced an escalation in the conflict, but still did not fall squarely within OPHD's scope. Due to the escalation and a reduced University schedule due to curtailment, OPHD issued a unilateral No Contact Directive to Respondent on December 31, 2018.² This was an interim measure meant to provide additional time to evaluate the information, if necessary, as well as to immediately de-escalate the matter. The NCD expired at the end of the spring 2019 semester.

In early April 2019, Respondent sent two emails to Complainant—she sent the second email to apologize for accidentally sending the first email. OPHD reminded Respondent that the NCD was still in effect and she was not to have contact with Complainant.

In May and June 2019, Complainant contacted OPHD again to report additional communications from Respondent—including Respondent leaving multiple voicemails for him on his office line and sending him multiple emails as well as launching several Twitter accounts in his name and impersonating him in tweets. While OPHD was evaluating this new information, Complainant reported Respondent directing email communication to his mother about him. OPHD re-evaluated the matter in the context of the new information and moved to launch an investigation.³ While OPHD was preparing the Notice of Allegations, Complainant contacted OPHD and reported additional information about his apartment building and door being vandalized and his car being vandalized.

On July 18, 2019, OPHD initiated the investigation when it issued a Notice of Allegations to Respondent. On the same date, OPHD sent a copy of the Notice of Allegations to Complainant, separately. The Notice charged Respondent with engaging in Prohibited Conduct (specifically, Sexual Harassment, Stalking and Retaliation) with Complainant beginning on or around May 5, 2018 and continuing from that point.

On July 18, 2019, OPHD issued an updated NCD to Respondent as an interim measure. As Complainant is not under UCB's jurisdiction, OPHD was not able to issue to Complainant an NCD in accordance with its standard practice. Instead, on July 18, 2019, OPHD instructed Complainant by email not to have any contact with Respondent for his own wellbeing as well as

² At this time, Respondent communicated to OPHD a belief that Complainant was hacking her electronic devices. OPHD evaluated her concern and determined that it was both out of OPHD's scope because it related to the conduct of a UC Davis professor (UCB does not have jurisdiction over him) and did not involve content or actions that appeared to fall under the policies OPHD administers.

³ Although both parties are employed by the same employer (i.e. the Regents of the University of California), jurisdiction was initially unclear as there was not a clear sexual/romantic component that placed this in Title IX scope, and the alleged conduct was occurring outside of the University or employment context. However, this new information, which included phone calls to Complainant's University-provided office telephone, threats to come to Complainant's classroom, and comments of a sexual/romantic nature via Twitter, demonstrated sufficient nexus to a University program or activity and Title IX scope.

for the integrity of the investigation. CRO Rome went on to explain in that email to Complainant what OPHD meant by “no contact.”⁴

The initial deadline for the investigation was October 11, 2019. The deadline was extended by 30 business days to November 25, 2019 because of the complexity of the allegations with a lot of documentary evidence that needed to be organized and included as well as the Evidence Review scheduled to end two days before the deadline and CRO Rome needing additional time to incorporate the parties’ responses into the Investigation Report. On October 1, 2019, CRO Rome notified the parties of this extension by separate emails.

Scope of Review

This investigation sought to determine whether events occurred as alleged and whether they constitute a violation of the 2016 SVSH Policy.

Investigation Standard

The standard applied in determining whether Respondent violated applicable University policy is the preponderance of the evidence. This means that the totality of the evidence must demonstrate that it is more likely than not that the alleged conduct occurred in violation of the applicable policy.

The Applicable Policy

The 2016 SVSH Policy defines “Stalking” as:

Repeated conduct directed at Complainant (e.g., following, monitoring, observing, surveilling, threatening, communicating or interfering with property), of a sexual or romantic nature or motivation, that would cause a reasonable person to fear for their safety, or the safety of others, or to suffer substantial emotional distress.

The 2016 SVSH Policy defines “Sexual Harassment—Hostile Environment” as:

[U]nwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal, nonverbal or physical conduct of a sexual nature when ... such conduct is sufficiently severe or pervasive that it unreasonably denies, adversely limits, or interferes with a person’s participation in or benefit from the education,

⁴ In CRO Rome’s July 18, 2019 email to Complainant issuing the Copy of the Notice of Allegations, CRO Rome wrote, “As I have explained to [Respondent] as well, by no contact, I mean having no contact through any means or media including, but not limited to, contact in-person, via phone, voicemail, text message, Facebook or other online communities, instant messenger, email, notes, cards, letters, flowers, or via family, friends, or acquaintances. Additionally, it is requested that you take reasonable measures to maintain a distance of 100 feet away from [Respondent]. If she is present in an area that you enter, I would ask you to remove yourself from the area immediately. I would also ask that if you find yourself more than 100 feet away from [Respondent], but still within sight lines that you minimize visual contact as much as possible.”

employment or other programs and services of the University and creates an environment that a reasonable person would find to be intimidating or offensive.

Additionally, the policy notes that:

Consideration is given to the totality of the circumstances in which the conduct occurred. Sexual harassment may include incidents: (i) between any members of the University community, including faculty ... (ii) in hierarchical relationships and between peers; and (iii) between individuals of any gender or gender identity.

The 2016 SVSH Policy defines “Retaliation” as:

“[I]nclud[ing] threats, intimidation, reprisals, and/or adverse employment or educational actions against a person based on their report of Prohibited Conduct or participation in the investigation, report, remedial, or disciplinary processes provided for in this Policy.”

Investigation Methodology

The investigation included interviews with the following individuals:⁵

Name	Interviewed On	Relationship to Investigation
██████████	November 6, 2018 and September 13, 2019	Complainant
██████████	August 19, 2019	Respondent

The following witness(es) was/were offered but not interviewed:

Name	Offered By	Reason Not Interviewed
██████████	Respondent	Respondent did not want OPHD to contact, unless necessary – OPHD did not believe it was necessary
██████████	Respondent	Respondent did not want OPHD to contact, unless necessary – OPHD did not believe it was necessary
██████████	Complainant	Duplicative of uncontested information
██████████	Complainant	Duplicative of uncontested information

The following documents were reviewed during the investigation:

Document	Provided By	Attached As
Complainant’s initial email to OPHD	Complainant	Attachment A

⁵ Complainant and Respondent were both given the opportunity to provide the names of any persons they believed would have information relevant to this investigation.

Complainant forwarding screenshots of Twitter messages from Respondent	Complainant	Attachment B
Email Respondent sent to Complainant on 5.22.18 and Complainant's response on 5.23.19	Complainant	Attachment C
Email Respondent sent to Complainant's partner	Complainant	Attachment D
Email chain between Respondent and Complainant's Canadian friend	Complainant	Attachment E
Complainant's email to Ben Hermalin reporting Respondent coming to his off-campus gym	Complainant	Attachment F
Complainant letting OPHD know that Respondent knocked on his apartment door and left him four notes	Complainant	Attachment G
Complainant's email with images of postcard received in mail as compared to one of the notes left by Respondent	Complainant	Attachment H
Twitter account information and activity	Complainant	Attachment I
Emails Complainant received from Respondent on 4.9.19	Complainant	Attachment J
Emails Respondent sent Complainant's mother	Complainant	Attachment K
Information about phone calls and voicemails Respondent made to and left for Complainant	Complainant	Attachment L
Respondent's communication to ITCS copying Complainant	Complainant	Attachment M
Batched emails Complainant has collected as related to this matter (some duplication of items in other attachments)	Complainant	Attachment N
Email from Complainant about the vandalism at his apartment and attached images	Complainant	Attachment O
Complainant's email to OPHD providing additional information and images after interview	Complainant	Attachment P

Respondent's email to Complainant – 5.3.19	Respondent	Attachment Q
Respondent's email to Complainant – 6.1.19 with additional Twitter links on 6.5.19	Respondent	Attachment R
Respondent's email to IT and ITCSS help – 6.5.19	Respondent	Attachment S
Respondent's email to OPHD about the emails and documentary evidence bundles she forwarded after interview	Respondent	Attachment T
"Today (after the mtg with the Title IX people) 1/10"	Respondent	Attachment U
"29 [REDACTED] not 28"	Respondent	Attachment V
"He sees what I'm doing 28/10"	Respondent	Attachment W
"The emu 27/10"	Respondent	Attachment X
"I asked [REDACTED] for help (sink) 26/10"	Respondent	Attachment Y
"His friends intervene because of the Twitter pages 25/10"	Respondent	Attachment Z
"Important: The day I had the meeting with [REDACTED] 9a/10"	Respondent	Attachment AA
"Proof of his hacking 22/10"	Respondent	Attachment BB
"Lifting when we're moving furniture around 24/10"	Respondent	Attachment CC
"22/10 [REDACTED] and the angel"	Respondent	Attachment DD
"Time in [REDACTED] again Elton John song 20/10"	Respondent	Attachment EE
"Access to my computer 17/10"	Respondent	Attachment FF
"13/10 (I said I was a [REDACTED] – [REDACTED])"	Respondent	Attachment GG
"[REDACTED] 10/10"	Respondent	Attachment HH
"The day I had the meeting with [REDACTED] 9/10"	Respondent	Attachment II
"God of water ([REDACTED]) 7/10"	Respondent	Attachment JJ
"I took a photo of my boots and listened to the OTR song (6/10)"	Respondent	Attachment KK
"Life of [REDACTED] 5/10"	Respondent	Attachment LL
"Dylan/[REDACTED] 4/10"	Respondent	Attachment MM
"[REDACTED] After [REDACTED] texted me Sat Aug 10 2/10"	Respondent	Attachment NN
Complainant's responses to the evidence review	Complainant	Attachment OO
Respondent's response to the evidence review	Respondent	Attachment PP

Evidence Review

CRO Rome gave Complainant and Respondent the opportunity to review and comment on the evidence gathered, including their statements and Attachments A-NN listed in the above table. The information was shared electronically via Box and did not contain any redactions.

