

## REPORT OF INVESTIGATION

**TO:** Kellie Brennan, Executive Director of Civil Rights & Whistleblower Compliance;  
Acting Title IX Officer (“Title IX Officer”)  
**FROM:** Emily Suran, Senior Complaint Resolution Officer (“CRO”), Office for the  
Prevention of Harassment and Discrimination (“OPHD”)  
**RE:** i-Sight Case No. 2022-UCB-00409  
**DATE:** November 21, 2022

### **I. INTRODUCTION**

The Office for the Prevention of Harassment and Discrimination (“OPHD”) investigated whether Respondent, a UC Berkeley faculty member, engaged in conduct in violation of the Interim No Contact Directive (“No Contact Directive”), issued to Respondent by OPHD on November 12, 2020.

Specifically, as stated in the August 3, 2022 Notice of Allegations (the “Notice of Allegations”) issued to Respondent,<sup>1</sup> OPHD investigated the following allegations:

- In July 2022, you created a [T]witter account, “all for empty box10! @Forev3rAnime”. The description of that account states, “happy to be here! in adoration of @empty\_box\_10 and his wife.”
- The account was following: FBI Sacramento, FBI Oakland, FBI, FBI SanFrancisco, San Mateo County S.O, CoCo Sheriff PIO, Redwood City Police, Daly City Police, Davis Police Department, Richmond Police, CA, Oakland County Police Department (OCPD), San Francisco POA, South SanFrancisoPD, San Francisco Police, and NASA.
- On July 3, 2022, you replied to a post by “@empty\_box\_10”, a Twitter account that you believed belonged to Complainant, tagging various law enforcement agencies when you wrote, “tell everyone who you really are, and what it is that you do with your amazing brain that can pretend to be a 20 year old woman, a 27 year old cinema guy, a nothing cute animal, a respected professional, a tender husband and great son, a fantastic writer...all because, thanks [sic] god, rules do not exist for you, and thanks too to @SFPD[,] @oaklandpoliceca[,] @OaklandOcpd[,] @UCDavisPolice[,] @RPDCAOnline, all of those, ‘[I] did not see anything, my jurisdiction’ great departments.”” You also wrote, “oh, but you do, the old man (60), the body without organs (empty), the 27 sickly deranged man of your other account, all of those ‘yous’ [sic] agree.”
- On July 16, 2022, you directed “@cityofdavispd”, “@SFPD and “@oakplandpoliceca” (Oakland Police Department) to follow “empty\_box\_10”, an account that you believed belonged to Complainant. You wrote, “Dear officers at @cityofdavispd and @SFPD and @oaklandpoliceca you should follow this account. It appears ‘innocent,’ yet, you’d be surprised.”

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<sup>1</sup> OPHD issued a substantively similar Notice of Allegations to Complainant that same day.

- On July 22, 2022 you posted a screen shot of a Twitter posting by “[Twitter User 8] (becoming) @toomuchistrue”, an account that you previously alleged belonged to Complainant, and you tagged several law enforcement agencies. You wrote, “It’s interesting, officers, that this account, is talking today all of things, about a ‘movie’ about a drug addict, that was released four years ago, [Albany Police Officer] (Albany Police Department) will get the reference. And also @FBIOakland[,] @FBISanFrancisco[,] and @FBISacramento.”
- On July 27, 2022, you posted a screenshot of Complainant’s partner which identified her by name. You wrote, “I’d love to hear what she know[s] about her husband. [O]r husbands for that matter. [H]usbands with computers. [W]hat they can do. [M]aybe one day she’ll be invited to talk about that? [B]ecause she must know a lot.” You also wrote, “whom am I talking about? This knowledgeable woman. a light on the horizon for strange husbands.” You also wrote, “invite her to talk, @FBISanFrancisco @FBIOakland!! what does she know about the present ages and illegal, unlawful use of computers and phones. what a master class that would be.”
- On July 27, 2022, shortly after Complainant posted that he would be deactivating his Twitter account, you responded by posting, “yes, be good to each other, fuckers.”

The Notice of Allegations stated that the allegations if true, could constitute a violation of the University of California Policy on Sexual Violence and Sexual Harassment (effective date 01/01/2022) (“SVSH Policy”) under “Other Prohibited Behavior” (failing to comply with the terms of a no-contact order), as defined in Section II.B.3.d.

As explained below, CRO finds that the preponderance of the evidence **DOES** establish that Respondent engaged in the conduct as alleged in the Notice of Investigation. Accordingly, CRO determines that the allegation Respondent violated the SVSH Policy is **SUBSTANTIATED**.

## **II. BACKGROUND**

The Notice of Allegations provided the following background information:

### Background

As [Complainant and Respondent] are aware, OPHD conducted an investigation in 2019 into allegations that [Respondent] a University of California, Berkeley faculty member, engaged in conduct towards [Complainant], a University of California, Davis faculty member, that could violate University policies on sexual harassment, stalking, and retaliation. In a Notice of Outcome issued November 25, 2019, OPHD notified [Complainant and Respondent] that the outcome of that investigation substantiated those allegations and found that [Respondent] engaged in conduct towards [Complainant] that violated the University of California’s 2016 Sexual Violence and Sexual Harassment Policy (“2016 SVSH Policy”). At that time, the matter was forwarded to [Former VPF] for adjudication. The matter was resolved when the University entered into a Settlement Agreement with [Respondent] which was signed and executed on January 28, 2020.

The signed Settlement Agreement at item number 7 contains a No Contact Directive, which states, “[Respondent] agrees to have no further contact, in person, electronically, telephonically, or otherwise with the Complainant.”

In response to some reported information alleging that [Respondent] engaged in additional contact with [Complainant] after the Settlement Agreement was signed on January 28, 2020, [Former VPF] wrote to [Respondent] on May 21, 2020 and documented that he informed [Respondent] of the reported alleged violation of the No Contact Directive by email on May 17, 2020 and [Respondent] responded and said that if [Respondent] did “like” [Complainant’s] tweet it “was a mistake, a finger mistake.” In the close of his letter, [Former VPF] wrote, “I also wish to make very clear that following [Complainant] on any social media in a manner that would reveal [Respondent] doing so to [Complainant], such as, but not limited to, ‘liking’ or commenting on a tweet or post, is a violation of the No Contact Directive. So that there are no more ‘finger mistake[s],’ you are strongly advised not to follow [Complainant] at all on any social media.”

On or about September 16, 2020, [Former VPF] wrote to [Respondent] and warned [her] that any further communication to Commune Press or any other enterprise founded/run by [Complainant] would be considered a violation of the No Contact Directive provision contained in the Settlement Agreement and he strongly recommended that [Respondent] cease writing [Academic 1]. [Respondent] wrote back to [Former VPF] to say that [she] would abide by those requests.

After further additional contacts by [Respondent] towards [Complainant] were reported to OPHD and [Former VPF], on November 12, 2020, Cherie Scricca (“Director Scricca”), who was at that time the Acting Title IX Officer and Director of OPHD, issued to [Respondent] an Interim No Contact Directive on behalf of OPHD. Director Scricca’s November 12, 2020 correspondence to [Respondent] stated, in relevant part:

This No Contact Directive is separate and apart from the No Contact Directive that was made a part of the Settlement Agreement put in place in response to the investigation findings.

Effective as of the date of this letter, you are to have absolutely no contact, directly or indirectly with [Complainant]. To be clear, you may not have contact with connect or communicate with [Complainant] or anyone you believe to be [Complainant] (including [Twitter User 8]), directly or indirectly, by any means or media including, but not limited to: contact or communication in-person, at his residence or place of work, via phone, voicemail, text message, instant messenger, email, Facebook, Twitter or other online communication, social media, social media posts or following or any online platform, notes, cards, letters, flowers, gifts or via a third party which includes but is not limited to family,

friends, co-workers, students or acquaintances of yours or [Complainant].

Additionally, you will take reasonable measures to maintain a distance of 100 feet away from [Complainant]. If he is present in an area that you enter, it is your responsibility to remove yourself from the area immediately. It is also your responsibility to minimize visual contact as much as possible. In addition, you are to refrain from all forms of retaliation against [Complainant], including threats, intimidation, and reprisals.

Failure to comply with this directive will be immediately investigated by this office.

In April of 2021, OPHD conducted an investigation to determine whether [Respondent] violated the November [12], 2020 Interim No Contact Directive. As written in the August 13, 2021 Notice of Outcome, OPHD found described in the April 6, 2021 Notice of Allegations Letter was substantiated and the investigator found that [Respondent] was responsible for violations of the 2020 SVSH policy.

Further, both in the August 13, 2021 Notice of Outcome and the August 17, 2021 Revised Notice of Outcome, [Respondent] was advised that the Interim No Contact Directive issued on November 12, 2020 remains in effect.<sup>2</sup>

#### Procedural History of this Investigation

On July 27, 2022, Complainant contacted OPHD via the departmental email, ask\_ophd@berkeley.edu, alleging that Respondent had violated the No Contact Directive issued by OPHD on November 12, 2020, and had also harassed his partner, Witness One, via Twitter. Complainant provided OPHD with screenshots in support of his allegations.

On August 3, 2022, OPHD issued a Notice of Allegations to Respondent, thus initiating an investigation into Complainant's allegations. OPHD issued a substantively similar Notice of Allegations to Complainant that same day. OPHD also issued Respondent a No Contact Directive directing Respondent to have no contact with Witness One. CRO was assigned to investigate the allegations.

### **III. SCOPE OF REVIEW**

This investigation sought to determine whether events occurred as alleged in the Notice of Allegations, and, if so, whether they support finding a violation or violations of the SVSH Policy.

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<sup>2</sup> Note: CRO was not involved in either of the prior OPHD investigations concerning Complainant and Respondent.

#### **IV. INVESTIGATION STANDARD**

The standard applied in determining whether Respondent violated applicable University policy is the preponderance of 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.

#### **V. THE APPLICABLE POLICY**

The applicable policy for the purpose of analyzing the alleged conduct is the SVSH Policy. The relevant section of this policy is reproduced below.

Other Prohibited Behavior:

[...]

Failing to comply with the terms of a no-contact order, a suspension of any length, or any order of exclusion issued under this Policy.

#### **VI. INVESTIGATION METHODOLOGY**

##### **A. Interviews**

CRO's investigation included interviews with the following individuals:<sup>3</sup>

<b>Party/Witness "Name"</b>	<b>Role in Relation to Investigation</b>	<b>Date Interviewed</b>
Complainant	Complainant	August 19, 2022
Witness One	Witness	August 25, 2022

Respondent declined to participate in an interview with CRO. Respondent submitted a Microsoft Word document with her written statement regarding the allegations via email to CRO on August 23, 2022. (See Attachment K.)

Complainant and Respondent had the option of submitting proposed questions for CRO to ask the other parties; CRO asked proposed questions to the extent they were appropriate and relevant to the specific allegations.

The following persons were proposed as witnesses but not interviewed:

<b>Name of Proposed Witness</b>	<b>Proposed by</b>	<b>Reason not Interviewed</b>
UCD Campus Counsel	Complainant	Potential witness unlikely to have information relevant to the specific allegations under investigation.

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<sup>3</sup> The interviews in this case were conducted remotely, via Zoom video conference.

UCD Title IX Officer	Complainant	Potential witness unlikely to have information relevant to the specific allegations under investigation.
UCD ASAP <sup>4</sup> Director	Complainant	Potential witness unlikely to have information relevant to the specific allegations under investigation.
Twitter User 1	Respondent	While Respondent suggested that this potential witness could speak to Complainant's conduct on Twitter, Complainant's conduct on Twitter is not under investigation and OPHD does not generally interview character witnesses.
Twitter User 2	Respondent	While Respondent suggested that this potential witness could speak to Complainant's conduct on Twitter, Complainant's conduct on Twitter is not under investigation and OPHD does not generally interview character witnesses.
Twitter User 3	Respondent	While Respondent suggested that this potential witness could speak to Complainant's conduct on Twitter, Complainant's conduct on Twitter is not under investigation and OPHD does not generally interview character witnesses.
Twitter User 4	Respondent	While Respondent suggested that this potential witness could speak to Complainant's conduct on Twitter, Complainant's conduct on Twitter is not under investigation and OPHD does not generally interview character witnesses.
Twitter User 5	Respondent	While Respondent suggested that this potential witness could speak to Complainant's conduct on Twitter, Complainant's conduct on Twitter is not under investigation and OPHD does not generally interview character witnesses.
Twitter User 6	Respondent	While Respondent suggested that this potential witness could speak to Complainant's conduct on Twitter, Complainant's conduct on Twitter is not under investigation and OPHD does not generally interview character witnesses.
Twitter User 7	Respondent	While Respondent suggested that this potential witness could speak to Complainant's conduct on Twitter, Complainant's conduct on Twitter is not under investigation and OPHD does not generally interview character witnesses.
UCB Student 1	Respondent	Respondent proposed that this UCB student could speak to Respondent's "mental state and [] functioning now as a sane intellectual and

<sup>4</sup> ASAP stands for Academic & Staff Assistance Program

		professor.” OPHD is not investigating Respondent’s interactions with students or her professional capacity, and OPHD does not generally interview character witnesses.
UCB Student 2	Respondent	Respondent proposed that this UCB student could speak to Respondent’s “mental state and functioning now as a sane intellectual and professor.” OPHD is not investigating Respondent’s interactions with students or her professional capacity, and OPHD does not generally interview character witnesses.
UCB Student 3	Respondent	Respondent proposed that this UCB student could speak to Respondent’s “mental state and functioning now as a sane intellectual and professor.” OPHD is not investigating Respondent’s interactions with students or her professional capacity, and OPHD does not generally interview character witnesses.
UCB Student 4	Respondent	Respondent proposed that this UCB student could speak to Respondent’s “mental state and functioning now as a sane intellectual and professor.” OPHD is not investigating Respondent’s interactions with students or her professional capacity, and OPHD does not generally interview character witnesses.
UCB Student 5	Respondent	Respondent proposed that this UCB student could speak to Respondent’s “mental state and functioning now as a sane intellectual and professor.” OPHD is not investigating Respondent’s interactions with students or her professional capacity, and OPHD does not generally interview character witnesses.
UCB Student 6	Respondent	Respondent proposed that this UCB student could speak to Respondent’s “mental state and functioning now as a sane intellectual and professor.” OPHD is not investigating Respondent’s interactions with students or her professional capacity, and OPHD does not generally interview character witnesses.
UCB Visiting Scholar	Respondent	Respondent proposed this witness after the first Evidence Review, on the basis that this proposed witness sees Respondent regularly and could speak to Respondent’s interactions with students. OPHD is not investigating Respondent’s interactions with students, and OPHD does not generally interview character witnesses.

