

UC Riverside Student Adjudication Procedures in Sexual Violence, Stalking and Sexual Harassment Cases

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I. Preface

UC Riverside is committed to student disciplinary procedures that emphasize education, personal growth, accountability, and ethical behavior. These procedures are necessary to uphold standards of responsible conduct that protect the welfare of the University community and to ensure that all of our students (and faculty, staff and visitors) can live, study and work in a supportive campus environment free of sexual violence and sexual harassment. In order to uphold the University’s mission, UCR uses formal fact-finding procedures that are designed to provide a prompt, fair, and impartial resolution of allegations.

Consistent with its legal obligations under Title IX, the Violence Against Women Reauthorization Act and related federal regulations and state laws, UC Riverside will respond promptly and effectively to reports of sexual violence and sexual harassment, and this University takes appropriate action to prevent, to correct, and when necessary, to discipline behavior that violates the University’s policy on Sexual Violence and Sexual Harassment (“SVSH”).

The following describes UCR’s procedures for resolving complaints of sexual violence and sexual harassment **where the parties are students**, including the discipline of students found in violation of University policy. In places where these *UCR Student Adjudication Procedures* may not be identical to the *UCR Administration of Standards of Conduct*¹, such as timelines and other procedural details, it is

¹ <http://conduct.ucr.edu/policies/administrationofstandards.html>

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this *Student Adjudication Procedures* document that shall be controlling with respect to how sexual violence, stalking and sexual harassment cases are handled at UCR. In cases of conflict between this document and the *UC Policy on Sexual Violence and Sexual Harassment*, the latter shall prevail.

II. Resources

UCR encourages students to make a **formal complaint to the Title IX Office** (349 Surge Building, (951) 827-7070, <http://titleix.ucr.edu/>), which is the office designated to receive and respond to SVSH allegations and to conduct SVSH investigations.² At the same time it is important for each UCR student to have a confidential “safe space” to talk through and weigh her/his options before choosing to formally report any potential violation of the SVSH policy. Accordingly, **UCR provides confidential campus resources** to students, including specifically to students who are survivors of SVSH, stalking and domestic/intimate partner violence. The CARE (Campus Advocacy Resources & Education) advocate provides confidential and privileged resources in sexual violence/assault cases. UCR also provides services and advice to those accused of violating the *UC SVSH Policy*. In addition, all students (including survivors, friends, witnesses, respondents, etc.) can seek confidential advice from the University Ombudsman and services from Counseling and Psychological Services. The following offices can provide confidential advice and/or counseling, and are obliged not to breach that confidentiality unless there is a threat of serious harm to the individual/others or a legal reporting obligation to an outside agency such as the suspected abuse of a minor or elder abuse.

<p><i>For Survivors (Victims):</i> CARE Advocate Naddia Pallacios (951) 827-6225 naddia.palacios@ucr.edu http://advocacy.ucr.edu/</p>	<p><i>For Respondents Accused of SVSH:</i> Student Affairs Case Management HUB room 381, (951) 827-6095 http://sexualviolence.ucr.edu/accused</p>
<p>Confidential Resources at UCR</p>	
<p><i>For All Students:</i> University Ombudsman Andrew Larratt-Smith 951-827-3213 andrew.larratt-smith@ucr.edu http://ombudsperson.ucr.edu/</p>	<p><i>For All Students:</i> UCR Counseling and Psychological Services (CAPS) 951-UCR-TALK (24/7) http://counseling.ucr.edu/</p>

² Students are also encouraged, if they so choose, to report an incident of sexual assault to the UCR Police Department, 3500 Canyon Crest Drive, (951) 827-5222 (call 911 for an emergency), <http://police.ucr.edu/>.