The parties had equal access to the evidence and equal time to review it. Complainant and Respondent were given an opportunity to review the information from October 4-10, 2019. Complainant provided an initial response to the Evidence Review on October 4, 2019 and a final response to the Evidence Review on October 10, 2019 (see Attachment OO). Respondent provided a response to the Evidence Review on October 8, 2019 (see Attachment PP).

Information Gathered

The following information, described in detail below, was gathered in this investigation: (I) Statement by Complainant, (II) Statement by Respondent, (III) Follow-Up Statement by Complainant, and (IV) Additional Information. Interviews were conducted in person or by video so that CRO Rome had the opportunity to visually observe the demeanor of the person being questioned.

I. STATEMENT PROVIDED BY COMPLAINANT

On November 6, 2018, CRO Rome spoke with Complainant by telephone. He said he was a presenter at an event at UC Berkeley in Spring 2018 and he was on campus afterwards. Respondent came up to him and introduced herself. He did not know her,⁶ but she asked if he wanted to get coffee sometime. He said, "Sure, of course." Complainant inquired with the event's host about Respondent. The host said they liked Respondent and she and Respondent had been discussing the possibility of co-organizing an event and inviting Complainant to participate.

A couple of weeks later, Complainant got a drink with Respondent in the afternoon (she had beer, he had wine⁷). After about twenty minutes, the conversation seemed to indicate to Complainant that Respondent thought the meet up was a date.⁸ Then, Complainant mentioned he had a partner. In Complainant's observation, Respondent seemed to become "visibly flustered" by that information.⁹ Complainant and Respondent continued to talk about their

⁶ In Respondent's response to the Evidence Review, she said "[Complainant] knew who I was when I introduced myself to him the day he came to UCB to give a talk. He said, '[A]h, you are the person that is following me on twitter.'"

⁷ This is information Respondent provided in her interview. It is included here for context.

⁸ In her response to the Evidence Review, Respondent wrote, "Please note that I don't date, it is a foreign concept to me. I invite people for a drink all the time and I never think those are dates. I consider it a normal and nice part of my job—being social with colleagues."

⁹ In her response to the Evidence Review, Respondent wrote, "I did find it odd to learn he had [a] partner, given his flirtatious behavior on twitter (with more than one person). I asked who it was and he told me and I told him I

families and Complainant talked more about his partner. They did not talk about the potential event Respondent and the host of the Spring 2018 event had discussed holding.⁹

On May 5, 2018, a short time after Complainant and Respondent met up, Complainant got a short Twitter message from Respondent (see attachment B). The message said someone was bothering her. He found the message confusing. He replied something like, "I'm sorry, I don't understand." (attachment B) He made a screenshot of the Twitter message and sent it to the Spring 2018 event host. He wanted to create a record or paper trail. The host replied, "That's odd."

Shortly after that, Complainant received another Twitter message from Respondent. Complainant again found the message confusing. It talked about how Respondent was being persecuted and called terrible names. Again, Complainant took a screenshot of the message and sent it to the Spring 2018 event host. Then, he blocked Respondent on Twitter.

In early November 2018, Complainant's partner received an email from Respondent (see attachment D). The email said something about, "I don't know if it's your husband or partner" and "He's hacked into phones and computer, etc., and is tweeting about me." She also wrote something like, "I'm not crazy. I wanted to let you know." The email was about a half page long and Complainant's partner forwarded it to him. Complainant said the email was "very disturbing and upsetting" to him and he was "unsure of what to do."

Then, Complainant heard from a female friend/colleague in Canada. She received similar emails from Respondent. (attachment E) After she received the first email from Respondent, she replied and said she did not know who Respondent was. Respondent replied and said she was telling a lot of people, but could not tell the Canadian friend any more at that time. In the initial email to Complainant's Canadian friend/colleague, Respondent copied Respondent's ex-romantic partner.

Complainant could not recall if he had referred to his partner by name during his in-person meeting with Respondent. He thought he likely mentioned that his partner teaches at UC Davis and is a [REDACTED] —one of two female [REDACTED] in UC Davis' department and the other one is married.

Complainant is not sure how Respondent knew of his friendship with the Canadian friend/colleague whom she emailed directly.

found the [REDACTED] very interesting (what she does) and we talked more about people who study this and the [REDACTED]. Everything normal."

⁹ In her response to the Evidence Review, Respondent wrote, "He says that day we did not talk about the conference he was going to be invited to. But we did. I told him I was organizing it with a colleague in the [REDACTED] Department ... and not [REDACTED] as he seems to imply)."

II. STATEMENT PROVIDED BY RESPONDENT

On August 19, 2019, CRO Rome met Respondent in person at OPHD's offices for an initial interview. Respondent said she first met Complainant after he gave a talk at UC Berkeley. She introduced herself to him in person and asked if he wanted to get coffee or something later. They did meet up a week or two later at a bar for an hour or so. Respondent was organizing with the French department on an event and Complainant was supposed to be one of the speakers. She talked with him about it at the meet up. She thinks they did have flirtation on Twitter prior to this interaction. During the meet up, they had a normal conversation about work and the people they know. Complainant did mention his significant other and named her. Complainant had wine and Respondent had a beer at the meet up, which was in Oakland.

Complainant and Respondent have not met up and conversed in person since that time. Respondent acknowledged there were occasions (in December 2018) when she went to Complainant's house. She got into his apartment building when someone held the door for her. She said she did knock on his actual apartment door and tell him she was not leaving until he opened the door and explained what he was doing by hacking her. She recalls saying something along the lines of, "Since you don't leave my house—I'm hacked, I won't leave until you explain what you are doing." She does not recall what time it was that she sat outside of his apartment door inside of his apartment building, but knows it was not the middle of the night. Respondent acknowledged leaving handwritten notes for Complainant under his door while she was waiting outside of his door. She does not recall exactly what the notes said, but something along the lines of, "Don't be a coward." CRO Rome showed her the image of a handwritten note (attachment H) and she acknowledged it as one of the notes she gave Complainant that day. She did not recall how many notes she gave him, but it was more than one. She knew it was his birthday that day because of public information available on Wikipedia. She thinks she sat outside of his apartment door for about an hour or so, reading a book. Complainant's friend came to the door. Complainant's friend was male presenting and asked Respondent, "What are you doing here?" She told him she was waiting for Complainant to talk to her. Complainant's friend asked her, "Why don't you respect that he does not want to talk to you?" Then, Complainant came out of his apartment and left with the friend. Complainant did not say anything to Respondent. Respondent does not know who Complainant's friend is. Respondent found Complainant's male friend to be "so aggressive ... super aggressive" in his interaction with her. Respondent said Complainant's male friend "probably" knew what was going on and asked her what was going on.¹⁰

CRO Rome asked Respondent about the Twitter messages Complainant received on or around May 5, 2018 where Respondent discussing being bothered by someone. She acknowledged sending them and said Complainant knows what she is referring to in those messages. They

¹⁰ In her response to the Evidence Review, Respondent wrote, "That day in December when his friends 'escorted' him out of his apartment, his male friend asked me what I was doing, I replied I needed to talk to [Complainant] and the friend asked me why didn't I respect his not wanting to talk to me and I replied: why doesn't he respect that fact that I don't want to be hacked?"

probably had not communicated on Twitter before she sent those messages. CRO Rome asked if her concern about hacking had started at that time. She said there was not hacking at the time she sent those Twitter messages to Complainant.

Respondent explained that when she met up with Complainant, she was going to Portland or somewhere for professors on behalf of UC Berkeley. She realized by the time she was about to go, that the person who invited her to the event was also on Twitter and was posting songs and Complainant started posting “nasty” things that were “kind of about that person.” Respondent said several people realized Complainant was attacking that individual and saying that individual was “a second-rate professor and idiot” and people “should never mention” that person’s name. Respondent knows that the individual who invited her to the event knew Complainant. Respondent said the individual’s name is [REDACTED]. Complainant’s communications about [REDACTED] were the reason she wrote Complainant on May 22, 2018 “because [she] was embarrassed.”

Respondent acknowledged that Complainant responded to her May 22, 2018 email and asked her not to write to him anymore. She does not think she “tried” to email him or tweet him after that.¹¹

CRO Rome asked Respondent why she sent the email to Complainant’s partner. Respondent said she realized in August that she “was hacked.” She realized Complainant had access to the camera on her phone because he started posting on Twitter something about body parts and she had taken a shower and was singing. He was saying things about her body that were accurate. She was “furious” and wrote to Complainant’s partner and contacted the police. She did not receive a response from Complainant’s partner.

CRO Rome asked if the police (in [REDACTED]) looked at Respondent’s electronic device. She said they did not look at her device and they told her it is difficult to investigate any hacking.

Respondent said Complainant is “constantly posting about what I am doing.” For example, if she says in her house, let’s spell this, it will show up in his posts. She said, “it’s subtle but it is there all the time.” CRO Rome asked Respondent why she believes Complainant would do this to her. She responded, “I don’t know...he’s obsessed.”

Respondent acknowledged contacting Complainant’s Canadian friend by email. She noted that she included her ex-partner on the email because this hacking has been “turmoil” for them and she feels she cannot talk openly. She copied her ex-partner, so he can see what’s happening

¹¹ In her response to the Evidence Review, Respondent wrote, “The email I sent to [Complainant] at some point telling him he was making me uncomfortable and embarrassed and he replied asking me not to write to him again was about what he was going on twitter to my colleague [REDACTED]. I apologized to [REDACTED] when I met him in person two days later, and he knew what I was talking about ([Complainant] aggressively subtweeting about him), but told me not to worry.” Subtweeting is the act of indirectly tweeting about an individual without mentioning their name or linking to their twitter handle, equivalent to “talking behind someone’s back” in person.

because it is also affecting him. She knew Complainant was friends with the Canadian person because she could see they were friends on Twitter. The Canadian friend did respond to her.

CRO Rome asked about Respondent's email to Complainant's Canadian friend and what she was referring to when she wrote, "He seems totally into you, so why not? Give him a chance. He might treat you great. He might think you're worth what other people are not ... And you might very well be. It seems to me you are." Respondent said Complainant was treating Respondent "badly." They—Complainant's partner and Complainant's Canadian friend--saw that if something was public about Respondent, Complainant would start talking to them on Twitter.