Academic 2	Respondent	Respondent proposed this witness after the first Evidence Review, on the basis that this proposed witness recently published an essay Respondent wrote. OPHD is not investigating Respondent's professional capacity, and OPHD does not generally interview character witnesses.
Academic 3	Respondent	Respondent proposed this witness after the first Evidence Review, on the basis that this proposed witness recently published an essay Respondent wrote. OPHD is not investigating Respondent's professional capacity, and OPHD does not generally interview character witnesses.

B. Documentary Evidence

The following documents were reviewed during the investigation:

<b>Document</b>	<b>Provided by</b>	<b>Attached as</b>
July 27, 2022 email from Complainant.	Complainant	Attachment A
Screenshot showing the Twitter handle, display name, bio, and banner picture of an account that joined Twitter in July 2022. Handle: @Forev3rAnime. Display Name: all for empty box 10! Bio: happy to be here! In adoration of @empty_box_10 and his wife. [Complainant labelled this screenshot #01.]	Complainant	Attachment B
Screenshot showing a July 16, 2022 tweet from @Forev3rAnime "all for empty box 10!" tagging three Bay Area police departments with embedded screenshots of tweets by @empty_box_10. [Complainant labelled this screenshot #02.]	Complainant	Attachment C

<p>Screenshot showing four July 3, 2022 tweets from @Forev3rAnime “all for empty box 10!”, tagging @empty_box_10 and various Bay Area police departments. [Complainant labelled this screenshot #02a.]</p>	<p>Complainant</p>	<p>Attachment D</p>
<p>Screenshot showing that @Forev3rAnime “all for empty box 10!” seemingly exclusively follows various police departments in the greater Bay Area, the FBI, and NASA. [Complainant labelled this screenshot #03.]</p>	<p>Complainant</p>	<p>Attachment E</p>
<p>Screenshot showing a July 27, 2022 tweet from @Forev3rAnime “all for empty box 10!” tagging three FBI Twitter accounts and mentioning a sergeant from Albany Police Department by name, with an embedded screenshot showing a July 27, 2022 tweet from @toomuchistrue “[Twitter User 8] (becoming).” [Complainant labelled this screenshot #04.]</p>	<p>Complainant</p>	<p>Attachment F</p>
<p>Two screenshots showing July 27, 2022 tweets from @Forev3rAnime “all for empty box 10!” referencing Witness One’s “husband” and “husbands with computers” and including a screenshot that shows Witness One giving a talk. [Complainant labelled these two screenshots #05 and #06.]</p>	<p>Complainant</p>	<p>Attachment G</p>

<p>Screenshot showing a tweet @Forev3rAnime “all for empty box 10!” tagging two FBI Twitter accounts and telling them to talk to Witness One about “illegal, unlawful use of computers and phones,” and including multiple embedded screenshots with parts of Witness One’s academic biography and a photograph of Witness One. [Complainant labelled this screenshot #07.]</p>	<p>Complainant</p>	<p>Attachment H</p>
<p>Screenshot showing a tweet from @Forev3rAnime “all for empty box 10!” replying to @redmaterialism and @MarxNetwork, writing, “yes, be good to each other, fuckers.” [Complainant labelled this screenshot #08.]</p>	<p>Complainant</p>	<p>Attachment I</p>
<p>Screenshot showing two tweets from @Forev3rAnime “all for empty box 10!”, writing that Witness One should “talk about how she has helped white people run over people of color, multiple times,” and tagging @FBIOakland and two Bay Area police departments, and telling them to talk to Witness One about “her partner and his use of computers and phones.”</p>	<p>Complainant</p>	<p>Attachment J</p>
<p>August 23, 2022 typed letter to CRO with Respondent’s written response to the August 3, 2022 Notice of Allegations.</p>	<p>Respondent</p>	<p>Attachment K</p>

October 1, 2021 typed letter from Respondent to Suzanne Taylor, submitted as part of webform report. <sup>5</sup>	OPHD	Attachment L
September 9, 2022 emails from Respondent to CRO. <sup>6</sup>	Respondent	Attachment M
Respondent's written response to the first Evidence Review.	Respondent	Attachment N
Attachments that Respondent submitted to accompany her response to the first Evidence Review.	Respondent	Attachment O
Screenshots showing results on the "Wayback Machine" <sup>7</sup> for the Twitter account @Forev3ranime.	CRO	Attachment P
Screenshots submitted by Respondent as proposed	Respondent	Attachment Q

<sup>5</sup> The webform report and attachments were automatically routed to UC Berkeley's i-Sight database because "Berkeley" was selected as the "Campus/Location." (See page 6 of the PDF.) In Attachment L, CRO includes the original webform report as well as the letter, which was attached to the webform report as a file titled "Oakland." CRO is not including the other attachments as they do not contain information relevant to the allegations currently being investigated. CRO redacted Respondent's contact information (phone number and email server) from Respondent's webform report (pages 7 and 8 of the PDF). CRO added the yellow highlight on page 2 of the PDF.

<sup>6</sup> CRO redacted Respondent's personal email address as well as the email address of her support person from Attachment M.

<sup>7</sup> The Wayback Machine is an Internet archive that uses "automated crawlers" to archive sites or create "snapshots" of the way a site looked at the time the Wayback Machine "crawled" the site. Using the Wayback Machine, one can search for archived sites by URL. The Wayback Machine does not have a comprehensive archive of everything that's ever been online; i.e. the snapshots reflect every time a website was archived on the Wayback Machine, not every time a website was updated.

Because Respondent raised the possibility that the screenshots provided by Complainant were fabricated by Complainant, CRO searched the Wayback Machine for any archived snapshots with the URL that existed for the Twitter account @Forev3rAnime. The Wayback Machine had 31 snapshots. In this attachment, CRO is not including screenshots of every archived snapshot, but the direct link to all of the Wayback Machine's results for the Twitter account @Forev3rAnime is here: [https://web.archive.org/web/\\*/http://twitter.com/forev3ranime\\*](https://web.archive.org/web/*/http://twitter.com/forev3ranime*)

evidence (screenshots are all of tweets taken by Respondent while logged into the Twitter account @984days). <sup>8</sup>		
Screenshots showing results on the “Wayback Machine” for the Twitter account @984days. <sup>9</sup>	CRO	Attachment R
Complainant’s written response to the second Evidence Review.	Complainant	Attachment S
Respondent’s written response to the second Evidence Review (including “addendum”).	Respondent	Attachment T

The following documents were submitted but not considered as part of the documentary evidence for this investigation for the reasons explained below:

<sup>8</sup> Respondent submitted these screenshots, among others, to CRO on September 26, 2022. CRO includes these screenshots as documentary evidence because they show details of Respondent’s Twitter usage that is relevant to analyzing the allegations. Specifically, these screenshots show Respondent’s use of the @984days Twitter account from at least December 2021 through July 2022, and they show the bookmarks tab of Respondent’s Google Chrome web browser in July 2022.

In response to the second Evidence Review, Respondent denied that she was the one who took the screenshots, writing that “*Only one screenshot (Attachment Q, dated Dec. 18) can be connected to me. The rest can’t.*” (Attachment T, emphasis in original.) CRO disagrees; see below Summary of Relevant Documentary Evidence, Attachment Q.

<sup>9</sup> CRO searched the Wayback Machine for any archived snapshots with the URL that existed for the Twitter account @984days. The Wayback Machine had 254 snapshots, all dated April through May 2021. In this attachment, CRO is including screenshots of tweets that, on their face, appear to address Complainant (or the OPHD investigation that was initiated in April 2021) and/or be written in Complainant’s “voice” (or, in some instances, the “voice” of Complainant’s partner). The direct link to all of the Wayback Machine’s results for the Twitter account @984days is here: [https://web.archive.org/web/\\*/http://twitter.com/984days\\*](https://web.archive.org/web/*/http://twitter.com/984days*)

In response to the second Evidence Review, Respondent argued that this Attachment is irrelevant to the August 3 allegations, and that, in any case, it cannot be considered harassment of Complainant since Complainant is not named. Respondent also questioned whether anyone other than CRO (who “knew what to look for”) would have ever found these posts. (Attachment T.)

<b>Document</b>	<b>Provided by</b>	<b>Reason not included</b>
Screenshots of tweets from various accounts. <sup>10</sup>	Respondent	Not relevant or directly related to the specific allegations under investigation. Although some of the screenshots do show that other people on Twitter apparently dislike Complainant, they do not show any connection to the tweets that are under investigation.
September 20, 2021 letter from Respondent to Former VPF, UCB Admin, and Title IX Officer, with Respondent’s comments about the two prior OPHD investigations into	Respondent	Not relevant or directly related to the specific allegations under investigation.

<sup>10</sup> Respondent wrote in a September 14, 2022 email sent to CRO the following:

As for how I think the emails, screenshots and narratives are related to the August 3 allegations I thought I had been clear about it, but I’ll do it again:

- [Complainant] engaged in sexualizing exchanges with many people online, including UCD and UCB’s students and many people are aware of this. In addition of course to the people I named and several others.
- Many people have negative opinions about [Complainant] and would like (“there are no victories without patience,” says someone in a screenshot I shared with you) to hold him accountable for what he has done and collaborated with.
- He has a history of abusing others and being an enabler of sexual abuse.
- Many people are aware of all of this, and this people whom I don’t know not have anything to do with [sic].
- Many other people know what he has been doing vis-a-vis me, stalking me and harassing me[.] That is, there are many others, beyond me, who might want to do to [Complainant], something like what the allegations claim.

In response to the first Evidence Review, Respondent objected to the exclusion of these screenshots, and reiterated that they show Complainant “engages in sexualizing comments” and “pretend sex” and “is publicly seen as an enabler of abuse and as being part of a group[] which enables and covers up abuse.” She argued that the screenshots “show how there are many people who beyond me could have reasons to engage in the activities alleged in the August 3<sup>rd</sup> document.” (Attachment N.)

Nothing in Respondent’s response to the first Evidence Review changed CRO’s determination. While some of the screenshots show that some people seem to dislike Complainant, none of them reference anything remotely similar to or related to the content of the tweets that comprise the alleged conduct.

Complainant's allegations against Respondent.		
December 13, 2019 letter from Respondent to Former VPF and the UC Berkeley Peer Review Committee, including Respondent's comments about the first OPHD investigation into Complainant's allegations against Respondent, a description of Respondent's allegations against Complainant, and about 80 pages of attachments.	Respondent	Not relevant or directly related to the specific allegations under investigation.
Various screenshots (some previously submitted, some newly submitted).	Respondent	Submitted by Respondent after the first Evidence Review. Nothing in the screenshots is relevant or directly related to the specific allegations under investigation.

In addition to the above, following the first Evidence Review, Respondent submitted a report written by an "expert witness." CRO did not accept this report because the Title IX Officer had previously denied Respondent's request to submit evidence from an expert witness. The protocol for requesting the inclusion of an expert statement is in the Investigation and Adjudication Framework for Senate and Non-Senate Faculty (effective date January 1, 2022) ("Faculty Framework").

Respondent submitted her request via email to the Title IX Officer on September 30, 2022, writing, "The witness is an expert in Twitter algorithms and in how people might or might not encounter a post." Respondent expanded on her request on October 3, 2022, writing: "The Complaint [sic] provides evidence that seems to have been fabricated by him. His explanations [sic] as to how he came to find it (evidence) is highly questionable and I want to make sure your office is aware of this, beyond my word. An expert witness will be able to better ascertain if what the Complainant says is or isn't plausible"; "Given my previous and current interactions with OPHD, I think the opinion of an expert will have more weight than what I think is or not possible. Beyond this last point, it is important to make sure that evidence is indeed evidence and not fabricated materials."

On October 4, 2022, the Title IX Officer denied Respondent's request on the basis that "an expert in 'Twitter algorithms and in how people might or might not encounter a post,' [] is not pertinent to proving whether the facts material to the allegations are more or less likely to be true."

Later that day, Respondent requested to appeal the decision. She reiterated her request for an expert witness, offering the expert witness's credentials and writing, "given the likelihood that the Complainant manufactured the tweets in question[,] I do reiterate my request to include expert testimony." Respondent stated that she would like to appeal the Title IX Officer's denial to someone else. On October 5, 2022, the Title IX Officer requested that Respondent clarify her claim about the tweets being "manufactured" or falsified by Complainant. On October 6, 2022 Respondent wrote:

What I am saying is that given the whole nature, format, etc[,] of the evidence the Complainant presented (what's missing and what's included) along with his narration of how he found it, there's a strong possibility that the Complainant fabricated the evidence, and precisely because of that I request once more and strongly that I be allowed to present an expert witness. Because as to what means he used to create it is precisely what is at stake. What I am claiming is that the Complainant seems to have created the evidence. How? I don't know.

On October 6, 2022 the Title IX Officer reaffirmed her prior denial of Respondent's request to provide expert testimony on the basis that Respondent had not provided any information that changed the original determination. The Faculty Framework does not include an option for appeal beyond the Title IX Officer.

Nevertheless, Respondent twice attempted to submit a report from her proposed expert witness to CRO. CRO informed Respondent that she could not accept or consider the document given the fact that the Title IX Officer had denied Respondent's request.

## **VII. Evidence Review**

CRO gave Complainant and Respondent equal opportunity to review and comment on the evidence gathered prior to September 26, 2022, including interview statements and Attachments A-M. The information was shared with the parties via a secure electronic file sharing system, Box. Each party (along with their support person/advisor, as applicable) was provided with view-only access to the files. The parties were both given 10 business days to review the evidence, from September 26, 2022, to October 7, 2022.

Complainant reviewed the files and emailed CRO on September 26, 2022 to confirm that he had "nothing to query or add" and that his review was complete.