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III. Reporting Sexual Violence, Stalking and Sexual Harassment

Full details about University reporting procedures are contained within the *UC SVSH Policy* and the companion *UCR SVSH Procedures*. Below are key points applicable to the student adjudication context:

- A. UCR will consider any alleged victim of sexual violence or sexual harassment a “complainant” whether or not she or he makes a report or participates in the investigation and resolution process.
- B. The university recognizes that some complainants do not wish to participate in an investigation, or do not want their name to be used as part of an investigation. UCR will strive to honor the stated wishes of the complainant concerning whether to move forward with an investigation. There may be circumstances, however, in which the University may need to move forward against the complainant’s wishes, or in which the University may determine that an investigation will not occur despite the complainant’s wish to pursue an investigation.
- C. Throughout the resolution process, UCR will offer and provide support services for complainants through the CARE office, and for respondents through the Respondent Services Coordinator (Student Affairs Case Management).
- D. UCR will also consider and take timely interim measures as appropriate to ensure the safety, well-being, and equal access to University programs and activities of its students. Interim measures include, but are not limited to, the following: no contact orders; housing assistance; academic support and accommodations; and counseling. UCR may place the respondent on an Interim Suspension as appropriate and consistent with section 105.08 of the *Policies Applying to Campus Activities, Organizations and Students (PACAOS)* (<http://policy.ucop.edu/doc/2710530/PACAOS-100>). For additional questions about interim measures, contact the CARE Advocate or the Title IX office (contact info above on page 2).
- E. At all stages of the process, the complainant and respondent have the right to an advisor and/or a support person of their choosing. UCR applies these definitions and rules:
 - An advisor (which may be legal counsel) may assist the complainant or respondent, however, individuals are expected to speak for themselves. The role of the advisor may be expanded as necessary at the discretion of the University.
 - A support person provides emotional support but does not take an active role in the process.
 - While there is no limit as to the number of advisors and support persons a party may have, only one advisor and one support person may attend any formal meeting, including the meeting with the Title IX investigator, meeting with Student Conduct, and the formal appeal hearing.
- F. Neither the complainant nor the respondent is required to participate in the resolution process. UCR will not draw any adverse inferences from a complainant’s or respondent’s decision not to participate or to remain silent during the process. An investigator, decision-maker, or Appeal Panel will reach findings and conclusions based on the information available,

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- meaning that choosing not to participate can be a consequential decision. An investigator, decision-maker, or Appeal Panel may draw adverse inferences when a student selectively participates in the process, such as choosing to answer some but not all questions posed.
- G. UCR’s Case Management Team (CMT) will track all stages of the resolution process – from receipt of the report through the investigation and, if applicable, the UCR student discipline process.
 - H. All UCR officials involved in the resolution process will be trained to carry out their roles in an impartial manner in keeping with trauma-informed practices.
 - I. The standard of proof at all stages of the process is preponderance of the evidence.
 - J. **UCR will complete the process, including all appeals, within 120 business days from the date of Title IX’s receipt of a report.** This deadline and all deadlines contained herein may be extended for good cause shown and with appropriate documentation. The complainant and respondent will be notified in writing of any extension. Non-participation (continuous or intermittent) by a respondent/complainant or unilateral requests for delay by one party ordinarily will not meet the “good cause” threshold for an extension. An extension request should be directed to the Title IX investigator prior to an appeal and within the hearing stage the request should be directed to the Hearing Coordinator.

In “mixed” cases involving one or more SHSV/Stalking allegations against a student and also one or more unrelated allegations against the same student (e.g., plagiarism, theft), the two sets of procedures shall merge at the appeal stage described below in Section VI so that one panel views all allegations and findings and makes a holistic determination of possible sanctions.

IV. Investigation of SVSH and Stalking Allegations

Full details about University investigation procedures are contained within the *UC SVSH Policy* and the companion *UCR SVSH Procedures*. Below are key points applicable to the student adjudication context:

- A. Upon receipt of a report of or information about alleged sexual violence, sexual harassment and/or stalking, the UCR Title IX Officer will determine, consistent with the *UC SVSH Policy*, whether an investigation should be initiated.
- B. If an investigation will not be conducted, the Title IX Officer will notify the complainant in writing and explain the rationale for the determination.
- C. **If an investigation will be conducted, the Title IX Officer and Student Conduct office will jointly send written notice of the charges to the complainant and respondent.** The written notice will include:
 - ✓ A summary of the allegations and potential policy violations;
 - ✓ The purpose of the investigation;
 - ✓ A statement that the investigative report, when issued, will make factual findings and a recommendation regarding whether there has been a violation of University policy;