Since the hacking began, Respondent has changed her physical phone, home internet systems three times, and computer once. She had a new computer and she has changed her passwords. Last time she brought her phone in with the hacking concerns, the people¹² she brought it to said if she had the phone erased, she would be erasing evidence.

Respondent acknowledged that on or around mid-November 2018, she opened a new public Twitter account and followed Complainant, a magazine he works for, and several of his friends. The background image was of a scene from the movie, "Thelma & Louise." Respondent said she started the account because she wanted to denounce Complainant "so his friends know the kind of creep he is." Respondent said, "I selected the Thelma and Louise image because they are two independent women and do not need men."

CRO Rome asked Respondent if she came looking for Complainant outside of his gym on the day before she entered his apartment building and knocked on his apartment door. She said she did. She was looking for him at the gym to tell him to stop. She said she tells him to stop all the time—"It was just a coincidence" that she saw him at the gym.¹³ She was looking for his

¹² Respondent brought her phone to both police and IT professionals on the UCB campus.

¹³ In Complainant's response to the Evidence Review, he wrote, "I note that, alongside the deeply implausible 'it was just a coincidence' claim, the accompanying claim that [Respondent] was just in the neighborhood (rather early in the morning) looking for my residential address goes unqueried: I remain curious as to how the Respondent acquired the address." Complainant continued and added that Respondent giving another gym patron a note for Complainant which was "folded somewhat elaborately (like a fan or accordion)" is "further indication of the planned nature of the clearly repeated visits to [his] home."

In Respondent's response to the Evidence Review, she wrote, "It's true that that day before leaving I asked a woman who was arriving at the gym to give [Complainant] a piece of paper. [Complainant] seems to suggest it has something to do with gang activity. I don't have anything to do with gangs. I just used a page from the New Yorker magazine, the only thing I had with me, to let him know, that just as he knew my address, phone numbers (because of his hacking) I was also doing my own research since the [redacted] police department wasn't helping me even though I had been there several times. As I stated to [CRO Rome], I first went to the police in October of 2018 when I realized [Complainant] also had access to the camera in my phone (image how humiliating and disrespectful that is). That's when I wrote to his wife as well. The looking for his address came after a couple more months of frustration seeing that no one was helping me solve this problem which was becoming overwhelming for me."

residential address and saw him entering the gym. She waited for him to come out of the gym, but he did not, so she left and returned the next day.¹⁴

CRO Rome asked Respondent about the postcard Complainant received on or around January 2, 2019. Respondent acknowledged sending the postcard to Complainant despite there being no signature attached.¹⁵

CRO Rome asked her about the emails she sent to Complainant on April 9, 2019 (attachment J). Respondent said she knows Complainant hacked her sister too because he was posting information about her sister, her sister's husband and her sister's daughter—things Respondent "recognized were true." CRO Rome asked Respondent about that email in which she wrote "organize with her [REDACTED] her name is [REDACTED] [REDACTED], and she is hot, yes and you've been having an 'affair' whatever that means. [sic] and it's totally OK." Respondent said she was referencing what Complainant "kept saying on Twitter."

CRO Rome asked about the second email in which Respondent said she accidentally sent the first email (about her sister) to Complainant. Respondent explained that when she is "really annoyed" about the hacking, she writes emails to herself and saves them as drafts because Complainant can read them on her email. She writes to herself to say that it really bothers her that Complainant had access to her son's electronics when she herself does not track her son's electronics. Respondent recalled a message to her son that said something like, "Dear [son's name], It's okay that you are dating my mother. But, don't play with my Nintendo." She said she writes the draft emails, "If something really distresses [her]." She does not recall if she meant to send the email that she did send to Complainant on April 9, 2019.

Respondent acknowledged sending to Complainant an email on or about May 3, 2019, in which she closed by writing, "Please don't force me to go to the UCD harassment office."¹⁶

CRO Rome asked Respondent why she posted Twitter messages impersonating Complainant. She said, "because no one pays attention to what I say (about the hacking)" and she has

¹⁴ In her response to the Evidence Review, Respondent wrote, "I did not go to his gym looking for [Complainant]—I could not have known that that was his gym. I was looking for his house, the address is hard to find (I told the police officer in [REDACTED] how I got this address). When I was asking the man at the desk in the gym about the address I noticed that someone who looked like [Complainant] was there, exercising. Since I wasn't quite sure that it was him (I had only seen him twice and did not remember [sic] him well) I asked the man if that was [Complainant] and he said yes. I asked him how long does he exercise for and he said half an hour. He asked me if I wanted to talk to him, and I said I'd wait outside. That is, the man never told me not to enter or to wait outside. I decided to do that."

¹⁵ In her response to the Evidence Review, Respondent wrote, "I never broke the first No-Contact Directive. I had sent the postcard before I learned of it."

¹⁶ Respondent wrote in her response to the Evidence Review, "I did break the No-Contact Directive in May, I believe, when I sent [Complainant] several emails. I apologize to [OPHD], to U.C. Berkeley and to the U.C. system for not following your directions, but not to [Complainant] because he knows that when I wrote to him it was because he was being particularly violent and disrespectful in his postings about my life. A life that has not been mine or private since August 2018."

complained about Complainant “many times.” She added, “my life is miserable” and noted she is now taking antidepressants. She feels Complainant “should be at least a little embarrassed of the kind of things he is doing” or “at least acknowledge what he is doing.”

CRO Rome noted that when tweeting as Complainant, something she acknowledged doing in a June 1, 2019 email to Complainant, she wrote things like “I’m a dirty old man,” “I’m hunting for women,” “I’m LUCKY and handsome. DM your email or phone and we’re in for some fun,” “I also like this song ... I’m going to ‘ride’ my horse—get it?,” “I love electronic, psychic, imaginary sex,” “I see her (the sister) taking showers and in her bed and then I masturbate or that’s what I say,” “my thing IS PORN,” “I have a very strong libido and can’t stop being a pervert,” and “My name is [REDACTED] and I hack women’s phones and computers to make X rated ‘movies.’” When asked about these examples, Respondent said she did write those things and she did so because that is what Complainant is and what he does. She stated Complainant posts about “a sex riot” and when posting about music he is “all the time talking about sex.” Respondent said on one occasion she posted “a story about Mark Twain, a Mexican story about a horse that does not allow him to ride him.” Then, Complainant posted about “Old Town Road,” a country song released by rapper Lil Nas X that was popular in early 2019. Respondent added, “He is all the time making sexual references” in general and to her. She said on the “Too Much Is True” Twitter account, Complainant is writing that “a lot of stuff is sexual” which she agreed was okay as long as it does not refer to her.¹⁷

CRO Rome asked Respondent about the report of her calling Complainant’s office phone at least ten times within 90 minutes and leaving ten voicemail messages for him on or around June 18, 2019. CRO Rome noted that in the voicemails the person leaving the message identified themselves as Respondent and addressed the messages to Complainant, specifically. Respondent acknowledged making the calls and leaving the voicemail messages. CRO Rome noted some of the content and read it to Respondent, which included “I know that I’ve been calling a lot ... I’m going to be calling you every day if I want to ... so I can do whatever the fuck I want piece of shit;” “I have every right to be calling [Complainant] every five minutes for the rest of my life ... I have every right to do this and I’ll keep doing it and next semester or quarter when you start your classes, I’m gonna be there” and distribute leaflets or keep lists “about the kind of sick dog that you are;” “I cannot begin to tell you how much I despise you ... I’m so fucking tired of you and now to have the guts to say that I’m harassing you motherfucker;” and “You need to still call me and apologize or you’ll see what I’m going to do. I’m not afraid of you ... I’m not afraid of anything because I am right.” Respondent acknowledged the content read to her as coming from those voicemail messages. She said Complainant “was destroying her life.” She is “very frustrated and upset,” she wants him “out of her life.” She wants him “to stop doing this.”

¹⁷ The “Too Much Is True” Twitter account is affiliated with a person by the name of [REDACTED]. Respondent indicated in her correspondence to and about Complainant a belief that Complainant is [REDACTED] and the “Too Much Is True” account belongs to Complainant. Respondent asserted this belief to CRO Rome as well and many of the documentary evidence examples Respondent provided to CRO Rome included tweets from the “Too Much Is True” account.

As an example of Complainant hacking her electronic devices, she noted that she had recently met with a person affiliated with the University's mental health services. And, afterwards, Complainant posted about how "pathetic mental health services are," which she interpreted as an indirect reference to her and his hacking.

Respondent asked if CRO Rome told Complainant that her meeting with OPHD was taking place on Monday, August 19th. Respondent noted Complainant was posting about the "fear level" on Monday which she interpreted to be about her meeting with OPHD. She said Complainant appears to be posting about the stock market, but it was actually an indirect reference to her upcoming meeting with OPHD.

In June 2019, Respondent visited IT Client Services to inquire about Complainant hacking her devices. CRO Rome asked whether Respondent copied Complainant on her messages to IT Client Services (attachment M). She said she did.¹⁸ She said IT Client Services cleaned her computer.

She said she tried using a different computer at an office near hers. She called the FBI about this concern from a phone in that office. Then, she discovered the phone and computer were removed from that office.

CRO Rome asked about any information provided to her by IT Client Services. Respondent said the IT people said they cleaned her computer, they did not know if it had been hacked. She said she talked with an expert, at one point, and he said, yes, it sounded like it could have been hacked if someone was able to recreate a shadow of her computer. Respondent said that Complainant knows if she even just changes the screensaver on her computer. Respondent acknowledged knowing that it is "very difficult" and "very illegal" to do what Complainant has done, but it is "quite possible." She said she has contacted the FBI about this a second time.

CRO Rome asked if Respondent called Complainant's home phone approximately 14 times in 30 minutes during the week of June 16, 2019. She said she did not and she does not have his home or cell phone number.

CRO Rome asked if Respondent returned to Complainant's house after those dates in December 2018 and tried to open his apartment door in the middle of the night. She said she did not.

CRO Rome asked if Respondent knew anything about Complainant's car being vandalized. Respondent said she did not want to answer that question.