Respondent reviewed the files and provided a written response on September 28, 2022. (Attachment N.) Respondent re-submitted the same document on October 7, 2022. Respondent also provided additional documentary evidence that she proposed be included as part of the investigation, along with the names of additional potential witnesses who could speak to her mental state and professional capacity. Respondent reiterated her request that her previously submitted documentation be included as part of the investigation, and reiterated her request that CRO interview the persons she previously proposed as witnesses.

In response to information received from the parties after September 26, 2022, including their responses to the first Evidence Review, CRO conducted additional information-gathering. On October 11, 2022, CRO informed both parties via separate emails that she would be conducting a second Evidence Review, from October 12-14, 2022 (three business days).

Respondent requested an extension to the second Evidence Review, through October 19, 2022 (making the review period six business days). The Title IX Officer approved the extension request, and CRO informed both Complainant and Respondent of the extension.

CRO gave Complainant and Respondent equal opportunity to review and comment on the second Evidence Review, which included a brief summary document and Attachments N-R. The information was shared with the parties via a secure electronic file sharing system, Box. Each party (along with their support person/advisor, as applicable) was provided with view-only access to the files.

Complainant submitted his response to the second Evidence Review to CRO on October 13, 2022. (Attachment S.)

Respondent submitted her response to the second Evidence Review to CRO on October 16, 2022. Respondent submitted a “corrected” version of her response on October 18, 2022. CRO includes Respondent’s corrected response submitted on October 18, 2022, as well as Respondent’s original addendum to her response submitted on October 16, 2022, as Attachment T.

## **VIII. INFORMATION GATHERED**

Unless otherwise specified, the following statements are based on interview notes taken by CRO. Complainant and Respondent had access to and reviewed all of the below information during the Evidence Review periods.

### **A. Statement Provided by Complainant**

CRO interviewed Complainant on August 19, 2022, via Zoom video. Complainant had an advisor present. Complainant confirmed that he is a professor at UC Davis.

CRO asked Complainant to briefly describe the relationship between himself and Respondent. Complainant said that he has met Respondent in person two times. He said that he first met her at a conference at UCB, where he had been invited to speak, and Respondent approached him afterward and invited him out for a conversation. He said that he and Respondent met a couple weeks later, and he became uncomfortable with the interaction and ended the meeting.<sup>11</sup>

Complainant said that following these two in-person meetings, Respondent sent him “strange” messages and tried to approach him at his home. He said that she went into his health club at the

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<sup>11</sup> Respondent disputed this, writing that “the meeting ended in a natural way.” (Attachment N.)

time, and also approached the door of his home at the time, and slid notes under his front door.<sup>12</sup> He said that she vandalized his home and his car. Complainant said that he had to move because of this situation and he does not think Respondent knows where he now lives.

CRO asked Complainant what Twitter accounts he uses. Complainant said that he currently does not have an active personal Twitter account. He said that his account @redmaterialism is “identified with me, it’s my personal account,” but it is currently deactivated. He said that he does not use his account much in part because Respondent “made it impossible.”

Complainant said that he also helps run an account for a UC-wide network under the handle @marxnetwork. He said that he is not sure if Respondent is aware of this account or that he helps run it.

CRO asked Complainant what he knows about the Twitter account @empty\_box\_10. Complainant said that he “never heard of it” until his partner brought some tweets to his attention. He recalled that his partner came to his desk and showed him the tweets, and then he logged onto Twitter and saw the account for the first time.

Complainant said that the account @empty\_box\_10 does not belong to him or anyone he knows. He said he has “literally no idea who it belongs to.” He said that he looked at the account after his partner brought it to his attention and saw that he had some mutual online connections with the account, meaning that some people he follows online also follow @empty\_box\_10, so there were “some degrees of connection” although he had “never seen [the account] before.” Complainant clarified that he does not know anyone personally who follows the account, he just “knows” them on Twitter.<sup>13</sup>

CRO asked Complainant what he knows about the twitter account @Forev3rAnime, with the display name “all for empty box 10!” Complainant said he knows “nothing” about the account other than that he has “100 degree confidence” that it was operated by Respondent while it was active in July 2022.

In advance of the interview, Complainant provided 9 screenshots of @Forev3rAnime’s Twitter activity. During the interview, CRO asked Complainant who took the screenshots. Complainant said that he took the screenshots, but he thinks that his partner may have taken the ones that involved her.

CRO asked Complainant to refer to screenshot with @Forev3rAnime’s profile (Attachment B). CRO asked Complainant if the avatar, name, or banner picture meant anything to him. Complainant said no. Complainant noted that the amount of time between his becoming aware of the account and the account ceasing to exist was about a “couple of hours,” but his “deduction” from looking at the account while it existed was that Respondent was running the account

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<sup>12</sup> Respondent clarified that she approached Complainant “in order to confront him and ask him why he was stalking me.” (Attachment N.)

<sup>13</sup> Respondent disputed this, writing that at least one person who has interacted with the account “is a very close associate of the Complainant.” (Attachment N.)

@Forev3rAnime, and Respondent thought that Complainant was running the account @empty\_box\_10 and that Witness One was Complainant's wife.

CRO asked Complainant if he knew how his partner discovered the tweets. He said that he is not sure, that he thinks someone sent them to her or told her about them, but that CRO should ask his partner directly. Complainant said that his partner first showed him the tweets that involved her. He explained that his partner had given a talk and another academic posted about it with screenshots, and then the account @Forev3rAnime posted screenshots of those posts and tagged various law enforcement agencies and "intimated that my partner was the wife of someone (unspecified) and suggested that they might know a lot about illegal computer and phone hacking and surveillance." Complainant explained that Respondent has accused him of such hacking and surveillance many times in the past to various parties. Complainant said that based on the tweets, "apparently [Respondent] thinks my partner is my wife, and she was posting information to suggest that [my partner] was in on what [Respondent] imagines is electronic surveillance."

CRO asked Complainant if he has any idea why Respondent would think @empty\_box\_10 belongs to him, beyond the few mutual Twitter followers. Complainant said no.

Complainant contrasted this situation with a prior situation, wherein Respondent believed that another account, @toomuchistrue, run by a graduate student in New York named Twitter User 8, was actually run by Complainant. Complainant said that Respondent "became convinced" that @toomuchistrue was actually Complainant, and was "Twitter stalking and harassing" Twitter User 8. Complainant said that he had never met Twitter User 8 but they had interacted publicly on Twitter. He said, "In this case, I've never had any direct interaction, to the best of my knowledge, with the empty box 10 account."

CRO asked Complainant if he had any idea how long Respondent thought @empty\_box\_10 was Complainant's account. Complainant said that he did not, but noted that the @Forev3rAnime account dated only to July 2022.

Complainant stated that after Respondent started "Twitter stalking" Twitter User 8, as well as himself, he messaged Twitter User 8 via direct message on Twitter and they had a "very brief" exchange. He said that Twitter User 8 "seemed confused." He said that he "felt bad for him." CRO asked Complainant if he still had those messages. Complainant said that he did not, explaining that this exchange was "several accounts ago," and that he has had to change Twitter accounts because of this situation. He said that Twitter User 8 might still have the messages.

CRO asked Complainant to look at screenshot in which @Forev3rAnime writes, "@empty\_box\_10 tell everyone who you really are [...]" (Attachment D.) CRO asked Complainant what the references to the different identities meant to him. Complainant expressed that he could not know for sure what the references meant. Complainant said that the "27 year old cinema guy" is probably a reference to Twitter User 8. He said that the "nothing cute animal" might be a reference to his cat, explaining that he thinks he used his cat as his avatar photo for @redmaterialism, the account he has since deactivated. He noted that he is not married, but that Respondent seems to think he is. He noted that he is a son and that his mother has also been

harassed by Respondent. Complainant said that he did not know what the “20 year old woman” referenced.

CRO asked Complainant if he thought “20 year old woman” might refer to Jane Dark.<sup>14</sup> Complainant said that was possible, but Jane Dark “had no existence besides being a name I published journalism under for a period in the late 1990s to early 2000s,” and that Jane Dark was not a persona or identity, but just a penname. Complainant said that he does not recall if he ever had a Twitter account with the Jane Dark name but that he does have an email account with the Jane Dark name, and he does continue to “use that name periodically.” Complainant explained further that when he first used the name, it was for a music zine that he created in 1995 that he wrote in the voice of the lead character from the movie *Clueless*. He said that he later wrote for the *Village Voice* under that name. He added that the *Village Voice* figured out his actual identity relatively quickly, but he continued to publish with them under the penname Jane Dark until the early 2000s, when he stopped doing music journalism. Complainant said that he does not think there is any way that Respondent ever saw the zine since it was not online, but “it’s possible” that the “20 year old woman” reference could be to Jane Dark.<sup>15</sup>

CRO asked Complainant if anything else has happened beyond what he shared in his July 27 email report to OPHD. Complainant said that nothing has happened since then, but something happened before then that he thinks he should share. He explained that in December 2021, he was informed that Respondent had filed a complaint about him with the UC Davis Title IX Office. He noted that he had not been aware when Respondent had filed this complaint “because apparently they decided there was no cause for an investigation, and so I wasn’t informed.”

Complainant said, “The reason I found out is because when they told her they would not be investigating it, she apparently made very severe threats against the UC Davis Title IX Officer,”<sup>16</sup> and the legal counsel at UC Davis “thought it was appropriate to contact me and inform me of the threats.” He explained that he had two separate conversations, one with the campus threat assessor, who is also a clinical psychologist, and one with the campus attorney. Complainant said that he was “not told many details,” and was “not sure what confidentiality

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<sup>14</sup> A basic Google search (search term: “[Complainant’s name]” “Jane Dark”) shows that Complainant is known to write under the Jane Dark pseudonym.

<sup>15</sup> Respondent wrote in a September 2021 document that was part of her webform report (Attachment L) that she read a chapter of a book “in which the author interviewed [Complainant] about his experience passing as a teenage girl (when he was already an adult man) in order to be hired by a music publication. Jane Dark I believe was the name he used.” In addition, as an appendix to a December 2019 letter to Former VPF and the UC Berkeley Peer Review Committee, Respondent provided screenshots showing a series of November 2009 tweets from a Twitter account @janedark that joined Twitter in December 2008, with a location of “San Francisco/Bay Area. She wrote that the account belonged to Complainant and showed that he used the name of a woman “as an avatar or alias.” The tweets reference a UC strike, and one tweet includes Complainant’s last name. The @janedark account still exists as of September 2022, but has not tweeted since November 2009.

<sup>16</sup> Respondent disputed that she threatened UC Davis’s Title IX Officer, but rather that she was “probably uncivil, and or [sic] rude to her.” (Attachment N.)

was binding whom,” but the threats were apparently so severe that people at UC Davis thought the FBI should be contacted.

Complainant said that he does not know if the FBI ever got involved. He said that he personally declined to contact the police or the FBI. He said that if UC Davis “involved the police or any such office, I’m not aware of it.” He said that he does believe that the UC Davis Police Department “were informed as a matter of course” because of the threats against the UC Davis Title IX Officer.

Complainant said that he has not spoken to the UC Davis Title IX Officer personally.

Complainant said that he does not know of anything else relevant that happened between December 2021 and July 2022.

Complainant said that it was “hard to quantify” the impact of this situation on him, but that there were “two tracks” of impact.

Complainant said, “I want to be straightforward about how much this has been psychologically, or psychically destructive.” He explained that he is now “incredibly careful about revealing any information at all about where I live,” and “I’ve had to become infinitely vigilant in my life about safety in ways that I find corrosive and destructive.” He said that this vigilance is “accompanied by an anxiety that is similarly corrosive. It’s miserable and don’t think it will ever go away.”

Complainant said that as a “practical matter,” Twitter is part of his professional life, and it’s “part of how” writers and academics “disseminate our work.” He said, for example, that when he is dealing with publishers, they routinely ask him about his social media followings; “it’s integral to the way my scholarly work is valued and accessed.” Complainant explained that because of this “ongoing” situation with Respondent, his ability to use social media has “been cut off to a large extent.” He said that he might log on for a day once in a while to make an announcement, but he is not able to use it the way he otherwise would. Complainant noted, “That’s now true for my partner, too.” Complainant added, “That’s not the only way this has affected my work life, but it’s the most relevant way with respect to these particular allegations.”

CRO asked Complainant if he had anything else he wanted to add. Complainant said, “I don’t want to speak too much for my partner, but there’s a real history here of virtual threats and then harassment becoming physical.” He noted that Respondent did not only go to his home and harass him, but Respondent also “repeatedly harassed my mother at her home.” Complainant said, “There’s a real sense that the virtual harassment, which is not just to me but to my partner, as well, could extend to real life”; “there’s a propensity for virtual harassment to become actual real life, in person harassment.” He said that he and his partner are both concerned about this risk on an ongoing basis.

Complainant added also that although he understands that the current allegations and investigation are about a violation of the No Contact Directive, he thinks that Respondent’s ongoing behavior could also be considered retaliation. He said that he does not want what has

been happening to be “diminished” in a “formalistic way,” and that the failure of the Vice Provost’s office to “take this seriously has only led to more and more dangerous behavior.”

#### B. Statement Provided by Respondent

As noted previously, Respondent declined to participate in a live interview with CRO. Respondent provided a written document to CRO on August 23, 2022 that included her response to the August 3, 2022 Notice of Allegations. CRO includes the responsive portion of this document below (any emphasis or typographical errors are in original); the full document is attached as Attachment K.

As for my response to the absurd current allegations, **all** of them based on the assumption that I supposedly believe that some Twitter account belongs to the “Complainant,” I state the following:

1. Not until you forwarded these bizarre allegations had I any knowledge of said account.
2. If that account exists I don’t know (nor I care) about anything related to it.
3. I, and I emphasize this, **don’t believe nor believe** anything about an account about whose existence I was unaware of until you informed me about it.
4. **I didn’t create any other account**, about which I didn’t know anything either, not until you shared the allegations with me.
5. Therefore, **I do not believe anything about any accounts you mentioned, I did not create any accounts, I did not tag anyone, and I did not write or post anything about anyone.**
6. I don’t know the “Complainant’s” Twitter account **and I did not respond anything** to it.
7. Briefly put, I don’t have anything to do with the list of bizarre allegations in the document you shared with me. The only thing I recognize is that I had said that the @toomuchistrue Twitter account is managed by “Complainant.” But that is not something I believe. It is in fact something I know because he himself told me. Other than this, nothing in the allegations you shared is familiar or makes any sense to me.