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- ✓ A statement that the findings and recommendation will be based on a preponderance of the evidence standard;
 - ✓ A summary of the process, including the expected timeline; and
 - ✓ A summary of the rights of the complainant and respondent.
- D. The Title IX Officer will oversee the investigation and will designate an investigator to conduct a fair, thorough, and impartial investigation.
- E. During the investigation, the complainant and respondent will be provided an equal opportunity to meet with the investigator, submit information, and identify witnesses who may have relevant information.
- F. The investigator will meet separately with the complainant, respondent, and third party witnesses who may have relevant information, and will gather other available and relevant evidence and information. The investigator may follow up with the complainant or the respondent as needed to clarify any inconsistencies or new information gathered during the course of the investigation. Typically the investigator will meet with the complainant and the respondent at least twice, though this is not a requirement.
- G. The investigator may determine the relevance of any witness or other evidence to the findings and may exclude certain types of evidence or information that is irrelevant or immaterial.
- H. When a law enforcement agency is conducting its own investigation, the investigator should coordinate his or her fact-finding efforts with the law enforcement investigation. At the request of law enforcement, the investigation may be delayed as needed to meet any specific needs of the criminal investigation. Such a delay may be cause for extending the timelines to complete the process and delay will be communicated and documented—but typically waiting for a police investigation should not be the cause of inordinate delay in the UCR campus adjudication process.
- I. The investigator will prepare a written report that includes a statement of the allegations and issues, the positions of the parties, a summary of the evidence, findings of fact, and a recommendation regarding whether there are any policy violations. This written report shall use the preponderance of evidence standard. If the complainant or respondent offered witnesses or other evidence that was not considered by the investigator, the investigation report will include an explanation why it was not considered.
- J. The investigation file must be retained and made available to the parties on request *after the investigation has been completed*, and may be redacted as necessary to protect student privacy rights. Any limited exceptions to this practice of making the file available to a party would have to be approved by the Chief Compliance Officer based on a compelling reason.

V. Determination of Responsibility and Sanctions

- A. Upon completion of the UCR Title IX Investigation, the Title IX Officer and Student Conduct office will jointly send to the complainant and the respondent (a) written notice of the

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investigation findings and the investigator’s recommended determinations, and (b) will provide a copy of the investigation report. The investigation report may be redacted if necessary to protect student privacy rights.

B. UCR’s written notice of the findings and recommended determinations will include:

a.	A statement of the factual findings and recommendations regarding whether the charge(s) have been substantiated, including whether policies have been violated;
b.	An admonition against intimidation or retaliation;
c.	An explanation of any interim measures that will remain in place;
d.	A statement of the right to appeal that will be explained further in the notice of decision;
e.	A statement that the Student Conduct office will determine whether the charges have been substantiated and policies have been violated and, if so, assess the disciplinary sanctions and inform the complainant and respondent of the sanctions within ten (10) business days of the notice of findings; and
f.	A statement that the complainant and/or respondent may schedule a meeting with the Student Conduct office and/or submit a statement in writing to be heard on the question of the findings of any policy violations and the discipline prior to the decision and the imposition of sanctions.

C. If the UCR Student Conduct office determines that disciplinary sanctions are appropriate, the sanctions will be determined in accordance with the UC sanctioning guidelines that are included in Appendix B and summarized below:

Sanction Type/Range	Nature of Conduct
Minimum of 2-year suspension up to Dismissal	Disciplinary sanctions for sexual assault, domestic/dating violence, or stalking in which one or more of the following factors are present <ul style="list-style-type: none"> ✓ force, violence, menace, or duress; ✓ deliberately causing a person to become incapacitated or deliberately taking advantage of a person’s incapacitation; or ✓ recording, photographing, transmitting, viewing, or distributing intimate or sexual images without consent.
Minimum of 2-year suspension up to Dismissal	Disciplinary sanctions for sexual assault involving penetration, domestic/dating violence, or stalking (absent exceptional circumstances)
Minimum of 1-year suspension	Disciplinary sanctions for other sexual contact in violation of policy (absent exceptional circumstances)