¹⁸ Respondent wrote in her written response to the Evidence Review, "When I wrote to the IT office to report (second or third time) that I was hacked, I did copy [Complainant], but I did not forward or copy him in my response to the IT office later on. I don't know how he has those messages."

CRO Rome asked if Respondent sent Complainant more than 15 emails between the end of May 2019 and through the month of June 2019. CRO Rome offered to show her the emails (attachment N); Respondent declined to see them. Respondent acknowledged sending those emails to Complainant.

CRO Rome asked Respondent if, on or around June 23, 2019, she began forwarding email correspondence about Complainant to Complainant's mother and also wrote to Complainant's mother directly stating, "Your son, who as you know, has a wife already and electronic 'lovers' all over the place ... has systematically harassed me for 9 months now." Respondent said she did write and forward those emails to Complainant's mother. CRO Rome asked her why she sent those things to his mom. Respondent said she is a mother and if her son "was doing something completely out of line," she would talk to him. She thought maybe Complainant's mom could talk to him about his behavior because when she went to the University of California, Berkeley Police Department, they said they did not have jurisdiction over Complainant's computer because Complainant is on [REDACTED] and said she could contact the FBI. CRO Rome asked if Complainant wrote to her about her correspondence with his mother or if Complainant's mother responded to her. She said neither of them contacted her about the correspondence.

CRO Rome said it was reported that on or around July 3, 2019, she may have vandalized Complainant's apartment stairwell and the door to his apartment within the building. The spray painting on the hallway read, "[REDACTED] Harasser and Bet." The spray painting on his apartment door read, "Sex addict [REDACTED] a sick harasser lives here." Respondent said she did not want to answer that question.

CRO Rome asked if anyone aside from OPHD instructed Respondent not to have contact with Complainant anymore. She said no one else has given her such instruction. She said the police told her not to contact him anymore, and she went to the officer and said, "If you don't do anything about this, you are going to make me crazy." Respondent said she is not afraid of Complainant. She said, "he should be afraid of [her]--physically, if he continues to harass [her]." The police told her not to do anything.

Respondent said she has "plenty of proof" that she is hacked. She can communicate with him if she writes a text messages on her phone. She said, "It is very unnerving to have no privacy at all." She said if she wants to see a friend, she cannot take her phone or computer with her—which is "not ideal" when she is the parent of a [REDACTED]-year-old child. Respondent said she has "stopped having real conversations with [her] friends at home." She continued, "It is strange, it is not okay for him to know about other people's lives." She said because she is hacked, she "is exposing everyone." She said she is "very isolated" and she is taking medication for depression.

Respondent added—referencing the interview with OPHD and the investigation in which she is the named Respondent, "And then I have to deal with things like this." She said "all of what [she is] doing is defending [herself] since nobody else does." Respondent said she has "thought of having her brother come from [REDACTED] and beat the shit out of this guy." She followed up by

saying, she is not going to have her brother do that.¹⁹ Respondent said of Complainant, “He is the one who should be really embarrassed ... it has to stop.”

CRO Rome asked if only her electronics are affected or if other things are also affected. She said her computer at work is safe and she does not have a phone line at work. She said her phone at home “is hacked,”—both the landline and her cell phone. She is not sure if her son’s phone is hacked or if it is only when he is affected when he is at home. While she is not sure if her son’s phone is hacked anywhere except in their home, she is certain that she is hacked everywhere. As an example, Respondent said she was in [REDACTED] and Complainant was “constantly posting about what [she] was doing.” As another example, she noted her son was going to [REDACTED], which she never told Complainant. Then, on Twitter, Complainant said something about guerillas in [REDACTED]. As a third example, she said she was taking the subway in [REDACTED], and Complainant was posting something related.

Respondent said Complainant is “always on Twitter” and has two accounts—his named account and the Too Much Is True account.

When asked about other possible witnesses, Respondent said she did not think it was good for others to get involved and she would like to protect them because “It’s embarrassing.” She did provide two names (see the witnesses offered, but not interviewed section of this Evidence Summary). She also noted that Complainant’s mother is “very good friends with [UC Berkeley’s] Chancellor.”²⁰

¹⁹ In Complainant’s October 4, 2019 response to the Evidence Review, he wrote, “I note that the interview with the Respondent was conducted on Aug 17 and included at least two physical threats against me ... Am I mistaken in thinking that the university best practice would be to inform an employee of threats against them from another employee as soon as possible? I hope you can imagine how disturbing it was to encounter those passages.” In his October 10, 2019 response, Complainant added, “I would like to inquire about the university’s choice not to inform me of these threats in a timely manner, and whether the university understood these threats to be protected by privacy provisions of Title IX or otherwise.” OPHD did consider and evaluate the threats at the time of the interview with Respondent. During the August 17, 2019 interview, Respondent said Complainant should be afraid of her physically, if he continues to harass her, and immediately added, the police told her not to do anything. Also, during the interview, Respondent said she has thought of having her brother come from [REDACTED] and beat the shit out of [Complainant],” but she is not going to have her brother do that. OPHD consulted with UCPD at several points throughout this case about threat assessments (which are not normally communicated to the parties) and instructed Complainant on multiple occasions to contact police if he ever felt his physical safety was in immediate danger.

²⁰ Respondent wrote in her response to the Evidence Review, “I never stalked [Complainant] or harassed him or retaliated because of the previous Title IX. All I have done all along is beg him to leave my electronics (my life and that of my child alone). I am the one who has been harassed and electronically stalked for more than a year now. I can’t talk freely to anyone, or text, or do anything unheard. This has really taken a heavy toll on me. I have no privacy, and neither does my son.”

III. FOLLOW-UP STATEMENT PROVIDED BY COMPLAINANT

On September 13, 2019, CRO Rome spoke with Complainant via Zoom video. CRO Rome asked Complainant about the specifics surrounding the vandalism to his apartment door and apartment building. He thinks the vandalism occurred in June 2019. He thought he could get a more-specific date by consulting his pictures of the vandalism and could follow up with that information (attachment P). As far as he knows, no one saw the vandal. He did ask the property manager whether there was available surveillance footage. He does not think he got a response from them.

Complainant's residence was in a three-story building. The first floor was occupied by commercial tenants—including the gym. The gym was not just for residents and there was a membership fee. There were about 40 residential units on the second floor and he does not think anything was on the third floor of the building.

CRO Rome asked Complainant about the specifics surrounding the vandalism to his vehicle. He said it occurred "more or less around the same time" as the building vandalization—"a couple days before." His car was parked in a little parking area near the building entrance closest to his apartment. CRO Rome asked if Respondent knew what vehicle Complainant drove at that time. Complainant said he felt it would be "persuasive to argue" that Respondent spent "a lot of time" around his apartment building and "it is imaginable that she saw [him] pull up to the building in [his] car." His car does not have any distinctive decals, stickers, or parking permits that might make it more easily identifiable. His car is a [REDACTED].²¹ The vandalism to his car included keying—scratches all around the car and a kicked in back fender/bumper—and "a bunch of lipstick writing."²² He took pictures and will send them (attachment P). He thought the writing was similar to the hallway writing and some writing in Spanish. The damage to his car cost \$6,000 to repair. He did not contact the apartment property about this incident. He only contacted the building after the subsequent vandalism in the building.

Complainant noted both incidents of vandalism "had a peculiar coincidence"—his longtime partner was staying with him in his apartment. He said that his partner did not stay with him at his apartment in the Bay Area often as they both work in Davis.²³

²¹ Respondent wrote in her response to the Evidence Reivew, "[Complainant] states that it's 'plausible' to believe that I spent a lot of time outside his house and that [I] might have seen him pulling up [i]n his car or driving. First of all, were it not because he's had all my electronics hacked since August 2018 I would have never gone to his house looking for him. I have better things to do than spending time outside his house. Second, I have never seen him driving or pulling up in his car. I have never seen him in his car. I saw him when he gave a talk at UCB, when we met for a drink, when I went looking for his address and saw him briefly at his gym and the day in December when I sat outside his apartment and he left."

²² Complainant wrote in his response to the Evidence Review, "I think it might be clarifying to include in the summary that some of this writing was in colloquial Spanish, and all of it echoed claims made by the respondent in emails, phone messages, and in the apartment building vandalism."

²³ Respondent wrote in her response to the Evidence Review, "I don't know when [Complainant]'s partner stays with him, nor [do] I care."

Complainant has since moved out of that apartment building where he lived for somewhere between six and seven years. He said his main reason for moving was the Bay Area rental market, but even so, he could have stayed. It was his “persistent sense of and considerable lack of safety since December of last year (2018)” that was “a significant factor” in his decision to move. Since the events related to this matter, Complainant now checks the “little eyehole in the door” before he goes out and makes sure to have his phone nearby. This matter “makes daily life less pleasant.”

CRO Rome asked Complainant if he has hacked any of Respondent’s electronic devices. He said he has not and added, “I don’t have the technical abilities.” CRO Rome asked Complainant what he makes of Respondent’s hacking concerns. Complainant says he believes it is a mental health issue that has existed, in general, in some form for a long time, but the internet has enabled it to exist in this new way where the computer becomes the locus of the belief that someone is watching or listening.

CRO Rome asked if Complainant has any active Twitter accounts. He said he has one (@ [REDACTED]). He said it is the only one he has ever had. He said, at one point in time, his handle on that Twitter account was [REDACTED]—which corresponded with the release of a book he authored with the same title. After that book had been out for a while, he changed the handle to its current iteration. He said he also helps run a poetry operation—[REDACTED]—and assists with their Twitter account about four times a year.

CRO Rome asked Complainant how frequently he posts on Twitter. He said it varies—sometimes 8-10 times a day, if he is procrastinating, and other days he does not post at all.

CRO Rome asked Complainant how he decides what to post about. He said he generally has four categories of posts: 1) posts about intellectual projects (e.g., [REDACTED], social movement); 2) pop music (because he was a pop music journalist before he became a professor); 3) electoral politics and “how much it annoys” him; and 4) 70% of the time he is “responding to friends’ posts and stupid puns.”