#### C. Statement Provided by Witness One

CRO interviewed Witness One on August 25, 2022, via Zoom video. Witness One confirmed that she is a professor at UC Davis.

CRO asked Witness One what her relationship is to Complainant. Witness One said that she is his “partner.”

CRO asked Witness One what Complainant’s Twitter accounts are. Witness One said that Complainant has access to an account with some colleagues, @MarxNetwork, and that

Complainant “on and off has his own” personal account. Witness One said, “I actually don’t follow his personal Twitter account because of this [situation].”<sup>17</sup>

CRO asked Witness One what her relationship is to Respondent. Witness One said that they have “no relationship,” and have “never met or interacted, to my knowledge.”

CRO asked Witness One what she knows, if anything about the Twitter account @empty\_box\_10, and the Twitter account @Forev3rAnime, which has the display name “all for empty box 10!”

Witness One said, “I believe that account is the reason I’m now part of this.” Witness One explained, “I’m also on Twitter. I don’t tend to tweet but I follow people and interact to the extent that I like things or whatever.” She continued: “I saw that account tweet something that had a picture of me giving a lecture, which I recognized was a keynote address I’d given. There were one or two tweets talking about me and saying like this is a supposedly a very brilliant woman, I wonder if anyone wants to ask her about the way that she supports white people and undermines other women of color. A couple of tweets along those lines. I saw those and I kinda suspected it might be [Respondent] because of the content. I took my phone out and showed [Complainant] and said, ‘do you think this is [Respondent]?’ and he said, ‘yes, I do,’ and he went to the account and took screenshots.”

Witness One said that she thinks the reason why Respondent saw her on Twitter in the first place was that Witness One responded to a tweet and then @MarxNetwork, which is the account run by Complainant and his colleagues, “liked” Witness One’s response. Witness One said, “I think that was enough to bring my Twitter handle to [Respondent’s] attention. I assume she knows my name and knew [Complainant] was part of the Marxist Institute Network Twitter account, and saw that and saw the tweet, and then she tweeted something about me.”

CRO shared the screenshot with @Forev3rAnime’s profile (Attachment B) with Witness One. Witness One said that the banner photo was not familiar to her. She explained, “I saw the tweets and showed [Complainant] right away, and I blocked the account so it wouldn’t be able to interact with me directly, and then almost immediately the account was deleted. So, it’s not something I saw multiple times or was familiar with.” Witness One said that the handle @Forev3rAnime seemed familiar. She said that she did not recall seeing the bio, which states: “happy to be here! In adoration of @empty\_box\_10 and his wife”.

CRO asked Witness One if the account tweeted at her directly. She said, “It must have, I don’t know how I would have seen it otherwise. I think they must have tagged me, but I would need to see the screenshots.”

Witness One said that she recognized the tweets that included the screenshot of her giving a talk. She said, “I’m not sure if I was tagged or not, or if it appeared on my Twitter timeline. I don’t

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<sup>17</sup> In her response to the first Evidence Review, Respondent noted that she recalled Witness One did not follow Complainant on Twitter back in 2018. (See Attachment N.)

follow a lot of people and not a lot of people follow me, but I'm in that photo. That's a picture of me giving a talk, I'm the one on the screen." (See Attachment G.)

Witness One said that she also saw the tweet telling the FBI to invite her to talk to them. She said, "The photo on the bottom left is the photo on my UCD faculty page. The text I'm assuming is other people talking about my talk or live tweeting during the talk." (See Attachment H.)

Witness One stated that she did not take any screenshots herself and that it "didn't occur to me to take screenshots." She said, "The first thing I did was block the account."

CRO shared the screenshot where @Forev3rAnime tweeted "yes, be good to each other, fuckers." (Attachment I.) Witness One said, "I did see this tweet because I follow @MarxNetwork. I'm not totally sure who @redmaterialism is. I don't know if that's someone's personal account or another collective organization like @MarxNetwork."

CRO asked Witness One if there were any other tweets she recalled seeing. Witness One said, "There was another one that was the one about women of color."<sup>18</sup>

Witness One said, "From a personal standpoint, I'm not on Twitter very much. I don't have a very big Facebook sphere either. Independently of this investigation, I'm very private about my image being made public. As background, four years ago, there was a person in my field with a lot of white supremacist connections and she shared my image on Facebook without my permission and [the images of] other people of color. So it's very disruptive and traumatic for me to have my image shared publicly like that on social media sites. Just being a person of color I know I have the potential to draw racist kinds of attention. That's what happened in 2018, with someone else entirely. From a personal standpoint, it's very disruptive, anxiety producing."

Witness One noted that the person who took the initial photograph of her on the screen was the organizer of the conference at which she was speaking, and for him to post the photograph was "one thing, but for someone else to take that and do something else, that feels like something very invasive."

Witness One stated, "It's unfortunate that you don't have the tweet I was most concerned about. Because in that tweet there was this accusation of me kinda holding up white people and not supporting other women of color -- and I assume she means herself in that situation and that I'm holding up [Complainant] as a white man. So I'm assuming that's what that is about. That tweet was of the most professional concern for me because I'm a senior women of color in a field that does not have a lot of women of color at all, and I've built a reputation of being someone people of color can trust in my field. I've put a lot of effort into supporting people of color in my field."

Witness One explained that because Twitter "is a public venue," she has no control over or knowledge of who saw Respondent's tweet with the "unfounded accusation" that Witness One

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<sup>18</sup> Following the interview, Complainant sent CRO an email with an additional screenshot writing, "[Witness One] noted that I had failed to send you one of the relevant screenshots; I apologize for the oversight." The screenshot is included as Attachment J.

“doesn’t support other people of color and throws women of color under the bus,” before Respondent deleted the account (which causes the account’s tweets to be deleted). Witness One said that she does not know “whether there were vulnerable women of color in my field who might have seen it,” and “that aspect of the tweet directly undermining an aspect of my professional life that I’ve worked really hard to build” was the most concerning to her.

Witness One stated that she does not know if Respondent knows about how Witness One has worked so hard to build trust among scholars of color, “but if [Respondent] does [know], it seems like she was doing that deliberately,” “undermining my work.”

Witness One reiterated that the Twitter account and tweets impacted her because of her past history with her image being put on the internet without her consent. She said that having her image posted on Twitter in this way is “distracting,” and “traumatic,” and “interferes with my work in that way.” Witness One also reiterated that the Twitter accounts and tweets impacted her because “in an unfounded way, [the Twitter account was] trying to undermine my professional reputation that I’ve worked extremely hard to build in my field.”

CRO asked Witness One if she had anything else she wanted to share. Witness One said that she wanted to share her perspective on the possible outcomes of the investigation. She said, “I’m not into super punitive outcomes. I do abolitionist organizing work.” She said, “For me, it’s much more important that she gets help. I’m not doing this because I want her to be punished. It feels like the failure thus far has been that she clearly has significant mental health issues, and it doesn’t seem like any of these processes have intervened successfully enough to ensure that she’s getting care or help.” Witness One continued, “Now that I’m more directly involved in this, with the tweets specifically referring to me, I want to say that the goal here is not to punish her, but this is obviously a person who really needs help. What’s been disturbing to me throughout this whole thing is that there seem to be so many people on campus who are just business as usual with her, and she clearly needs a lot of help.”

#### D. Additional Information

Because the @Forev3rAnime account directly mentioned “[Albany Police Officer] (Albany Police Department)” in a July 27, 2022 tweet (see Attachment F), CRO outreached Albany Police Department and asked to speak with Albany Police Officer. CRO spoke with Albany Police Officer via phone on September 14, 2022.

Albany Police Officer stated that he first spoke to Respondent at some point in 2018, and then he most recently spoke with her on July 27, 2022. He said that this most recent conversation was by phone and that Respondent told him “similar stories she’s told us before,” that “she is being harassed by a UC professor.” He recalled that she told him she was living in Mexico City, wanted information about a restraining order, and wanted to know “why nobody was doing anything for her.” He stated his goal in speaking with her was to explain to her that the Albany Police Department does not have any jurisdiction over complaints “about things happening to her in Mexico City.”

Albany Police Officer said that, based on his recollection, he “didn’t let her get too far into things in July simply because there was no sense in spinning wheels.” He said that he did recall that in the past, Respondent had made “outlandish allegations against this UC professor,” including allegations about being hacked. He said, “As I recall, she was saying he was harassing her because she’ll think something, and then he’ll tweet something.”

CRO read Albany Police Officer the tweet included in Attachment F and asked him if it meant anything to him. Albany Police Officer said that he had “no idea what she’s talking about with the movie.” He reiterated, “I tried to manage that conversation and keep it brief.” He added that he did tell Respondent on the July 27 call that the only people who would have “agency” over her complaints would be the State Department or the FBI. He said, “Ultimately, I was trying to get her to go to someone else because contacting a municipal police department when you’re living in another country and experiencing alleged cyber-harassment is not productive.”<sup>19</sup>

### E. Summary of Relevant Documentary Evidence

CRO reviewed and considered all of the documentary evidence included in the attachments to this Investigation Report and references the attachments throughout this Investigation Report, where applicable. The following is a summary of the documentary evidence most relevant to CRO’s investigation analysis, including screenshots and excerpts from written communications where illustrative.

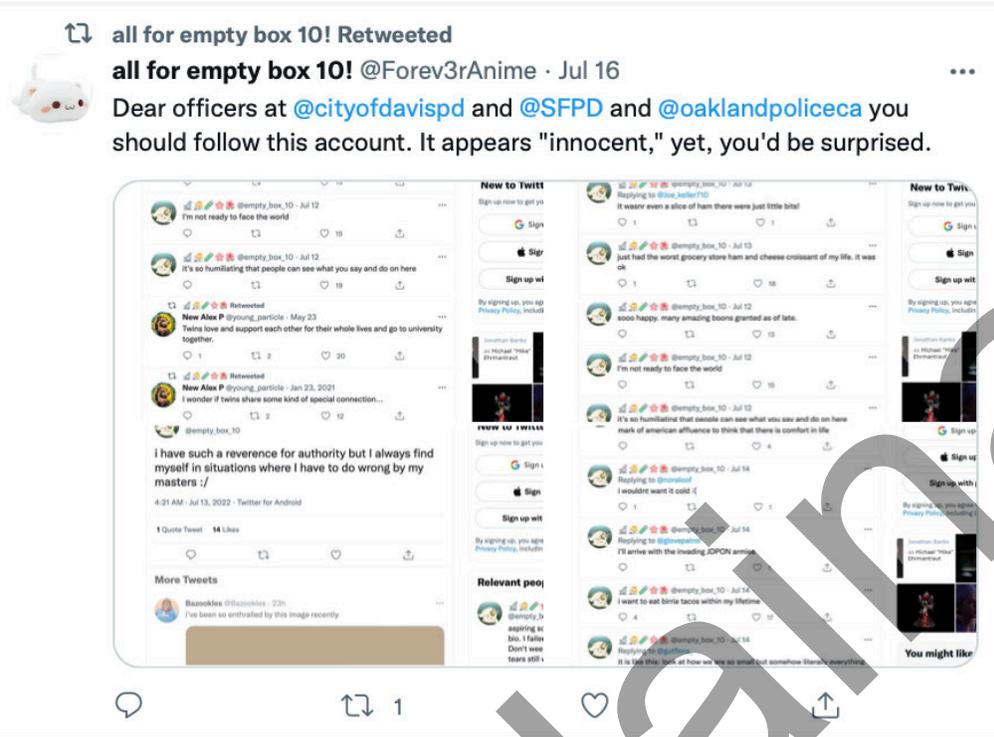
Attachments B through J are the screenshots that comprise the allegations. Complainant submitted these screenshots to CRO.

#### Attachment B



<sup>19</sup> In her response to the first Evidence Review, Respondent wrote: “I don’t have anything to say other tha[n] perhaps he was drugged or too tired in the job and imagined a conversation that never took place.” She wrote that she did remember talking to someone at the Albany Police Department “a while ago, a long time ago in fact.” (Attachment N.)

Attachment C



Note: This tweet was also captured by the Wayback Machine. (See Attachment P.)

Attachment D

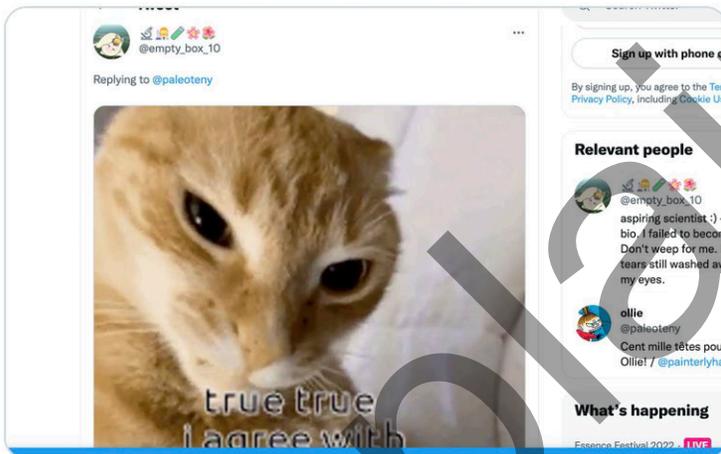
**all for empty box 10!** @Forev3rAnime · Jul 3  
@empty\_box\_10 tell everyone who you really are, and what it is that you do with your amazing brain that can pretend to be a 20 year old woman, a 27 year old cinema guy, a nothing cute animal, a respected professional, a tender husband and great son, a fantastic writer...



**all for empty box 10!** @Forev3rAnime · Jul 3  
all because, thanks god, rules do not exist for you. and thanks too to @SFPD @oaklandpoliceca @OaklandOcpd @UCDavisPolice, @RPDCAOnline, all of those "i did not see anything, not my jurisdiction" great departments.



**all for empty box 10!** @Forev3rAnime · Jul 3  
oh, but you do, the old man (60), the body without organs (empty), the 27 sickly deranged man of your other account, all of those "yous" agree.