D. The UCR Student Conduct office may consult with the Title IX office at any point in the decision-making process.

E. Within ten (10) business days of the notice of findings and recommended determinations, the UCR Student Conduct office will send written notice to the complainant and respondent setting forth the decision on whether the charges have been substantiated and any policies have been violated, and any sanctions to be imposed. The written notice will include the following:

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a.	A description of the determinations on whether the charges have been substantiated and any policies have been violated, and if so, a description of the sanctions;
b.	The rationale for the determinations ³ and the sanctions;
c.	A statement of the right to appeal , the procedure that will be followed in hearing the appeal, the grounds upon which the appeal may be based, and the office to which the appeal may be submitted; and
d.	An explanation that both the complainant and respondent will receive a copy of any appeal prior to a hearing. The Title IX investigation and the Student Conduct office’s determination of responsibility and sanctions will be completed within 60 business days from Title IX’s receipt of a report absent an extension for good cause.

VI. *Appeal Process and Appeal Hearings*

- A. At UCR the complainant and respondent may contest the decision and/or the sanctions by submitting an appeal. Both parties have equal appellate rights. The appeal should identify the reason(s) why the party is challenging the outcome under one or more of the following grounds:

Grounds for Appealing the Decision and/or Sanctions	
1.	There was procedural error in the process that materially affected the outcome (i.e., not “harmless error”), such as the investigation was not fair, thorough or impartial;
2.	The decision was unreasonable based on the evidence;
3.	There is new, material information that was unknown and/or unavailable at the time the decision was made that should affect the outcome;
4.	The disciplinary sanctions were disproportionate to the findings;

- B. **An appeal must be submitted in writing to the designated UCR official – the Hearing Coordinator (appointed by the Dean of Students’ office) – within ten (10) business days** following written notice of the decision and disciplinary sanctions. The appeal must identify the grounds for appealing and contain a brief statement of the reasons supporting each ground for appeal. The other party may submit an *opposition* to the appeal within five (5) business days of the Hearing Coordinator noticing her/him of the appeal (if this timeline is not met, Step F.1.B provides an opportunity to provide material for the appeal), but is not required to do so. The decision not to respond will *not* be considered as evidence of agreement with the filed appeal. It is also possible for both parties to submit appeals

³ If the UCR Student Conduct office adopts the investigator’s recommended determinations, the notice may incorporate the investigation report by reference as the rationale for the decision. If the determinations differ from the investigator’s recommendations, then the notice will explain the rationale for that decision.

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- concurrently in the same case (in which case additional “opposition” briefing should occur at Step F.1.B, below).
- C. If an appeal is submitted, any disciplinary sanctions at UCR ordinarily will not be imposed until the appeal process is completed. Interim measures, such as interim suspensions, no contact orders, academic accommodations, etc. will remain in effect during the appeal process.
 - D. **Appeals at UCR will be decided at a hearing before an Appeal Panel that will typically be composed of three University appointees. Each Appeal Panel will be appropriately trained, including in trauma-informed procedures. Typically the Appeal Panel will consist of two voting members. The Hearing Coordinator (appointed by the Dean of Students’ office) will serve as a third *ex officio* non-voting member**, providing assistance to the Appeal Panel and ensuring internal consistency across cases/Appeal Panels. In the subset of cases where the two voting members are split, the Hearing Coordinator is authorized to cast a tie-breaking vote.
 - E. The UCR Appeal Panel will review the information and decide whether it contains sufficient information concerning the grounds for appeal and the reasons related to those grounds. The purpose of this review is not to decide the merits of the appeal, but to identify the nature and scope of the issues to be addressed in the hearing. If the written appeal is defective or incomplete, the appealing party should be given an opportunity to correct and resubmit the appeal. The appealing party and University officials have an obligation to respond to the Appeal Panel’s requests regarding the record such that corrections to the record occur within the overall time frames outlined in this document. **Incurable defects, significant incompleteness and/or lack of appropriate responsiveness by the appealing party at this stage are all grounds for the Hearing Panel to reject an appeal** on the basis of the existing written record.
 - F. Conducting the Appeal Hearing
 - 1. UCR Pre-Hearing Procedures
 - a. Not less than ten (10) business days before the appeal hearing, the Hearing Coordinator will send written notice to the complainant and respondent of the hearing date, time, location and procedures. The notice will include a copy of the appeal(s) to be considered at the hearing.
 - b. Prior to the hearing, the complainant and respondent will submit to the Appeal Panel the information they intend to present at the appeal, including all documents to be presented, the names of all witnesses, and a brief summary of all witnesses’ expected testimony.
 - c. At least two days prior to the appeal hearing, the complainant and respondent will receive copies (electronic or paper) of all the information that will be considered at the appeal hearing, including the names of