CRO Rome asked Complainant if he has or has had Twitter accounts under names other than [REDACTED]. He said he has not. CRO Rome asked if Complainant authors the [REDACTED] Twitter account. He said he does not, but he thinks he knows who [REDACTED] is. CRO Rome asked if that person is someone involved with this case. He said it is not. CRO Rome asked if Complainant follows [REDACTED]. He does not. CRO Rome asked if Complainant ever posts to the [REDACTED] account. He does not. CRO Rome asked if there was a reason Respondent would believe that Complainant is [REDACTED]. Complainant said he has gone back through Twitter to see where this perception may have originated and noted that at some point Complainant had posted something and [REDACTED] must have responded to Complainant’s post. Complainant said he would have had no reason to make that connection or take note of it at the time, but now that it’s become an issue, he has gone back through his posts. Complainant described Twitter as

being “like an energetic Las Vegas fountain and the water gets all over everyone,” to explain how posts flow between Twitter users. Complainant said from what he can tell, [REDACTED] appears to be a grad student in film studies pop media.

CRO Rome asked if Complainant ever authored anything under the name [REDACTED]. He said, “Yes” that is his pen name. CRO Rome asked if he ever had a Twitter account under that name. He said, if he did, it was long ago. CRO Rome asked whether “long ago” would have been sometime before he met Respondent. He said it would have been before that.

CRO Rome asked Complainant if he can read text messages Respondent sends on her phone. He cannot. CRO Rome asked Complainant if he can read Respondent’s email. He cannot. CRO Rome asked Complainant if he can hear Respondent in her house. He cannot. CRO Rome asked Complainant if he can hear Respondent in her office at the University. He cannot.

CRO Rome asked Complainant if he has received any communications from UC Davis’ Title IX Office regarding Respondent. He has not.

CRO Rome asked about the calls Complainant received at home. He said the calls were to his cell phone and his phone did display a number when the calls came in. He thought it was a (510) area code number, but he can check his records and follow up (attachment P). He wrote the number down at the time and tried to do a reverse number look up, but in order to find out any more about the owner of that number, he would have had to pay money. The caller did not leave any voicemails on that number. He does not know if Respondent has his cell phone number. He did not exchange phone numbers with her when they met up in person.

CRO Rome asked if IT Client Services contacted him about the ticket Respondent submitted. He said they did not.

CRO Rome asked if any of Complainant’s colleagues, his partner, or his family members received any additional communications from Respondent apart from those already noted (attachment D, attachment E, attachment K). As far as he knows, there has not been any additional communication to those persons.

CRO Rome asked Complainant about the calls to his office phone and the voicemails left on that number. He said there was an “intense spate” of calls that lasted for a few days around June 18, 2019 (the date of the voicemails) (attachment L). There were no additional voicemails left beyond those that he forwarded to OPHD from June 18, 2019.

CRO Rome asked Complainant if he has ever contacted Respondent’s ex-partner. He has not. CRO Rome asked Complainant if he has ever contacted Respondent’s son. He has not. CRO Rome asked if Respondent has contacted him since this investigation was initiated. He said Respondent has not contacted him since that time.

CRO Rome asked Complainant if he attended a Berkeley Book Chat about Bob Dylan on April 17, 2019.²⁴ He will check his calendar to be sure, but he does not think he attended any such event. (attachment P) He has written about Bob Dylan though. He wrote the entry on Bob Dylan in the [REDACTED]. When Bob Dylan won the Nobel prize, he wrote some pieces on Bob Dylan.

CRO Rome asked Complainant how many times he knows for certain that Respondent came to his residence. He said he saw her on two separate occasions.

CRO Rome asked Complainant about the time in December 2018 when Respondent came to his apartment hallway and put notes under his door. He said he saw Respondent when he left his apartment on that occasion. He called two of his friends (one female and one male) to come over when Respondent was outside. At that time, Complainant saw Respondent sitting on the floor with a notepad and a book. He said when his friends came to his apartment door, they asked Respondent what she was doing and she said she was “waiting for [Complainant] to talk to her.” They asked her if Complainant wanted to talk to her. She said, “I don’t think so.” Complainant’s male friend said to Respondent, “Maybe you should leave.” She said, “No.” Complainant did not say anything to Respondent on his way out of his apartment and Respondent did not say anything to him or his friends at that time either.

CRO Rome asked Complainant if he knows of a [REDACTED]. He does not. CRO Rome asked Complainant if he posted things about or in response to [REDACTED] in or around May 2018. He did not. He said he may have responded to some content, but he was not aware of person in response. CRO Rome asked if Respondent confronted Complainant about posts relating to [REDACTED]. She did not.

CRO Rome asked Complainant how he discovered that someone had created Twitter accounts in his name and posting as him. He said he learned of it in two ways: (1) he periodically name searches himself and discovered it in this way; and (2) at least one or maybe two people contacted him to say, “Are you seeing this?”

CRO Rome asked if Complainant has any more of the notes that Respondent put under his door in December 2018. He knows there were four and he thought he had taken photos of all of them and sent them to me, but he will check (attachment P).

CRO Rome asked Complainant if he had ever sent a communication or posted anything like “Dear [name redacted] it’s okay that you are dating my mother but don’t play with my Nintendo.” He had not.

²⁴ Respondent mentioned attending this event and Complainant tweeting about Bob Dylan close in time to her attending the event. She submitted this as support for her belief that Complainant has hacked her electronic devices.

Complainant said the impact on him “has been atmospheric and practically difficult.” He said this has been “the most distressing thing which is saying something since he had a near fatal bicycle crash about a year ago and this is [a] greater impact than that on [his] life.” This experience has made him change his behavior—he checks outside the door and takes steps to physically be aware, he parks his car far away from his house. He has had to lean on friends a lot for counseling and comfort. It is distressing. He feels this was “peculiarly redoubled” by the response he did not receive from UC Berkeley’s Title IX office and the University, in general. He said, it would have helped to get support from the institution. Complainant noted, “There is a mental toll by being stalked.” He said, “This is upsetting to live with every day” and he feels “remarkably unsupported by the institution.” He is hoping something can be done to decrease the ongoing threat.

IV. ADDITIONAL INFORMATION COLLECTED²⁵

██████████ Police Department

On January 4, 2019, CRO Rome received a phone call from a police officer with the ██████████ Police Department. He was calling in reference to an incident that occurred the past Friday involving Respondent. He reported that Respondent has been coming to the ██████████ Police Department “quite a few times” and is “convinced” that Complainant is hacking into her phone and computer.

The officer reported that Respondent first came to the ██████████ Police Department in October 2018. The officer she spoke with at that time (not the officer who contacted OPHD) told her there was nothing they could do because there was no documentation of any hacking. The last few times Respondent went to the ██████████ Police Department, the officer who contacted OPHD assisted her. In his opinion, Respondent is presenting with “the early stages of delusion.” He reached out to Complainant by phone, but did not get a return call. He wanted to check in on the safety of the folks involved.

²⁵ Respondent wrote in her Evidence Review response, “[T]he response [CRO Rome] received from the ██████████ police department and the person who I thought could help me within the University to learn about electronic security, make my point very clear, and my frustration: I have been going to the police since October 2018, I stopped sometime in January or February 2019 because I simply can’t stand the way I’m treated: the police man refuses to see what I have to show him and says that even if it were true all I could get is a restraining order tha[t] can easily be broken. That is, I’m tired of being treated with disrespect and disbelief. I’m just a normal person being pushed to her limit. The police officer has not talked to [Complainant] even once. That is, final point, a white male, a full professor gets immediate help from the University. I just want you to notice the disparity.” It should be noted that Complainant expressed feeling that had he been a female, the University would have acted much sooner and that there was a bias, to some degree, against male complainants.

Center for Long-Term Cybersecurity

On March 26, 2019, a representative from the Center for Long-Term Cybersecurity (CLTC) called OPHD to report that he had received an email from Respondent saying she had been hacked and asked to come by the CLTC office.

The representative met with Respondent on March 25, 2019. He did not examine Respondent's electronic devices, but in his professional opinion it was "beyond unclear she'd been hacked by anyone." He expressed significant doubts about Respondent's state "perceiving the reality of this situation." He said he did not want to be dismissive.

Respondent was upset and said the person who was doing this to her had filed a Title IX complaint. Respondent pointed out articles Complainant had liked and said that was evidence of the hacking. One article was about police oppression in [REDACTED] and she indicated that reading between the lines it evidenced Complainant's hacking of her electronic devices. The representative told her, "I don't see that."

The representative said Respondent told him that she and Complainant had "previously flirted with each other" and it seemed like "the sum total" of that flirting "was through things they'd liked on Twitter" and Respondent saw "that same dynamic" indicative of hacking "at play in the things on Twitter." The representative said online harassment is his content area and the information provided by Respondent about the alleged hacking did not seem to rise to the level of online harassment—at least by the things she showed him as examples of the hacking. The representative advised Respondent to "disconnect from social media for one month" and "seek support."

Factual Findings and Analysis

A respondent cannot be found responsible under the 2016 SVSH Policy unless a preponderance of the evidence gathered through a thorough and impartial investigation shows that the respondent engaged in the Prohibited Conduct alleged in the Notice of Allegations.

A. Standard of Review: Preponderance of the Evidence

The findings in this Investigation Report are based on a "preponderance of the evidence" standard. In other words, the CRO must review all the evidence, including the relative credibility of the parties and their statements during interviews, and determine whether the conduct more likely than not occurred as alleged in the Notice of Allegations. If the CRO finds that the conduct more likely than not did occur as alleged, then the CRO analyzes whether that conduct violated University policy. Please note: the Investigation Report's findings do not address whether the alleged conduct violated state or federal laws, but instead address whether the University's policies were violated.

B. Factual Findings

Accordingly, CRO Rome reviewed the information gathered for this investigation and makes the factual findings described below on Respondent's own admissions, as well as a preponderance of the evidence.