**all for empty box 10!** @Forev3rAnime · Jul 3  
Replying to @Forev3rAnime and @empty\_box\_10  
and this @empty\_box\_10? confusing, but of course, for you--no rules.



Note: the first two tweets in this thread were also captured by the Wayback Machine. (See Attachment P.)

Attachment E

← all for empty box 10!

@Forev3rAnime

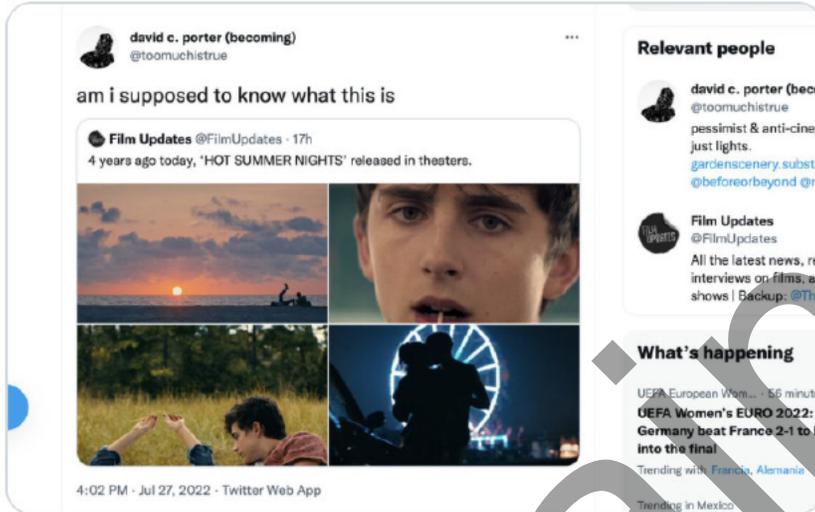
Followers

Following

-  **FBI Sacramento** ✓  
@FBI\_Sacramento **Follow**  
Official FBI Sacramento Twitter. Submit tips at [tips.fbi.gov](https://tips.fbi.gov). Public info may be used for authorized purposes: [justice.gov/doj/privacy-po...](https://justice.gov/doj/privacy-po...)
-  **FBI Oakland**  
@FBI\_Oakland **Follow**  
Welcome to the official FBI Oakland Twitter. To submit a tip on terrorism or a federal crime, please go to [tips.fbi.gov](https://tips.fbi.gov).
-  **FBI** ✓  
@FBI **Follow**  
Official FBI Twitter. Submit tips at [tips.fbi.gov](https://tips.fbi.gov). Public info may be used for authorized purposes: [justice.gov/doj/privacy-po...](https://justice.gov/doj/privacy-po...)
-  **FBI San Francisco** ✓  
@FBI\_SanFrancisco **Follow**  
Official FBI San Francisco Twitter. Submit tips at [tips.fbi.gov](https://tips.fbi.gov). Public info may be used for authorized purposes: [justice.gov/doj/privacy-po...](https://justice.gov/doj/privacy-po...)
-  **San Mateo County S.O** ✓  
@SMCSheriff **Follow**  
Welcome to The San Mateo County Sheriff's Office Twitter page - NOT MONITORED 24/7. SHOULD NOT BE USED TO REPORT CRIMES - Call 911 or 650-363-4911.
-  **CoCo Sheriff PIO**  
@cocospio **Follow**  
Official Twitter of the Contra Costa County Office of the Sheriff Public Information Officer.
-  **Redwood City Police** ✓  
@RedwoodCityPD **Follow**  
The official Twitter feed for the Redwood City Police Department. For Emergencies CALL 911. Tweets are not a substitute for EMERGENCY/Non-emergency reports.
-  **Daly City Police** ✓  
@DalyCityPD **Follow**  
Official Twitter feed for the Daly City Police Department. For emergencies, dial 911. For non-emergencies, dial (650) 991-8119. Account not monitored 24/7.
-  **Davis Police Department** ✓  
@cityofdavispd **Follow**  
This is the official Twitter account for the Davis Police Department. This account is not monitored 24/7.
-  **Richmond Police, CA** ✓  
@RPDCAOnline **Follow**  
Official Twitter account of the Richmond CA Police Department. Tweets not monitored 24/7. Report emergencies to 911. RTs are not endorsements
-  **Oakland County Police Department (OCPD)**  
@OaklandOcpd **Follow**  
We protect and serve with Dignity and pride and dedicate our lives to Oakland County and the Community .
-  **San Francisco POA**  
@SanFranciscoPOA **Follow**  
Working for you to keep you safe, working with you to protect our City.
-  **South San Francisco PD**  
@SSFPolice **Follow**  
The official Twitter feed for the South San Francisco Police Department. This site is not monitored 24 hours a day. To report emergencies call 911.
-  **San Francisco Police** ✓  
@SFPD **Follow**  
Official Twitter of the SFPD! Account not monitored 24/7. Visit our Linktree to connect with us on our other platforms! [linktr.ee/SFPD](https://linktr.ee/SFPD)
-  **NASA** ✓  
@NASA **Follow**  
There's space for everybody. ✨

Attachment F

 **all for empty box 10!** @Forev3rAnime · 2m ...  
It's interesting, officers, that this account, is talking today all of things, about a "movie" about a drug addict, that was released four years ago, Sgt. O'Connor (Albany Police Department) will get the reference. And also [@FBIOakland](#) [@FBISanFrancisco](#) and [@FBI Sacramento](#).



Note: Albany Policy Officer told CRO that he spoke with Respondent on July 27, 2022.

Attachment G

2:43  
Weather  
 **all for empty box 10!** @Forev3rAnime ...  
I'd love to hear what she know about her husband. or husbands for that matter. husbands with computers. what they can do. maybe one day she'll be invited to talk about that? because she must know a lot.  
2:19 PM · 7/27/22 · Twitter Web App

1 Quote Tweet  
 **all for empty box 10!** @F... · 3m ...  
Replying to @Forev3rAnime  
whom am i talking about? this knowledgeable woman. a light on the horizon for strange husbands.  
  
What's happen  
UEFA Women's EURO 2022: Germany beat France 2-1 to h into the final  
Trending with France, Alemania  
Trending in Mexico



Note: The picture included in this tweet is a screenshot of a different tweet that includes Witness One's full name, the name of her lecture, and a clear image of Witness One's entire face on a screen (while she was giving a virtual lecture).<sup>20</sup> CRO is redacting these identifying portions of the tweet in this Investigation Report, but the unredacted version is included as Attachment G.

Attachment H

<sup>20</sup> CRO found the origin of this screenshot by searching Witness One's name on Twitter. The original tweet is from March 12, 2022.

<https://twitter.com/bruceholsinger/status/1502763166190780416>



**all for empty box 10!** @Forev3rAnime · 1m  
 invite her to talk, @FBISanFrancisco @FBIOakland!! what does she know about the present ages and illegal, unlawful use of computers and phones. what a master class that would be.



Note: This tweet was also captured by the Wayback Machine. (See Attachment P.)

Note: The tweet includes a collage of two separate screenshots. The screenshot on the lefthand side is a portion of a March 27, 2021 Twitter thread, in which the Twitter user lists fifteen Wikipedia pages that had been created or edited that month for woman classicists, along with illustrative screenshots.<sup>21</sup> The photograph of Witness One that is included is the same photograph is included in her official UC Davis academic biography.

The screenshot on the righthand side is a portion of an April 30, 2022 Twitter thread about racism in the field of medievalism, in which the Twitter user cites a lecture Witness One gave at UVA that apparently spoke to these issues.<sup>22</sup>

CRO is redacting Witness One’s face and her last name (as well as a portion of her first name), which are all clearly visible in this tweet. The unredacted version of this tweet is included as Attachment H.

Attachment I

<sup>21</sup> CRO found the origin of this screenshot by inputting “[Witness One] is a medievalist & Prof. of English” into Google’s search bar. The Twitter thread is the only result.

<https://twitter.com/tigerlilyrocks/status/1375921196768837636>

<sup>22</sup> CRO found the origin of this screenshot by inputting “[Witness One]” and “mostly white medievalists” into Google’s search bar. The Twitter thread is the only result.

<https://twitter.com/dorothyk98/status/1520483805894688768>



Note: This tweet was also captured by the Wayback Machine. (See Attachment P.)

Note: @redmaterialism is Complainant's personal Twitter account that he publicly identifies as his own (the display name is his name), and that Respondent identified as belonging to Complainant in a letter she wrote in October 2021 (see Attachment L). @MarxNetwork is a Twitter account that Complainant jointly runs along with others, and he publicly identified himself as a member of the account on his personal Twitter.

Note: In her response to the second Evidence Review, Respondent herself provided a screenshot of Complainant's tweet to which @Forev3rAnime was responding. (See Attachment T, page 9.)

#### Attachment J



#### Attachment K

Attachment K is Respondent's written response to the August 3 Notice of Allegations. The responsive part of the document is included as Respondent's statement, above. In this document she also asserted that Complainant has "unwanted and illegal access to my electronics," and he has thus "stalked and harassed" her.

#### Attachment L

Attachment L includes a letter written by Respondent to former Systemwide Title IX Officer Suzanne Taylor, dated by Respondent October 1, 2021.

- Respondent wrote that she is filing sexual harassment charges against Complainant and that she does not believe either UCB or UC Davis will process her claims fairly.

- Respondent wrote that Complainant’s mother is apparently one of the Chancellor’s “best friends,” and that “[Complainant] is a white, full professor, while I am a first-generation Mexican-American, Associate Professor, without a mother who is friends with people in the higher levels of campus administration.”
- She asserted that Complainant has had “illegal access to my phone” since August 2018, and that he has engaged in “cyberstalking, hacking U.C. equipment (computers, and email), and personal electronics (my phone).”
- She noted also that Complainant makes “sexual comments” in one of his Twitter accounts.
- She wrote that the first Title IX investigation against her was “unfounded” because the case “hid[] the fact that [...] I was all along *defending myself* against [Complainant’s] massive and humiliating intrusion into my life and that of my family.” (Emphasis in original.)
- She wrote about the impact (financial and emotional) of Complainant’s “unwanted presence in my life.”
- She wrote that Complainant has two Twitter accounts: @redmaterialism and @toomuchistrue. She noted that Complainant denies @toomuchistrue is his account. She wrote, “In addition, [Complainant] might have access or post on @empty\_box\_10 as well.”<sup>23</sup>
- She wrote that Complainant “divide[s]” himself on multiple accounts “in order to make it harder for me to prove his stalking.”
- She wrote, “I’m the victim of [Complainant]’s brilliant and perverse mind.”

#### Attachment M

Attachment M is an email that Respondent sent to CRO on September 9, 2022.

- Respondent recounted that she went to the Albany Police Department and wrote to Complainant’s “wife” after she “first realized that [Complainant] had hacked my phone.”
- Respondent asserted that she meant to convey to Complainant’s “wife” that she had seen “how sick [Complainant’s] behavior is online,” i.e. “that her husband engaged in sexual innuendo and pretend sex [...] with several people, publicly, on Twitter.” “What I’m saying is that since this problem seems to be related to [Complainant’s] tolerant wife [...]”
- Respondent wrote that she “had to do some research myself” when UCB and UCD refused to investigate.

#### Attachment N

Attachment N is Respondent’s response to the first Evidence Review. Where relevant, CRO has included Respondent’s comments in footnotes.

Respondent also argued that the screenshots that comprise the allegations “are obviously manipulated in order to hide information.” She made the following arguments and observations:

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<sup>23</sup> In her response to the first Evidence Review, Respondent noted that “th[is] sentence is very tentative, a mere suggestion about an account I had completely forgotten until I read it in this document.” (Attachment N.)

- Some of the screenshots of the tweets show the date but not the time of the tweets, and some show the time but not the date. She asserted that “this information was carefully disposed of.”
- Some of the screenshots were apparently taken very quickly after the tweet was posted, in one case within 7 seconds. She argued that this is evidence that Complainant “and his wife” “might have been [] the ones creating and posting them. Otherwise[,] it’s simply impossible for them to be able to do all of this.”
- Witness One was not tagged or named in the text of the tweets.<sup>24</sup> She argues that it is “impossible” “that [Witness One] would randomly find a tweet like that.”

#### Attachment O

Attachment O is an email sent by Respondent to CRO with attachments to accompany her response to the first Evidence Review. Among the attachments is a screenshot showing an August 24, 2021 tweet by @outsideadgitator, whom Respondent identified as “a close associate” of Complainant’s, replying to a tweet by @empty\_box\_10.