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- potential witnesses and a summary of the information they are expected to provide.
- d. Prior to the appeal hearing and/or during the hearing, the Appeal Panel may:
 - i. Exclude information and/or witness testimony that is irrelevant in light of the grounds for appeal, not in dispute, or unduly repetitive.
 - ii. Decide any procedural issues for the appeal hearing.
 - iii. Make any other determinations necessary to ensure an orderly, productive, and procedurally proper appeal hearing.
2. UCR Appeal Hearing Procedures:
- a. The Title IX investigator will be present at the appeal hearing. The Appeal Panel may question the investigator, the complainant, and/or the respondent. The investigation report and any supporting documents or materials will be entered as evidence at the appeal hearing.
 - b. The Appeal Panel may allow the complainant, respondent, and/or witnesses to be visually or physically separated during the appeal hearing. This may include, but is not limited to, the use of a physical partition/screen, a separate physical location, videoconference and/or any other appropriate technology. Some complainants (survivors) may not want a partition or other separation technology, in which case it will not be imposed on a complainant. The Appeal Panel must be able to see (and hear) the complainant, respondent and any witnesses when they are presenting information.
 - c. The complainant and respondent will have the opportunity to present the information they submitted pursuant to Section VI.F.1.b (unless excluded by the Appeal Panel pursuant to Section VI.F.1.d.).
 - d. The complainant and respondent have the right to hear all individuals (with partition/separation technology when appropriate) who testify at the hearing and to propose questions to be asked of all individuals who testify at the hearing.
 - e. The Appeal Panel will determine the order of questioning. Whenever possible, the Appeal Panel will ask the questions as they are submitted by the complainant and respondent and will not rephrase or change them. The Appeal Panel may, however, exclude questions that are unduly repetitive, clearly not relevant, or unduly time consuming. Upon advice from University counsel, the Appeal Panel may also elect to not ask question(s) that would be unduly harassing to a survivor or other witness.
 - f. The appeal hearing will be audio recorded.

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- c. If an appeal is submitted, the other party will receive a copy of the written appeal and may submit a written statement within five (5) days of being sent the appeal.
6. The Chancellor's designee will issue a written decision to the complainant and respondent, normally within ten (10) business days. There is no further right to appeal.

UCR's appeal process described above, including the appeal hearing and any appeal to the Chancellor's designee, will normally be completed within 60 business days of the date of the notice of decision and sanctions (where imposed).

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Appendix B: UC Student Sanction Guidelines

I. INTRODUCTION

These standards are intended to ensure the consistent application of disciplinary sanctions by the University of California in responding to conduct that violates the University's Policy on Sexual Violence and Sexual Harassment and the University's Policies Applying to Campus Activities, Organizations, and Students (PACAOS) Section 100 (Policy on Student Conduct and Discipline).⁴ The following describes the University's procedures for assigning disciplinary sanctions when the respondent is a student.