Undisputed Facts

1. Complainant is an employee at the University of California, Davis.
2. Respondent is an employee at UCB.
3. UCB and the University of California, Davis are two of the universities that comprise the University of California system and operate on many of the same policies (including the 2016 SVSH Policy and 2019 SVSH Policy).
4. Complainant and Respondent first met after Complainant presented at UCB and Respondent invited him for a drink. They met up for a drink a week or two later and have never socialized in person since that date.
5. During their in-person meeting, Complainant mentioned that he has a significant other and provided identifying information about her to Respondent.
6. Respondent sent Complainant a couple of tweets after their in-person meeting. She sent him an email on or around May 22, 2018 and he responded the next day telling her, "I will not respond to further communication ... Please do not write to me any further."
7. On or around the beginning of November 2018, Respondent separately emailed Complainant's significant other and one of his female colleagues. In those emails, Respondent alleged that Complainant hacked her and had been harassing her. To Complainant's female colleague, Respondent wrote, "He seems totally into you, so why not? Give him a chance. He might treat you great. He might think you're worth what other people are not ... And you might very well be. It seems to me you are." Complainant's female colleague responded to Respondent asking for more clarification, which Respondent did not provide.
8. On or around mid-November 2018, Respondent opened a new public Twitter account and followed Complainant, a magazine he works for, and several of his friends. The background image is of a scene from the movie, "Thelma & Louise."
9. On or around December 30, 2018, Respondent entered Complainant's locked residential building and knocked on his apartment door. Complainant asked who she was and she identified herself as Respondent. Complainant asked her to leave immediately and he did not open the door. Respondent announced that she would be waiting indefinitely. At some later point, Respondent slid four notes under the door of Complainant's apartment. One of the notes stated, "If you make me leave, it'll be worse. I'll keep doing this you can be sure of that." The notes promised to continue Respondent's harassment of Complainant and wished him a happy birthday. Complainant had not provided to Respondent any information about his residential address or his date of birth.
10. On December 31, 2018, OPHD issued to Respondent a No Contact Directive. The No Contact Directive was issued to Respondent by email and Respondent confirmed receiving it.

11. On or around January 2, 2019, Complainant received a postcard from Respondent in the mail. The postmark was dated December 31, 2018.
12. In early April 2019, Respondent sent two emails to Complainant. In one of the emails she wrote, “organize with her [REDACTED] her name is [REDACTED] [REDACTED], and she is hot, yes and you’ve been having an ‘affair’ whatever that means. [sic] and it’s totally OK.”
13. On or about May 3, 2019, Respondent emailed Complainant and closed by writing, “Please don’t force me to go to the UCD harassment office.”
14. In a June 1, 2019 email to Complainant, Respondent acknowledged creating several twitter pages “denouncing” him. When tweeting as Complainant, for example, Respondent wrote, ““I’m a dirty old man,” “I’m hunting for women,” “I’m LUCKY and handsome. DM your email or phone and we’re in for some fun,” “I also like this song ... I’m going to ‘ride’ my horse—get it?,” “I love electronic, psychic, imaginary sex,” “I see her (the sister) taking showers and in her bed and then I masturbate or that’s what I say,” “my thing IS PORN,” “I have a very strong libido and can’t stop being a pervert,” and “My name is [REDACTED] and I hack women’s phones and computers to make X rated ‘movies.’”
15. On or about June 18, 2019, Respondent called Complainant’s office phone at least ten times within a 90-minute timespan and left ten voicemail messages for him. In those voicemail messages Respondent identified herself and addressed the message to Complainant. In the voicemail messages Respondent stated things such as: “I know that I’ve been calling a lot ... I’m going to be calling you every day if I want to ... so I can do whatever the fuck I want piece of shit;” “I have every right to be calling [Complainant] every five minutes for the rest of my life ... I have every right to do this and I’ll keep doing it and next semester or quarter when you start your classes, I’m gonna be there” and distribute leaflets or keep lists “about the kind of sick dog that you are;” “I cannot begin to tell you how much I despise you ... I’m so fucking tired of you and now to have the guts to say that I’m harassing you motherfucker;” and “You need to still call me and apologize or you’ll see what I’m going to do. I’m not afraid of you ... I’m not afraid of anything because I am right.”
16. Between the end of May 2019 and through June 2019, Respondent sent Complainant more than 15 emails.
17. On or around June 23, 2019, Respondent began forwarding email correspondence about Complainant to Complainant’s mother and Respondent also wrote to her directly stating, “Your son, who as you know, has a wife already and electronic ‘lovers’ all over the place ... has systematically harassed me for 9 months now.”
18. A few days before July 3, 2019, Complainant’s car was parked near the entry to his residential building when it was vandalized. The vandalism to the car included long, thin scratches on all sides of the car, a kicked in back fender/bumper, and the words “asshole” and “burlista de mierda” written in pink lipstick across the glass.
19. On or around July 3, 2019, Complainant’s apartment building hallway and the front door of his apartment was vandalized with silver spray paint. The spray painting on the hallway read, “[REDACTED] Harasser and Bet.” The spray painting on his apartment door read, “Sex addict [REDACTED] a sick harasser lives here.”

Disputed Facts

Here, credibility does not play a large role in determining the outcome of this investigation. Nevertheless, it is relevant to discuss the respective credibility of each party.

1. Credibility Determination

CRO Rome found both Complainant and Respondent to be very credible. In great part, Respondent corroborated and acknowledged the conduct as reported by Complainant, and Complainant provided documentary evidence that corroborated much of his allegations. Respondent's credibility was bolstered by the fact that she only denied engaging in one or two actions as reported by Complainant (trying to open his apartment door in the middle of the night and calling his cell phone repeatedly) and those actions were some of the only ones Complainant said he was not sure were taken by Respondent. Respondent presented as forthcoming in acknowledging the actions she did take (e.g. sending the postcard, leaving ten voicemail messages), those she did not (e.g. calling Complainant's cell phone repeatedly, trying to open Complainant's door), and those she did not wish to respond to (e.g. the car vandalism and the apartment hallway/apartment door vandalism). The latter category is discussed in more detail in this section, but as it relates to credibility, Respondent choosing not to answer is different than Respondent being not credible. While each party has a narrative about what is going on apart from the specific actions which were the focus of this investigation, those divergent narratives did not compromise their relative credibility. It appeared to CRO Rome that both Complainant and Respondent were diligently providing the best and most accurate information at their disposal, respectively.

Having preliminarily addressed credibility, CRO Rome now turns to the disputed material facts.

2. Did Respondent vandalize Complainant's apartment hallway and apartment door?

The preponderance of the evidence supports a finding that it is more likely than not that Respondent vandalized Complainant's apartment hallway and apartment door. The documentary evidence shows that Complainant emailed CRO Rome on July 3, 2019 to report that his apartment building and door had been vandalized. He included pictures of "vandalism carried out today in my building, the top picture in the stairwell, the lower picture on my apartment door." The top picture depicted a wall spray painted in silver spray paint, "[REDACTED] Harasser and Bet." The bottom picture showed the door to Complainant's apartment spray painted in silver spray paint, "Sex addict [REDACTED] a sick harasser lives here." Respondent declined to answer when CRO Rome asked if she knew anything about the vandalism. CRO Rome does not find Complainant's account and Respondent declining to answer questions about this matter to be in disaccord.

Complainant provided evidence that [REDACTED] was the house number for his residence at the time. He reported to CRO Rome in December that Respondent saw him exercising in the gym below his residence and asked someone else to deliver a note to him in that space. Subsequently, he

reported Respondent entered into his secure apartment building, knocked on his apartment door, and sat outside of his apartment door while sliding several notes under his door (one of which said, "If you make me leave, it'll be worse. I'll keep doing this you can be sure of that.") until his friends came to escort him out of his apartment, walking past Respondent. Further, Complainant received a postcard on January 2nd that said only, "girl," but was addressed to Complainant at his residence and with handwriting that matched the notes Respondent put under his door.

Complainant reported evidence of Respondent's behavior towards him escalating in the spring and early summer. On or about May 3, 2019, Respondent emailed Complainant and said, "Please don't force me to go to the UCD harassment office." Things began to re-escalate in May and June 2019, with Complainant reporting that Respondent: (1) created several twitter pages in Complainant's name and "denounce[ed]" him and cast him as a "pervert," "a dirty old man," and "hunting for women"; (2) Respondent calling his office phone at least ten times within a 90-minute timespan and leaving ten voicemail messages in which she identified herself and directed the content of the message at Complainant specifically (calling Complainant a "sick dog"); (3) Respondent sent Complainant more than 15 emails; and (4) Respondent began corresponding with Complainant's mother alleging that he had "harassed" her and had "electronic 'lovers' all over the place."

It is persuasive to CRO Rome that Respondent acknowledged engaging in all of the aforementioned conduct towards Complainant which demonstrates an escalation in Respondent's behavior towards Complainant in the days and weeks leading up to the July 3rd vandalism. It is also persuasive because it notably includes evidence of Respondent's ability to gain access into Complainant's apartment building and her awareness of the location of his specific apartment. It shows that she used sexual language to publicly "denounc[e]" Complainant on several prior occasions and she referred to Complainant as someone who "harassed" her when corresponding with his mother and called him a "sick dog" in a phone message. In a post to the impersonating Twitter account, Respondent wrote, "[Complainant] is a sex pervert." In a June 18, 2019 email to Complainant, Respondent wrote, "[Y[ou are nothing but a liar and a big piece of shit. Probably a lot of other sick stuff." In a June 20, 2019 email to Complainant, Respondent wrote, "for too long you've been a predator and harasser in my life."

There were only two questions that Respondent declined to answer during the interview with CRO Rome—the question about the car vandalism and the question about the apartment hall/apartment door vandalism. This stood in stark contrast to Respondent acknowledging or specifically denying every other action CRO Rome asked her about.

Here, Respondent did not deny vandalizing Complainant's apartment hallway and door. Complainant's account is credible and not contradicted by Respondent's decision not to answer questions about the conduct. The language used in the vandalism is consistent with the language Respondent used in other public denunciations of and private correspondence about Complainant that she did acknowledge. It is also persuasive that the questions

Respondent chose not to answer directly were those that could most readily open her up to criminal prosecution and civil liability.