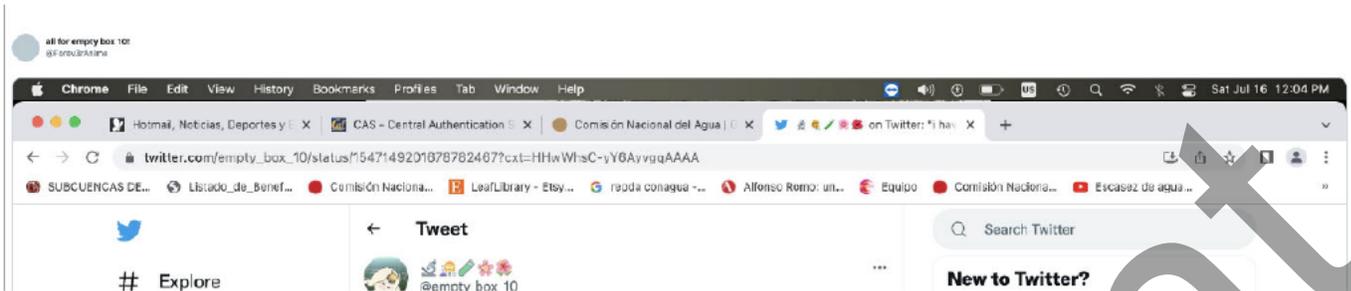
#### Attachment P

Attachment P includes screenshots from the Wayback Machine, a publicly accessible website. It shows that the Wayback Machine saved 31 distinct URLs with the URL prefix that existed for the Twitter account @Forev3rAnime. CRO above identified the tweets captured by the Wayback Machine that Complainant also submitted to CRO. Apart from those overlaps, the screenshots also show the following:

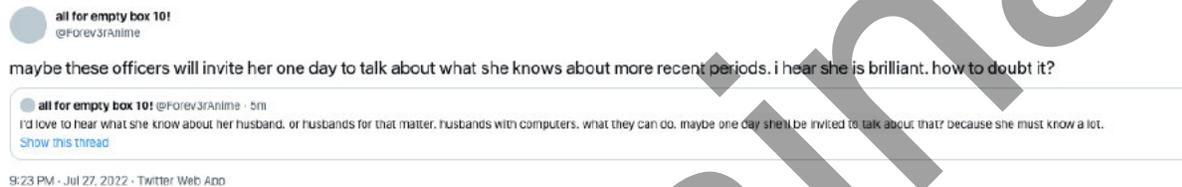
- A July 3, 2022 tweet asking “empty” if they are a communist, including photographs of various tweets, including the August 24, 2021 tweet by @outsideadgitator, which Respondent sent to CRO (see Attachment O).
- Multiple July 3, 2022 tweets suggesting that @empty\_box\_10 is “60 or so” but pretends to be “23, 27, nothing, a body without organs,” and someone who “can block, destroy, smear, lie, write books with the things you vampirize elsewhere.”
- A July 3, 2022 tweet stating, among other things, that “the whole administration works for him.”
- A July 3, 2022 tweet asking “empty” if his mother is a professor, if he is “close to 60 years old”, and if he is “a communist” or “a pervert.”
- A July 3, 2022 tweet showing that the person who took a screenshot of the accounts @empty\_box\_10 was following also had a tab open to a Mexican news website.
- Multiple July 16, 2022 tweets showing that whoever was taking screenshots of @empty\_box\_10 and posting on Twitter as @Forev3rAnime had the following Google Chrome bookmarks saved and Google Chrome tabs open, including, most notably, a tab for the CalNet Authentication Service, which is a website that only opens if one is trying to access a website with their CalNet ID (relevant portion included below):

---

<sup>24</sup> CRO notes that Witness One was, however, named and pictured in images included in the tweets.



- A July 27, 2022 tweet asking the Davis Police Department to follow the @empty\_box\_10 account and also the account of “[Twitter User 8] (toomuchistrue),” writing “I bet a much older man, smart but deeply sick, is in charge of them, and others.”
- An additional July 27, 2022 tweet referencing Witness One, not included among the tweets Complainant submitted to CRO:



Attachment Q

Attachment Q includes four screenshots submitted by Respondent to CRO on September 26, 2022. Respondent requested that these screenshots, among others, be included among the documentary evidence. She forwarded CRO the screenshots from an email that she had previously forwarded to herself, from her Hotmail account to her Gmail account.

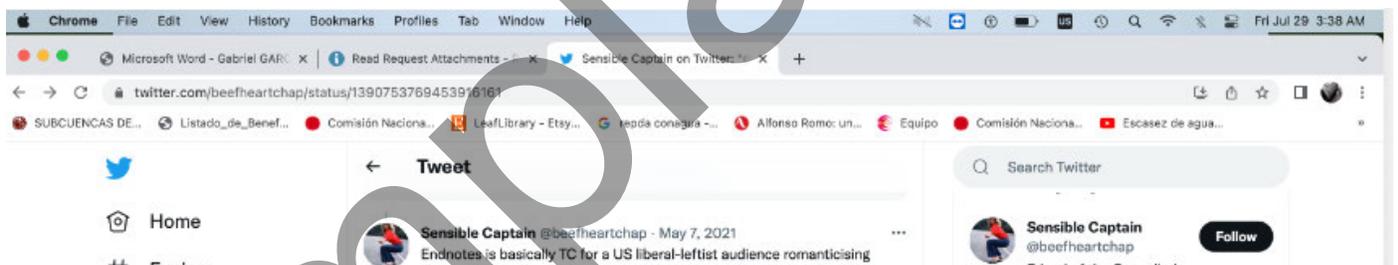
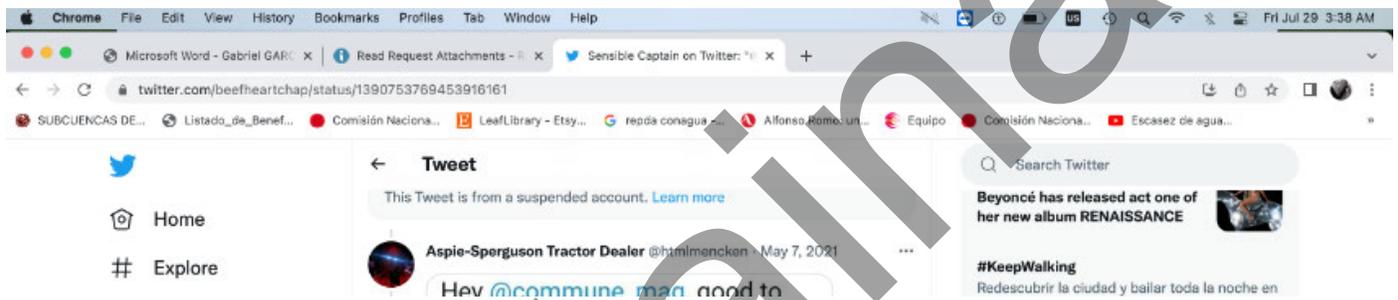
- All of the screenshots were taken by someone logged into the Twitter account @984days.
- A screenshot from December 2021 shows that the person taking the screenshot was also logged into Respondent’s Berkeley email (relevant portion of screenshot included below; Respondent’s name is redacted in the below but the full screenshot can be seen in Attachment Q). Respondent acknowledged in her response to the second Evidence Review that this screenshot can be connected to her. (See Attachment T.)



- A second screenshot from December 2021 shows that the person taking the screenshot had been “logged out” from a website that used their CalNet ID (relevant portion of screenshot included below). Respondent argued that this screenshot cannot be connected to her because no one could know whose account was being logged out. (See Attachment T.)



- Two screenshots from July 2022 show that the person taking the screenshots had the following Google Chrome bookmarks saved (relevant portions of screenshots included below). Respondent argued that these screenshots cannot be connected to her because no one could know her browser history. (See Attachment T (Respondent likely meant to write that no one could know which bookmarks she had saved).)



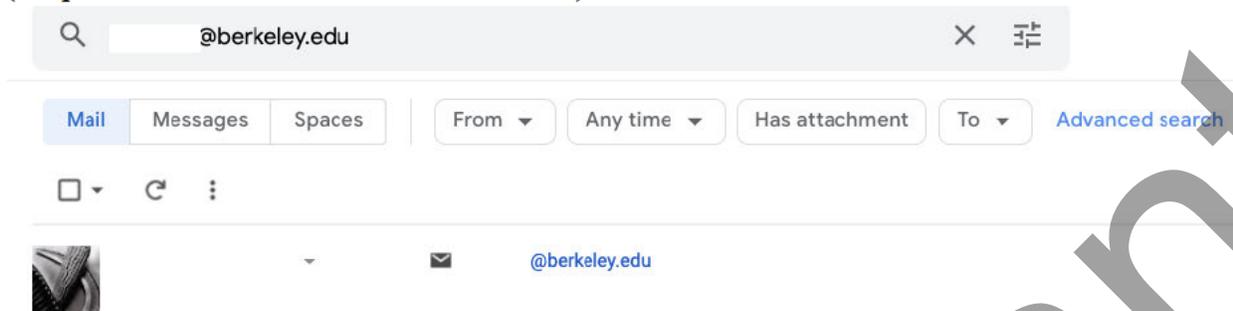
Note: The Google Chrome bookmarks seen in the above July 29 screenshots are the exact same bookmarks that can be seen in the July 16 screenshots included in Attachment P.

Note: The small image on the righthand side of the URL bar in all of the above screenshots is the image associated with the user's Google account profile. Users can change and customize the image associated with their Google account profile.

The one screenshot taken by the person who had "logged out" of their CalNet ID shows the default image when a person is using Google but not logged into any account.

The image shown in the other three screenshots is the same image that Respondent uses for her Berkeley.edu email account profile (n.b. Berkeley uses Google/Gmail as its email account manager). The fact that Respondent uses that image for her account profile is evident from the December 18 screenshot, in which she is clearly logged into her Berkeley.edu email, and it is

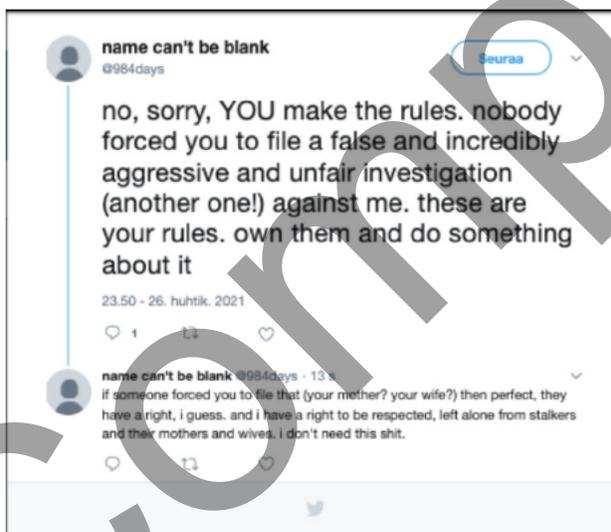
also evident when CRO searches for emails from Respondent's Berkeley email address (Respondent's name is redacted in the below):



### Attachment R

Attachment R includes screenshots showing results on the “Wayback Machine” for the Twitter account @984days. The Wayback Machine had 254 snapshots, all dated April through May 2021. In this attachment, CRO included screenshots of tweets that, on their face, appear to address Complainant (or the OPHD investigation that was initiated in April 2021) and/or be written in Complainant's “voice” (or, in some instances, the “voice” of Complainant's partner).

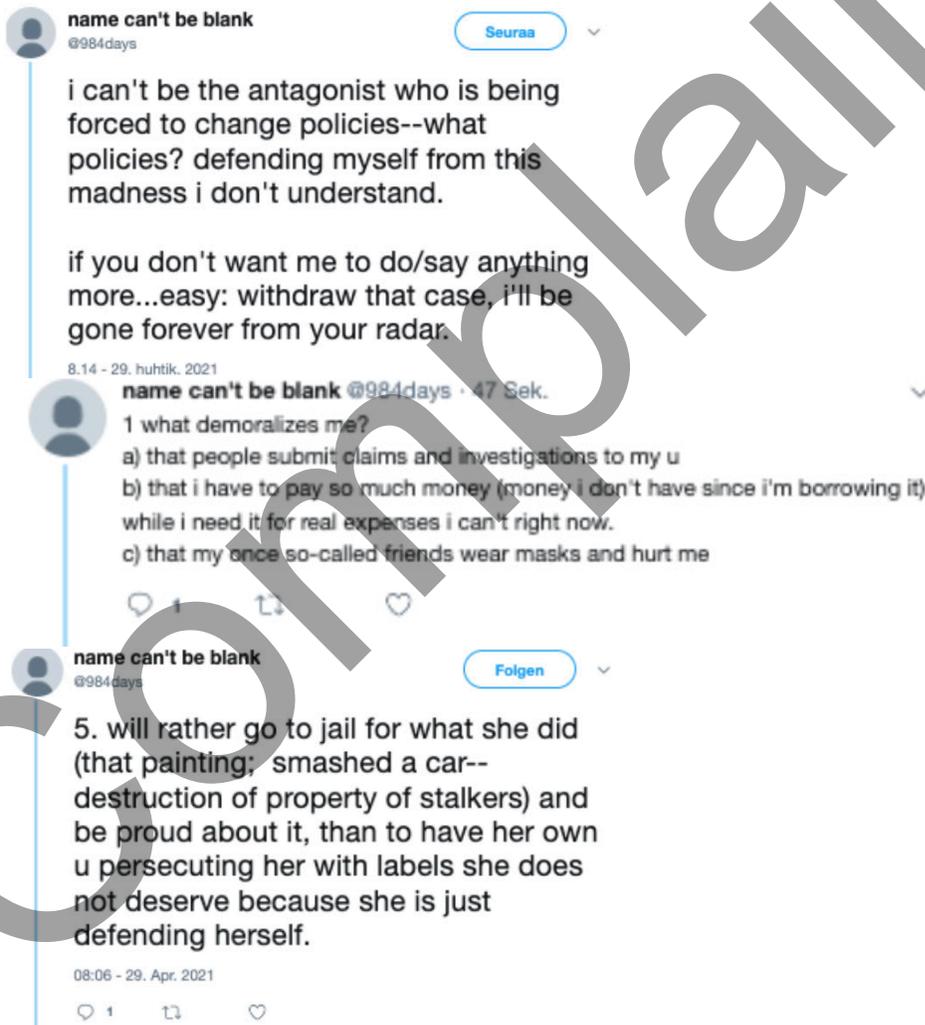
In her response to the second Evidence Review, Respondent questioned the relevance of this attachment and how CRO could know that Respondent wrote the tweets. She also questioned whether Complainant “or anyone else in the whole world besides [CRO] s[aw] these posts.” (Attachment T.) A small sample of tweets from Attachment R is included below, along with notes for context.



Note: The April 2021 investigation was the second OPHD investigation initiated into Complainant's allegations against Respondent, and it included allegations that Respondent had engaged in harassing conduct toward Complainant's mother.

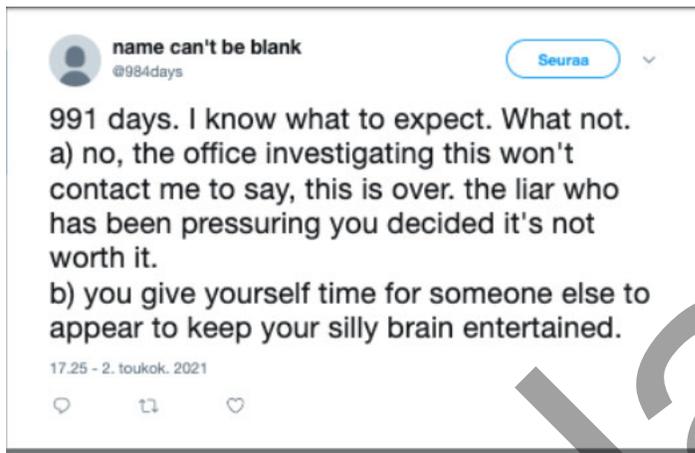


Note: Complainant is a professor and his last name is also a noun that denotes a green leaf.



Note: The first OPHD investigation involved allegations that Respondent painted/vandalized Respondent's apartment building and damaged/vandalized his car. (See Attachment S (Complainant's response to the second Evidence Review).)

Respondent has repeatedly asserted that the actions she took that led to OPHD's first investigation were all in an effort to defend herself. (See, e.g., Attachment L ("As I told [redacted] who conducted the first investigation against me[,] I was all along *defending myself* [...]") (emphasis in original); Attachment T ("[...] I took extreme actions only after UCB, UCD and the Albany Police Department refused to do anything to help me. I was defending myself against a predator and harasser [...]).)



Note: Respondent wrote in her response to the second Evidence Review that she believes Complainant has had access to all of her electronics and been "making references to all of this ever since August 15, 2018." (Attachment T.) There were 991 days between August 15, 2018, and May 2, 2021, the date of the above tweet (Toukok is Finnish for May).



**name can't be blank**

@984days

Follow

i don't want to face, again, an "investigator".  
i shouldn't because YOU are lying.  
if you make me do it...i'll do it and i'll think  
you are the worst coward that ever walked  
the earth, and i'll behave accordingly once  
i'm better.  
because you have no right.

10:45 PM - 4 May 2021

**name can't be blank** @984days · 21s

\*1. Dear U: please castigate this woman because she is trying to contact me via creating twitter accounts and etc. Please, make HER stop contacting me. I'm too "pure" and fragile to deal. A no-contact directive is in order so that I can continue reading all of her emails,



**name can't be blank** @984days · 21s

2. listen to all of her phone conversations, read all the documents she has on her computer (the ones i care for), see her and the people she deals with via zoom, use her phone as a surveillance device. In short, please a no-contact directive so that I can continue to monitor her



Note: The April 2021 OPHD investigation involved alleged violations of a No Contact Directive, including allegations that Respondent created a Twitter account to harass him.

**name can't be blank**  
@984days

Follow

message from the mother: "do not worry, boy, i have your back. feel like continue stalking and harassing and hiding behind skirts? do it. me and dozens of others support you."

9:23 AM - 10 May 2021

**name can't be blank**  
@984days

Follow

if this were a world rule by real leftist: you would be the one answering lots of questions from a committee, from the police, you would be the one whose job is in jeopardy, but no, this is the world made to work for white men: your world and because of that it's me the one

9:53 AM - 10 May 2021

1

**name can't be blank** @984days · 12s

has to answer questions. congratulations. nice mother day present that of course, should go to you.

1

Note: the OPHD investigation initiated in April 2021 included allegations made by Complainant's mother.



**name can't be blank** @984days · 4m

some people are just very nice and polite, sweet even, but don't cross the lines, because then... and my lines have been crossed multiple times. it's good i have to do this "publicly" otherwise i'd really tell you the nice things i think about your "cases" against me.

1



**name can't be blank**  
@984days

Follow

you'd really have to call for help. you'd start believing in the police.

8:28 PM - 12 May 2021

Note: Complainant has publicly (on Twitter and elsewhere) voiced his opposition to the police.



**name can't be blank**  
@984days

Follow

"offering classes of the following:  
1. how to talk /write as a 15-year-old when you are above 50.  
2. how to be so very white with the lols and the tho and the jams and the nobody:  
me:  
3. text abbreviations for starters  
4. how to attract enfeebled minds to your mentions"

11:01 PM - 12 May 2021



**name can't be blank**  
@984days

Follow

"my online life is so chill: i engage in a lot of sexting with boys and girls and it's exciting that my partner watches from her twitter corner...maybe her field of specialization makes her prone to obscure pleasures...we both are made for each other"

7:36 PM - 14 May 2021



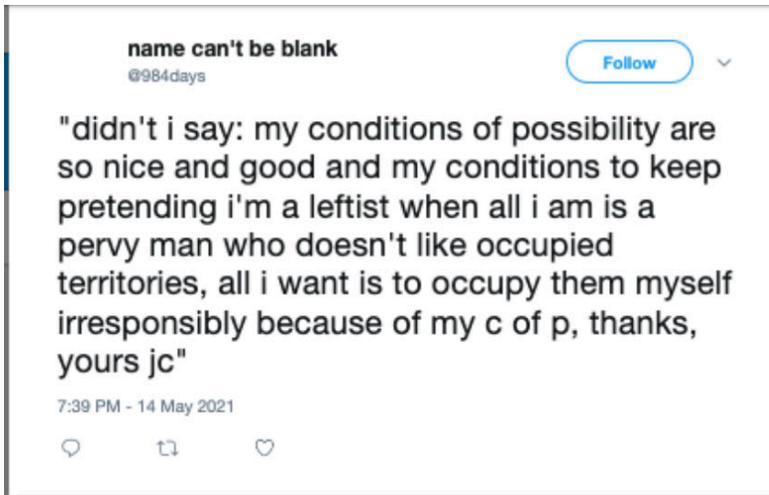
**name can't be blank**  
@984days

Follow

"but i don't follow her and she doesn't follow me because we're independent from each other and i love prowling and hacking and .... she seems to like it, so we're the best dialectical and expansive team ever"

7:37 PM - 14 May 2021

Note: Respondent has stated that she observed Complainant and Witness One do not follow each other on Twitter. (See Attachment N.)



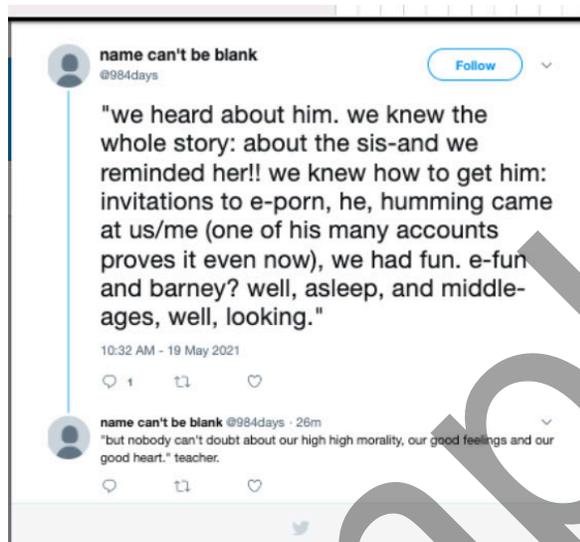
Note: This tweet, written in Complainant's "voice," is signed off with Complainant's initials.



Note: Respondent wrote in an email to CRO that she had tried to get "support" from Witness One in 2018, and was not successful. Respondent asserted to CRO that Complainant had "engaged in sexual innuendo and pretend sex" on Twitter, and that "this problem seems to be related to [Complainant's] tolerant wife." (Attachment M.)



Note: This tweet, written in the “voice” of Witness One, is signed with parts of the letters that comprise Witness One’s name – specifically, the first letter and last letter of her first name, followed by the first two letters and last letter of her last name.



Note: “hummin’, comin’ at ya” was the bio Complainant had on a former Twitter account. Respondent sent CRO a screenshot showing this Twitter account and bio in an email to CRO. (See Attachment M.)

## **IX. FINDINGS AND ANALYSIS**

In an investigation under the SVSH Policy, a Respondent cannot be found responsible unless, following a thorough and impartial investigation, the preponderance of the evidence 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, CRO must review all the evidence and determine whether the conduct more likely than not occurred as alleged in the Notice of Allegations. If CRO finds that the

conduct more likely than not did occur as alleged, then CRO analyzes whether that conduct violated University policy.

Please note: CRO'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. Analysis of Alleged Facts

### Credibility Analysis

This case includes a significant amount of documentary evidence and it largely speaks for itself. A credibility analysis, therefore, is not crucial to the factual analysis of the allegations. That said, given the nature of this case and the apparent ongoing patterns of behavior since 2018, CRO would be remiss to not include an explanation as to why she found Complainant's account credible and Respondent's account not credible.

Respondent's account and arguments changed throughout the investigation depending on what evidence she knew CRO to possess. Respondent's first response to the allegations (which was provided in writing because Respondent declined to engage in a live interview with CRO) was made prior to Respondent seeing the screenshots that Complainant had provided to support his allegations. This first response was a complete denial.

- Respondent denied knowing anything about the Twitter accounts mentioned in the Notice of Allegations.
- Respondent denied believing that @empty\_box\_10 belonged to Complainant and denied ever knowing such an account existed.
- Respondent denied creating "any" accounts or posting "anything about anyone."
- Respondent denied knowing Complainant's Twitter account or ever responding to it.

During this phase of the investigation, Respondent also suggested that someone else who dislikes Complainant could be behind the conduct alleged.

After Respondent received access to the first Evidence Review (and thus saw the screenshots Complainant had provided to support his allegations, as well as other gathered evidence), she changed her account entirely. Notably, the first Evidence Review included documentary evidence showing the following:

- Respondent had been aware of the Twitter account @empty\_box\_10, at least as of October 2021. (See Attachment L, letter written by Respondent.)
- Respondent believed that Complainant had access to and posted as @empty\_box\_10 on Twitter, at least as of October 2021. (See Attachment L, letter written by Respondent.)
- Respondent knew that the @redmaterialism Twitter account belonged to Complainant, at least as of October 2021. (See Attachment L, letter written by Respondent.)
- Respondent, apparently forgetting that she had earlier told CRO that she did not know Complainant's Twitter accounts, sent CRO an email on September 9, 2022 with a screenshot of an October 2021 reply from Twitter User 7 to something Complainant had posted as @redmaterialism, and a screenshot of Complainant's "other account," showing his Twitter bio. (See Attachment M, email with attachments from Respondent.)

The first Evidence Review also included information from Albany Police Officer, namely that he had talked with Respondent on July 27, 2022 – the same date @Forev3rAnime posted a tweet naming Albany Police Officer and suggesting that he “will get the reference.”

In Respondent’s written response to the first Evidence Review, she did not continue her earlier denials; instead, she argued that the screenshots provided by Complainant were “obviously manipulated in order to hide information” and suggested that Complainant “and his wife” “might have been [] the ones creating and posting [the tweets].” She expressed a belief that the tweets were manufactured in some way but that she did not know how (i.e. she did not know whether the screenshots were manipulated after being taken or whether they were entirely manufactured). She also argued that she did not think it was possible for Complainant or Witness One to have ever found the tweets since neither of them were tagged.

Respondent did not deny writing the October 2021 letter included in Attachment L, but she expressed anger that it was being used against her. She also did not outright deny calling the Albany Police Department on July 27, 2022, but rather argued that Albany Police Officer was “stupid” or perhaps “drugged or too tired” and “imagined” their conversation.

CRO notes that Albany Police Officer provided CRO the date of his conversation with Respondent without having any idea that it was the same date @Forev3rAnime posted a tweet that named him (and without knowing that the account @Forev3rAnime existed). Albany Police Officer had no reason to lie about the date on which he spoke with Respondent, and it is implausible that he would have coincidentally made up a conversation occurring on the exact same date as the tweet.

After Respondent got access to the second Evidence Review, she again changed her account. She acknowledged that the new evidence showed that the @Forev3ranime account had existed on Twitter (i.e. that Complainant hadn’t manufactured the screenshots), but she argued that it was still not possible to know who created the account or wrote the tweets. She also expressed suspicions about the timestamps of the posts in Attachment P not being “real time.”

In addition, Respondent argued that CRO could not connect her to the screenshots that Respondent had sent to CRO (except for one, which clearly showed Respondent was logged into her Berkeley.edu email), and that CRO could not connect the owner of the account @984days to the owner of the account @Forev3rAnime. She argued in the alternative that the @984days account could be operated by a “collective,” i.e. that others besides her could have access to it. She also argued that the tweets by @984days included in Attachment R are “random, strange posts to anyone who were to somehow encounter them,” and that unless someone (like CRO) knew what to look for, they would never find them.

CRO will address Respondent’s various arguments later in this analysis, but she includes them here to illustrate how Respondent’s shifting responses (from a denial of responsibility to a denial that responsibility could be proven) and various red herring arguments damaged Respondent’s credibility.

On the contrary, CRO found Complainant's account and Witness One's account credible. Reliable documentary evidence supported both of their accounts.<sup>25</sup> Complainant and Witness One both stated that Witness One first brought the tweets to Complainant's attention. Complainant expressed that he was not certain how Witness One first came across the tweets, which is plausible especially since Witness One herself could not recall how she first came across the tweets. CRO does not find it remarkable that Witness One, while being interviewed a month after the fact, could not remember exactly how she first came to see a given post on Twitter. Either way, how Witness One first came across the tweets is beside the point of this investigation, and so CRO does not consider Witness One's lack of certainty on this point significant.

*Did Respondent create and post on the @Forev3rAnime Twitter account, as alleged in the Notice of Allegations?*

As noted previously, Respondent offered several different accounts in response to the allegations. CRO will address each of them in turn.

With respect to Respondent's initial statement denying knowledge of any of the Twitter accounts and of Complainant's Twitter account (see Attachment K), the majority of Respondent's statements are demonstrably false. Respondent was aware of the account @empty\_box\_10, and Respondent did believe Complainant might have access to it or post on it. Respondent was also aware of Complainant's personal Twitter account @redmaterialism (as well as another account of his that is not at issue in this investigation). Respondent herself provided OPHD with the documentary evidence that demonstrated she was being dishonest with CRO. (See Attachment L and Attachment M.)

With respect to Respondent's suggestion that someone other than her who dislikes Complainant could have written the tweets, Respondent provided no plausible alternative. While she sent CRO screenshots showing that some people disliked Complainant, not a single screenshot conveyed anything remotely resembling the content of the @Forev3rAnime tweets. To be clear, Respondent presented no evidence that anyone other than her thinks Complainant is hacking them or that the police/FBI should investigate him. She presented no evidence that anyone other than her thinks Complainant is behind the Twitter account @toomuchistrue, or that anyone other than her is at all concerned with Complainant's "wife."