Taking all of this information into consideration, the totality of the circumstances and evidence amounts to a preponderance of the evidence and supports a finding that it is more likely than not that Respondent vandalized Complainant's apartment wall and door on or around July 3, 2019.

3. Did Respondent vandalize Complainant's car?

The preponderance of the evidence supports a finding that it is more likely than not that Respondent vandalized Complainant's car. Complainant reported that his car was vandalized "a couple days before" his apartment was vandalized. He reported to CRO Rome that his car was parked near the entrance he used to access his apartment building when it was vandalized. He sent pictures of the damage to his car which depicted long, thin scratches on all sides of the car consistent with "keying," a kicked in back fender/bumper and "a bunch of lipstick writing" on the glass. The pictures of the writing show the words "asshole" and "burlista de mierda" (which roughly translates to "asshole who mocks me" in English). Respondent declined to answer any questions about Complainant's car being vandalized.

As discussed in the preceding disputed fact, Respondent acknowledged engaging in nearly all of the actions as reported by Complainant. The actions she acknowledged evidence an escalation in her contact with and actions toward Complainant in spring/early summer 2019 which lead up to the date of the car vandalism and subsequent vandalism of his apartment. The car vandalism is consistent with an escalation of behavior and makes good on Respondent's statements in the December 2018 note she slid under his door (that "it'll be worse" and "I'll keep doing this you can be sure of that") and the June 2019 phone messages ("You need to still call me and apologize or you'll see what I'm going to do" and "I can do whatever the fuck I want piece of shit"). Respondent provided evidence to CRO Rome showing that she is able to communicate in both Spanish and English.

As above, Respondent did not deny vandalizing Complainant's car, and Complainant's account is credible and not contradicted by Respondent's decision not to answer questions about the conduct. The language used in the vandalism is consistent with the language Respondent used in other public denunciations of and private correspondence about Complainant that she did acknowledge. Further, it is compelling that the only two things Respondent was not willing to acknowledge are the actions that could lead to law enforcement filing criminal charges against Respondent or Respondent being monetarily liable for repairing the damage.

Taking all of this information into consideration, the totality of the circumstances and evidence amounts to a preponderance of the evidence and supports a finding that it is more likely than not that Respondent vandalized Complainant's car shortly before July 3, 2019.

C. Analysis under 2016 SVSH Policy

Respondent argues that Complainant has hacked her electronic devices since August 2018. Respondent uses this as the basis and justification for the actions she acknowledges taking with respect to Complainant. There is insufficient evidence to support a finding that Complainant has engaged in any hacking of Respondent's electronic devices and is harassing or stalking her online. Even if there were, the same would not be a defense to Respondent taking the reported and mostly acknowledged actions towards Complainant. Further, any alleged conduct Complainant engaged in against Respondent falls outside of UCB's jurisdiction as Complainant is employed by a different university within the UC system and that university would have jurisdiction instead, if deemed appropriately in scope.²⁶

a. Stalking

The preponderance of the evidence supports a determination that it is more likely than not that Respondent engaged in conduct in violation of the 2016 SVSH Policy's Stalking provision.

Under the 2016 SVSH Policy, Stalking is defined as:

Repeated conduct directed at Complainant (e.g., following, monitoring, observing, surveilling, threatening, communicating or interfering with property), of a sexual or romantic nature or motivation, that would cause a reasonable person to fear for their safety, or the safety of others, or to suffer substantial emotional distress.

i. Did Respondent engage in repeated conduct?

By Respondent's own admission, she engaged in repeated conduct. She acknowledged tweeting Complainant in early May 2018 and emailing him in late May 2018. He blocked her on Twitter (which she may not have known about at the time), but to her late May email, Complainant replied and wrote, "I will not respond to further communication ... Please do not write to me any further." Respondent acknowledged emailing Complainant's partner and a female colleague in mid-November as well as opening a new Twitter account and following Complainant, a magazine he works for and several of his friends. Respondent acknowledged going to Complainant's residential building and asking someone to give him a note from her while he was working out in the building's gym. Respondent acknowledged returning to Complainant's residence the next day, entering into the locked building and sitting outside of Complainant's internal apartment door for an hour or more after he asked her to leave. She acknowledged sliding notes under his apartment door. Respondent acknowledged sending Complainant a postcard postmarked December 31, 2018 which arrived on January 2, 2019.

²⁶ It is CRO Rome's understanding that Respondent has reported her hacking concerns to Complainant's employer and those claims have been evaluated as not rising to the level of a possible policy violation within the scope of that institution's Title IX office.

Respondent acknowledged receiving the No Contact Directive from OPHD on December 31, 2018 and sending Complainant two emails in early April 2019 despite having been instructed not to contact Complainant. Respondent acknowledged emailing Complainant again on May 3, 2019 as well as subsequently creating several twitter pages which she used to “denounce[e]” Complainant. Respondent acknowledged calling Complainant’s office phone line at least ten times within 90 minutes and leaving ten voicemail messages for him. Respondent acknowledged sending Complainant more than 15 emails between the end of May 2019 and through June 2019. Respondent acknowledged sending email correspondence to Complainant’s mother in late June 2019. In the disputed facts portion of this Investigation Report, CRO Rome found that in late June/early July 2019, Respondent vandalized Complainant’s car while it was parked near the entrance he used to access his residential building and she also vandalized Complainant’s apartment hallway and the internal door to his apartment unit.

The preponderance of the evidence shows it is more likely than not that Respondent engaged in repeated conduct by contacting Complainant and his affiliates many times within a little more than a year’s time span. The evidence additionally demonstrates that Respondent monitored, followed, observed, and threatened Complainant, both electronically and in person, and interfered with his property.

ii. Was Respondent’s repeated conduct directed at Complainant?

Again, Respondent acknowledged that her conduct was directed at Complainant. She specifically tweeted him or emailed him, followed his twitter page and created tweets in his name. She came in person to his residence and made it clear to others that she was looking for Complainant (e.g. she had a woman deliver a note to him in the gym and when she was sitting in Complainant’s hallway she told Complainant’s friend she was waiting for Complainant). She called his office line and specifically identified herself as the caller who was leaving a voicemail message for Complainant and apologized to anyone who may have been listening to her message instead of Complainant. The vandalism in Complainant’s hallway identified him by name and listed his apartment number in addition to his unit door being vandalized too. Complainant’s car was vandalized while it was parked outside of the entrance to his building and the writing on the glass was directed to a specific individual with substantial similarities to other communication from Respondent to Complainant. Even the correspondence that Respondent did not specifically send to Complainant was directed at him—the emails to his partner, female colleague and mother were focused on Respondent’s perception of Complainant. Respondent did not dispute that her actions were directed at Complainant.

The preponderance of the evidence supports a finding that it is more likely than not that Respondent’s repeated conduct was directed at Complainant.

iii. Did Respondent engage in conduct of a sexual or romantic nature or motivation?

On the one hand, Respondent repeatedly asserted that she engaged in the above-described behavior due to her sincerely held belief that Complainant had hacked into her electronic

devices. By her own statements, and to an extent supported by the documentary evidence, her motivation therefore was not sexual or romantic; instead, it suggests the motivation for her conduct was an attempt to stop Complainant from invading her privacy after she felt the police and University were unwilling to help her, as ill-advised as it was for her to do so.

On the other hand, Respondent acknowledged believing that Complainant was flirtatious with her and others on twitter prior to their in-person meeting in spring 2018. She also told the representative at the Center for Long-Term Cybersecurity that she and Complainant had “previously flirted with each other.” Regardless of any actual flirtation or perception of romance between Complainant and Respondent, the preponderance of the evidence shows it is more likely than not that Respondent engaged in conduct of a sexual or romantic nature, at least as the conduct escalated in 2019.

On June 1, 2019, Respondent acknowledged creating several twitter pages “denouncing” Complainant and tweeting as Complainant. The content of those messages was sexual in nature—Respondent tweeting as Complainant to say, most explicitly, “I love electronic, psychic, imaginary sex,” “I have a very strong libido and I can’t stop being a pervert,” “I see her (the sister) taking showers and in her bed and then I masturbate,” “my thing IS PORN,” and posting a link for help with sex addiction, “My name is [REDACTED] and I hack women’s phones and computers to make X rated movies.” Another explicit example of the sexual or romantic nature of Respondent’s conduct the vandalism to Complainant’s apartment building which named Complainant and read, “Sex addict [REDACTED] a sick harasser lives here.” Also, in the June 1, 2019 email, Respondent suggests that Complainant has been having a romantic, sexual and consensual electronic relationship with one of his students and says, “You can have [the student], my sister (double bill as you say), but not me.”

On balance, this information in combination with other less-explicit instances of Respondent’s conduct evidences the sexual or romantic nature of her conduct. The less-explicit instances include, but are not limited to: (1) Respondent writing to Complainant’s mother and telling her that her son “has a wife already and electronic ‘lovers’ all over the place”; (2) Respondent writing to Complainant’s romantic partner and including the name of Complainant’s romantic partner in one of her impersonating tweets; and (3) Respondent writing to one of Complainant’s female colleagues (telling her that Complainant seems “totally into [the female colleague]” and sending her a copy of Respondent’s email to Complainant’s romantic partner).

The preponderance of the evidence supports a finding that it is more likely than not that Respondent engaged in conduct of a sexual or romantic nature or motivation.

- iv. Would Respondent’s conduct cause a reasonable person to either (a) fear for their safety or safety of others; or (b) suffer substantial emotional distress?

The preponderance of the evidence shows that Complainant did fear for his safety as well as suffer substantial emotional distress, as would a reasonable person. Complainant stated that he

moved from the residence where he had lived for at least six years in great part because of Respondent's repeated conduct towards him which included entering his locked apartment building and sitting in front of his door, waiting outside of his gym, vandalizing his apartment building, and vandalizing his car. Complainant stated that though he had also suffered a near fatal bicycle accident in the same time span as he had been subject to Respondent's actions, the conduct by Respondent had been far worse to endure. He noted he now looks outside of his peephole before going out and takes steps to physically aware of his surroundings as well as parking his car far away from his house. While Respondent argued that she was permitted to engage in her conduct toward Complainant because she perceives that he has hacked her electronic devices and that she herself has suffered substantial emotional distress, nothing about her perception or experiences negates the preponderance of the evidence which supports a finding that it is more likely than not that Respondent's conduct would cause a reasonable person to fear for their safety or suffer substantial emotional distress and in fact, has caused that for Complainant.