On the contrary, Respondent provided ample evidence to support finding her responsible for the tweets. Her own written communications show that she believes Complainant has hacked her (see, e.g., Attachment K, Attachment L, Attachment N), that she wants the police/FBI to investigate him (see, e.g., Attachment M), that she thinks Complainant is pretending to be someone else as @toomuchistrue on Twitter (see, e.g., Attachment K, Attachment L), and that she thinks Complainant's "wife" is complicit (see, e.g., Attachment M). In addition, Respondent offered no plausible explanation as to why someone other than her would have named Albany Police Officer in a tweet the same day that she spoke with him.

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<sup>25</sup> Respondent disputed the authenticity of various pieces of documentary evidence, but, as will be shown later in this analysis, her arguments lack merit.

As noted previously, Respondent shifted her response strategy after the first Evidence Review. At this point, Respondent began to assert that Complainant (or Witness One) “obviously manipulated” and “carefully disposed of” certain information from the tweets. (Attachment N.) Her primary evidence for this assertion is that some of the screenshots show the date of the tweets (see Attachment C and Attachment D), others show timestamps and dates (see Attachment G), and others show relative time (see Attachment F, Attachment H, Attachment I, Attachment J). But nothing about any of that is unexpected or remarkable; Twitter displays tweets in all of those formats by default. Twitter displays relative time, e.g. “1m [1 minute]” or “23h [23 hours]” for more recently posted tweets, and Twitter displays the date of older tweets. Twitter will also display a full date and timestamp on any Tweet if you click on it. All of the above is easily verified by going on Twitter.com and looking or clicking around. The screenshots Complainant provided entirely correspond with how Twitter displays time: Attachment C and Attachment D show dates of early or mid-July; these screenshots were taken weeks later, on July 27, 2022,<sup>26</sup> and so, as expected, only the date is displayed on those tweets. Attachment G shows the reply to a Tweet – replies are only visible if you click on the originating tweet, and so, as expected, the timestamp and date are visible for the originating tweet. Likewise, the relative time displayed on the July 27 tweets also makes sense; the screenshots were all taken within the same day.

In her response to the first Evidence Review, Respondent also suggested that Complainant must have written the tweets himself, arguing that it would otherwise be “impossible” for him to have taken screenshots of some of the tweets so quickly after they were posted. She emphasized that the relative time of one screenshot was a mere 7 seconds. But taking a screenshot takes less than a second; the fact that some of the screenshots were taken within a minute or several minutes of posting is not remarkable. Despite Respondent’s comments that this is “quite a feat!” and that it would be “impossible” for Complainant and Witness One to have “had access to these posts in real time” unless they were “the ones creating and posting them” (Attachment N), nothing is remarkable about this whatsoever. The ability to transmit and have access to tweets in real-time is a major part of Twitter’s functionality and appeal. For example, people frequently “live-tweet” events – the whole point is that people can follow along and communally partake in a “real-time” conversation about a live event. Far from being “impossible,” anyone looking at the Twitter page of an account that is actively tweeting could take screenshots of new tweets as they are posted, and that is exactly what Complainant said he did on July 27, 2022, when he became aware of the account. In addition, the only tweet that was captured in a screenshot in less than a minute (7 seconds) was a screenshot of a reply to one of Complainant’s own tweets, and so he would have been alerted instantaneously when it was posted. (See Attachment I.)

The Wayback Machine disproved Respondent’s suggestion that Complainant manufactured fake Twitter screenshots,<sup>27</sup> and also provided significant evidence undermining Respondent’s theory

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<sup>26</sup> CRO is not just taking Complainant’s word; when he submitted his initial report to OPHD (Attachment A), he sent the screenshots as individual file attachments, and CRO checked the date each of the files was created.

<sup>27</sup> Respondent made much of the fact that the timestamps of the tweets archived on the Wayback Machine are not “real time,” but timestamps necessarily appear different depending on the time

that Complainant and/or Witness One wrote the tweets to set her up. Specifically, the Wayback Machine showed that the @Forev3rAnime account made additional tweets referencing Complainant and Witness One that Complainant did not submit to CRO. If Complainant had written tweets for the purpose of sending them to OPHD and framing Respondent, then he would have sent in all of the tweets he “wrote” to frame Respondent, not just some of them. In addition, multiple July 16, 2022 tweets show that whoever was posting on Twitter as @Forev3rAnime had open a tab for the CalNet Authentication Service, which is a website that only opens if one is trying to use their CalNet ID (which is a Berkeley-specific authentication tool) to go on a website. This evidence proves that Complainant and Witness One are not behind the account. Unlike Respondent, who is a UC Berkeley faculty member, neither Complainant nor Witness One would have a CalNet ID.

Even without the supporting evidence from the Wayback Machine, the documentary evidence that Complainant provided undercuts Respondent’s theory that Complainant manipulated the screenshots. Complainant numbered the screenshots that he sent to OPHD. Attachment B, which Complainant labeled #01, shows that @Forev3rAnime follows just four other accounts. Attachment E, which he labeled #03, shows that @Forev3rAnime follows at least 15 accounts. If, as Respondent theorized in her response to the first Evidence Review, Complainant was behind the account and/or manipulated screenshots for the purpose of sending OPHD a false report, and if, as Respondent has repeatedly asserted for years, Complainant is exceptionally technologically savvy and “brilliant” at hiding his “crimes,”<sup>28</sup> then he certainly would not have created and sent in screenshots with such an obvious discrepancy. The far more likely explanation is that while @Forev3rAnime was actively tweeting on July 27, and while Complainant was taking screenshots, @Forev3rAnime was also actively following or perhaps unfollowing accounts.

Finally, the Wayback Machine provided significant evidence that supports finding that Respondent, specifically, is the one responsible for the @Forev3rAnime tweets. (See Attachment P.) In addition to the CalNet ID clue, a July 3, 2022 tweet by @Forev3rAnime shows that whoever took the screenshot @Forev3rAnime posted also had a tab open to a Mexican news website – by Respondent’s own account, she is Mexican-American and has been living in Mexico while on leave from UCB. Most compelling, however, is the fact that @Forev3rAnime’s July 16, 2022 tweets include screenshots that show the entire Google Chrome bookmarks bar of whoever took the screenshots. The bookmarks bar consists almost entirely of Spanish-language websites, and the exact same bookmarks are seen in the two July 2022 full-screen screenshots that Respondent directly sent to CRO. (See Attachment Q.)

The four screenshots included in Attachment Q were sent by Respondent to CRO directly, and they show that whoever took the screenshots was logged into the account @984days on Twitter.

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zone of the viewer. As CRO explained to both parties in the summary document she included with the second Evidence Review, the Wayback Machine uses automated crawlers (a type of bot) to automatically create snapshots of the way a particular webpage looks at the moment in time the bot “crawled” the webpage. The time zone of any given bot very well could be different from Respondent’s time zone or Complainant’s time zone.

<sup>28</sup> See, e.g., Attachment L, Attachment T.

Respondent acknowledged that CRO could prove that Respondent took one of the screenshots (since it showed her logged into her Berkeley.edu email) but she argued that CRO could not connect the other three screenshots to her. (See Attachment T.) CRO can, however, connect the other screenshots to Respondent.

As explained and illustrated previously, one screenshot shows Respondent logged into her Berkeley.edu email and @984days on Twitter at the same time, another shows that whoever was logged into @984days has a CalNet ID (like Respondent), and the other two show that whoever is logged into @984days has the same Google account profile picture as Respondent. This evidence is sufficient to show that Respondent more likely than not is the one who took all of the screenshots and that she is behind the @984days Twitter account. And because the Google Chrome bookmarks bar of the person logged into @984days in July 2022 is identical to the Google Chrome bookmarks bar of the person logged into @Forev3rAnime in July 2022, Respondent inadvertently provided extremely compelling evidence that she is behind the @Forev3rAnime Twitter account, and that she wrote all of the tweets cited in the Notice of Allegations.

Given all of the above, CRO finds that Respondent more likely than not wrote all of the @Forev3rAnime tweets cited in the Notice of Allegations.

#### **X. ANALYSIS UNDER THE SVSH POLICY**

The Notice of Allegations stated that if the allegations were true, they could constitute a violation of the SVSH Policy under Section II.B.3.d., “Other Prohibited Behavior (failing to comply with the terms of a no-contact order).”

The November 12, 2020 No Contact Directive prohibits Respondent from having any type of communication with Complainant, including indirect communication. The No Contact Directive explicitly states that Respondent is not to have contact with, connect, or communicate with Complainant or anyone Respondent believes to be Complainant, by any means or media, directly or indirectly, or via a third party.

Months before these allegations came to light, Respondent put in writing her belief that Complainant has access to or posts as @empty\_box\_10. As discussed above, the preponderance of the evidence shows that Respondent used the account @Forev3rAnime, and with that account, she directly tweeted at and about @empty\_box\_10. Regardless of who runs the @empty\_box\_10 Twitter account, Respondent directly communicated with the account because she believed it was Complainant, and that is in clear violation of the No Contact Directive.

In addition, Respondent wrote tweets as @Forev3rAnime that directly referenced Witness One, whom Respondent believed to be Complainant’s “wife” (and who is actually Complainant’s long-term partner), including photographs of Witness One’s face and Witness One’s full name. The tweets tagged various law enforcement agencies, saying that they should talk to Witness One about “her husband” and his “illegal, unlawful use of computers and phones.” The tweets show that Respondent must have been monitoring for Witness One on Twitter, as the photographs included in the tweets are all screenshots of prior tweets that named Witness One.

Although there was not a No Contact Directive in place between Respondent and Witness One at the time of this conduct, all of the above is indirect communication via a third party, which is also in violation of the No Contact Directive at issue.

Respondent's argument that Complainant or Witness One could not have come across tweets that do not tag them is a red herring. Obviously, they did find the @Forev3rAnime tweets; how they found them is beside the point.<sup>29</sup> Regardless of how the tweets came to Complainant's attention, the tweets did exist and, on their face, the purpose of the tweets was to communicate to and about Complainant, and attempt to get law enforcement to engage Complainant and Witness One, all of which violates the No Contact Directive's prohibition on communication and the No Contact Directive's prohibition on any form of retaliation, "including threats, intimidation, and reprisals." In addition, without commenting on the plausibility of Respondent's claim that Complainant has access to all of her electronic devices and accounts, Respondent's own belief that Complainant can see and read everything she types means that she necessarily believed that Complainant could see her tweets and that she was thus communicating with him (in violation of the No Contact Directive).

CRO notes that Attachment R also shows many violations of the No Contact Directive. These tweets were not part of the August 3, 2022 Notice of Allegations, and they likely would never have come to CRO's attention if not for documentary evidence that Respondent herself submitted. Respondent argued that Attachment R should not have been included as evidence in this investigation because @984days was not mentioned in the Notice of Allegations. It is true that @984days was not mentioned in the Notice of Allegations, and CRO did not include Attachment R in this investigation for the purpose of making any additional findings. CRO included Attachment R because it contains evidence that is related to the alleged conduct at issue

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<sup>29</sup> Nonetheless, CRO notes that Respondent's argument that Witness One and Complainant could not have possibly found tweets from an account they don't follow unless they were tagged is not compelling. A person's Twitter timeline can include many tweets by accounts that the person does not follow. Twitter populates people's timelines with suggested tweets that their algorithm assesses the user "might like," "promoted" content, popular Twitter activity, and sometimes seemingly random content parsed into different "topic" areas. (See, e.g., <https://blog.hootsuite.com/twitter-algorithm/#:~:text=Twitter%20uses%20an%20algorithm%20to,not%20interested%20in%20a%20Topic.>)

The tweets Complainant provided (Attachments B-I) and the tweets on the Wayback Machine (Attachment P) do not show that Witness One was tagged by @Forev3rAnime, but that is not dispositive as it is possible that Witness One was tagged at some point and the tag was removed. In any case, the tweets that first came to Witness One's attention were tweets that included images of Witness One, including Witness One's full name, parts of her academic biography, and a photograph that she uses professionally and publicly. All of the images in these particular @Forev3rAnime tweets are screenshots of prior tweets by other Twitter users that are easily found when one searches Witness One's name on Twitter. While Twitter's algorithm is not public knowledge, given the content of these particular @Forev3rAnime tweets, CRO finds it plausible that the algorithm could have included them in Witness One's timeline.

in this investigation. The tweets in Attachment R show a pattern of behavior of which the @Forev3rAnime tweets are an extension.

Respondent's argument that CRO cannot know whether @984days is managed by her alone or by a collective is a distraction; even if others had access to that account, the sampling of tweets included in the above Summary of Relevant Documentary Evidence, Attachment R, leaves little to no room for questioning who wrote them and whom they are referencing. Attachment R shows that Respondent, more likely than not, used the account in Spring 2021 to convey threats and demands to Complainant about the OPHD investigation that was ongoing at that time.

Respondent also argued that Attachment R should be excluded because, according to Respondent, unless someone (like CRO) knew what to look for, they would never find those tweets. Again, without commenting on the plausibility of Respondent's claim that Complainant has access to all of Respondent's electronic devices and accounts, Respondent's belief that Complainant has access to everything she types necessarily means that she believed Complainant could see her tweets and that she was thus communicating with him (in violation of the No Contact Directive).

The No Contact Directive does not necessarily require that Complainant ever actually come across Respondent's communications to him. The No Contact Directive states that Respondent is prohibited from communicating with Complainant directly and indirectly and communicating with anyone she "believes to be" Complainant. Given Respondent's repeatedly asserted belief that Complainant has hacked her electronics and monitors her devices, all of the messages that she claims to be sending to him by dint of texting herself, writing in Word documents, etc., is prohibited conduct under the No Contact Directive.

In this case, Complainant obviously did come across Respondent's attempts to communicate with him on Twitter and her attempts to engage law enforcement against him and Witness One. And for all of the reasons previously stated, CRO finds that Respondent's conduct more likely than not violated the No Contact Directive, and that this conduct constitutes a violation of the SVSH Policy.

## **XI. CONCLUSION**

For the reasons stated above, CRO finds that the preponderance of evidence supports finding that Respondent violated the No Contact Directive as alleged in the Notice of Allegations. Accordingly, CRO determines that the allegation Respondent violated the SVSH Policy is **SUBSTANTIATED.**