The preponderance of the evidence shows it is more likely than not that Respondent engaged in conduct in violation of the 2016 SVSH Policy's Stalking provision.

b. Sexual Harassment—Hostile Environment

The preponderance of the evidence shows it is more likely than not that Respondent engaged in conduct which violated the 2016 SVSH Policy's Sexual Harassment—Hostile Environment provision.

Under the 2016 SVSH Policy, Sexual Harassment—Hostile Environment is defined as:

[U]nwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal, nonverbal or physical conduct of a sexual nature when ... such conduct is sufficiently severe or pervasive that it unreasonable denies, adversely limits, or interferes with a person's participation in or benefit from the education, employment or other programs and services of the University and creates an environment that a reasonable person would find to be intimidating or offensive.

i. Did Respondent engage in conduct that was unwelcome?

Complainant plainly indicated to Respondent that the conduct she was engaging in towards him was not welcome. It is undisputed that Complainant responded to Respondent's May 22, 2018 email telling her that he would "not respond to further communication" and instructing, "Please do not write to me any further." When Respondent came to Complainant's apartment door, knocked and identified herself, it is undisputed that Complainant responded and told Respondent to leave and did not open the door. He did not respond to her emails or voicemails.

Other people and departments reinforced the message that Complainant did not welcome Respondent's conduct. OPHD issued an NCD to Respondent on December 31, 2018 and clearly

instructed her not to have any direct or indirect contact with Complainant. Respondent provided that when she contacted police about her perception that Complainant was hacking her electronic devices, the police instructed her not to have contact with Complainant. It is undisputed that the male friend who came to escort Complainant out of his apartment in late December 2018, told Respondent that Complainant did not want to talk to her.

Apart from Respondent's attempts to contact Complainant failing and her being instructed not to have contact with him, the unwanted aspect of some of her conduct speaks for itself. For example, it is implausible to believe that anyone would welcome their car and residence to be vandalized, receiving 10 hostile phone messages in one day at their place of work, or being impersonated and publicly denounced on Twitter.

The preponderance of the evidence shows it is more likely than not that Respondent engaged in conduct that was unwelcome.

ii. Was Respondent's conduct of a sexual nature?

As discussed under the Stalking portion of this analysis section, the preponderance of the evidence shows that it is more likely than not that Respondent's conduct was, at least in part, of a sexual nature.

iii. Was Respondent's conduct sufficiently severe or pervasive so that it unreasonably denied, adversely limited or interfered with Complainant's participation in or benefit from the education, employment or other programs and services of the University and created an environment that a reasonable person would find to be intimidating or offensive?

As discussed to some degree under the Stalking portion of this analysis section, the preponderance of the evidence shows that it is more likely than not that Complainant was significantly impacted by Respondent's conduct. It was most persuasive to CRO Rome that Complainant suffered a near-fatal [REDACTED] accident shortly before Respondent became convinced that Complainant was hacking her electronic devices and he reports that the daily experience of living with the uncertain and continuing nature of Respondent's conduct towards him has been "the most distressing thing." It has interfered with his ability to access his life let alone his career. He credibly described moving from his long-time residence in large part to restore a sense of security to his residence. He also credibly described feeling that this experience "has been atmospheric and practically difficult."

Respondent's conduct is both severe and pervasive. Above, the preponderance of the evidence shows it is more likely than not that Respondent engaged in repeated actions towards Complainant and did so for parts of more than a year. This demonstrates that Respondent's actions were pervasive in number as well as duration. They were severe in that Respondent continued to contact Complainant on a few occasions despite receiving a clear directive from her employer not to engage in such contact. Her actions were also severe in her

acknowledgement of entering Complainant's secure residential building and sitting outside of his door for at least an hour after he told her to leave.

Further, many of the communications Respondent acknowledges contain threatening language. For example, while Respondent was sitting outside of Complainant's apartment, she slid a note under his door that said, "If you make me leave, it'll be worse." In a June 18, 2019 phone message, she told Complainant, "I can do whatever the fuck I want piece of shit," and "You need to still call me and apologize or you'll see what I'm going to do." This was after Respondent had shown a willingness to impersonate and publicly denounce Complainant on Twitter; and subsequently, Respondent vandalized Complainant's car and residence. This demonstrates that Respondent not only threatened Complainant, but showed she was willing to make good on those threats.

Considering the totality of the information and circumstances the preponderance of the evidence shows that Respondent's actions towards Complainant were sufficiently severe and pervasive so as to interfere with Complainant's employment within the UC system and ability to participate in events at UC Berkeley (like the one he was presenting at when he first encountered Respondent in person). Further, the preponderance of the evidence shows that it is more likely than not that a reasonable person would find the environment created by Respondent's actions to be intimidating or offensive and in fact, Complainant did find the environment hostile.

The preponderance of the evidence shows it is more likely than not that Respondent engaged in conduct in violation of the 2016 SVSH Policy's Sexual Harassment—Hostile Environment provision.

c. Retaliation

The preponderance of the evidence shows that it is more likely than not that Respondent engaged in retaliation towards Complainant as related to his reporting her conduct to the University and pursuing an investigation.

Under the 2016 SVSH Policy, Retaliation is defined as: "includ[ing] threats, intimidation, reprisals, and/or adverse employment or educational actions against a person based on their report of Prohibited Conduct or participation in the investigation, report, remedial, or disciplinary processes provided for in this Policy."

- i. Did Respondent engage in threats, intimidation, reprisals and/or adverse employment or educational actions against Complainant?

As discussed above, Respondent acknowledged engaging in threats, intimidation, and reprisals towards Complainant. In the note she slipped under Complainant's apartment door in December 2018, she wrote, "If you make me leave, it'll be worse. I'll keep doing this you can be sure of that." In her May 3, 2019 email to Complainant, Respondent wrote, "Please don't force

me to go to the UCD harassment office.” On June 1, 2019, Respondent acknowledged in an email to Complainant that she had created Twitter pages in his name and had tweeted as him in an effort to denounce him. On June 18, 2019, Respondent left Complainant 10 voicemail messages on his office phone—several of them threatening further action from her if he did not apologize to her for the perceived hacking of her electronic devices. She also stated, “I’m so fucking tired of you and now to have the guts to say that I’m harassing you motherfucker.” She contacted his mother to tell her that Complainant had electronic lovers and had harassed Respondent for nine months. Respondent then vandalized Complainant’s car and apartment building hallway and door.

Respondent acknowledged much of the conduct and the preponderance of the evidence shows that it is more likely than not that Respondent engaged in threats, intimidation, and reprisals towards Complainant.

- ii. Did Respondent engage in that behavior because Complainant reported SVSH Prohibited Conduct or participated in the investigation, report, remedial, or disciplinary processes provided for in the 2016 SVSH Policy?

It is more difficult to say whether Respondent engaged in the threats, intimidation, and reprisals because Complainant reported SVSH Prohibited Conduct or participated in the investigation. Respondent was forthcoming and credible in stating that her initial and continuing motivation for engaging in the conduct towards Complainant was her perception that Complainant had hacked her electronic devices and had been surveilling her life since August 2018 and she wanted him to stop. Respondent stated this motivation many times to CRO Rome, the police, the Center for Long-Term Cybersecurity, Complainant’s associates and Complainant himself. It is evident that this remained Respondent’s primary motivation for engaging in the conduct she directed towards Complainant.

However, that primary motivation does not preclude the presence of a secondary motivation entering into the equation at some point. There is significant evidence that at some point Respondent’s primary motivation became comingled with her irritation and disbelief about Complainant reporting her to the University (specifically, the Title IX office), when she perceived the roles to be reversed. Respondent acknowledged receiving the NCD issued by OPHD on December 31, 2018 which directed her not to have any further contact with Complainant. The representative from the Center for Long-Term Cybersecurity told CRO Rome that when Respondent contacted them in March 2019, she was upset and told them the person who was doing this to her had filed a Title IX complaint. Respondent did not dispute that information. Further, Respondent acknowledged that in May 2019, she wrote to Complainant and warned him not to “force” her to go to the UC Davis Title IX Office, suggesting her intent to file a Title IX report against him. Respondent also acknowledged that on June 18, 2019, she left voicemails for Complainant on his work phone which referenced the Title IX action Complainant—including, “now to have the guts to say that I’m harassing you motherfucker” in the same 90-minute spate where she left a voicemail saying, “You need to still call me and apologize or you’ll see what I’m going to do. I’m not afraid of you ... I’m not afraid of anything because I’m right.” This overt communication by Respondent about Complainant’s involvement

with the Title IX Office is coupled with the other conduct Respondent acknowledged engaging in towards Complainant during that time—the public denouncements on Twitter while impersonating Complainant, emailing his mother about him harassing her, and sending more than 15 emails to Complainant after he had clearly instructed her not to write to him anymore.

The totality of the evidence and circumstances evidence that a preponderance of the evidence shows it is more likely than not that Respondent engaged in the threatening, intimidating, and reprisal conduct towards Complainant, at least in part, because Complainant reported her behavior to the Title IX Office as SVSH Prohibited Conduct and pursued an investigation. The preponderance of the evidence shows it is more likely than not that Respondent engaged in conduct in violation of the 2016 SVSH Policy's Retaliation provision.

CONCLUSION

For the reasons explained above, CRO Rome finds that the preponderance of the evidence SUBSTANTIATED the allegations that Respondent engaged in conduct that amounted to Stalking, Sexual Harassment—Hostile Environment, and Retaliation in violation of the 2016 SVSH Policy. Accordingly, CRO Rome determined that Respondent's conduct violated the 2016 SVSH Policy.