II. PRINCIPLES

- A. *The administration of student discipline will be consistent with the UC PACAOS Policy on Student Conduct and Discipline.*
- B. *When a student is found responsible for violating the University's Policy on Sexual Violence and Sexual Harassment and the UC PACAOS Policy on Student Conduct and Discipline, the University will assign disciplinary sanctions that are appropriate to the violation, taking into consideration the context and seriousness of the violation.*
- C. *When a student is found not responsible for violating the University's Policy on Sexual Violence and Sexual Harassment and the UC PACAOS Policy on Student Conduct, the University is committed to taking reasonable efforts to assist any student who has been disadvantaged with respect to employment or academic status as a result of the unsubstantiated allegations.*
- D. *Disciplinary sanctions are designed to hold a student accountable for violating University standards of conduct and to promote personal growth and development. Disciplinary sanctions also serve the purpose of stopping the behavior that violated this policy and preventing its recurrence.*
- E. *The University of California recognizes that acts of sexual violence and sexual harassment are contrary to its goals of providing an educational environment that is safe and equal for all students.*
- F. *University of California campuses are permitted to inform other UC campuses of a student's disciplinary record for violating the University's Sexual Violence and Sexual Harassment Policy and the UC PACAOS Policy on Student Conduct and Discipline.*

⁴ This supplements the Policies Applying to Campus Activities, Organizations and Students (PACAOS, 5/10/2012). In the event of any conflict this document shall take precedence.

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III. **DISCIPLINARY SANCTIONS**

- A. *University disciplinary sanctions include, but are not limited to:*
 - 1. *Dismissal from the University of California,*
 - 2. *Suspension from the campus,*
 - 3. *Exclusion from Areas of the Campus or from Official University Functions,*
 - 4. *Loss of Privileges and Exclusion from Activities,*
 - 5. *Restitution,*
 - 6. *Probation*
 - 7. *Censure/Warning, and/or*
 - 8. *Other actions as set forth in University policy and campus regulations.*

- B. *The definitions of disciplinary sanctions are found in University of California PACAOS Section 105.00 (Types of Student Disciplinary Action) and local campus regulations.*

- C. *The posting of disciplinary sanctions on academic transcripts will follow University policy as defined in University of California PACAOS, Section 106.00.*

IV. **PROCESS**

- A. *When a respondent has been found in violation, the University will provide written notice of the assigned disciplinary sanctions and a brief rationale for the sanctions.*

- B. *Disciplinary sanctions will be assigned as follows:*
 - 1. *Sexual assault, domestic/dating violence, or stalking in which one or more of the following factors are present will result in a minimum sanction of Suspension for at least two years, up to dismissal:*
 - i. *force, violence, menace, or duress;*
 - ii. *deliberately causing a person to become incapacitated or deliberately taking advantage of a person's incapacitation; or*
 - iii. *recording, photographing, transmitting, viewing, or distributing intimate or sexual images without consent.*
 - 2. *Sexual assault involving penetration, domestic/dating violence, or stalking will, absent exceptional circumstances, result in a minimum sanction of Suspension for two years, up to dismissal.*
 - 3. *Other sexual contact in violation of policy will, absent exceptional circumstances, result in a minimum sanction of Suspension for one year.*

- C. *Assigned disciplinary sanctions and the factors considered for each case will be documented and reported to the University of California Office of the President on a quarterly basis. The report is to ensure a reasonable level of consistency from campus to campus.*

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V. FACTORS CONSIDERED IN DETERMINING DISCIPLINARY SANCTIONS

In determining the appropriate sanction, the following factors may be taken into account:

- A. Seriousness of violation: location and extent of touching; duration of conduct; single or repeated acts; multiple policy violations in connection with the incident; verbal or physical intimidation; presence of weapons, use of force, violence, physical injury.*
- B. Intent or motivation behind violation: no intent to cause harm; passive role in violation; pressured or induced by others to participate in the violation; use of authority to abuse trust or confidence; planned or predatory conduct; deliberately causing a person to become incapacitated or deliberately taking advantage of a person's incapacitation; recording, photographing, transmitting, viewing, or distributing intimate or sexual images without consent; hate or bias based on the complainant's membership or perceived membership in a protected group as defined in UC PACAOS Section 104.90.*
- C. Response following violation: voluntarily acknowledged wrongdoing at early stage of the process; failure to follow no contact order; attempt to influence witnesses; obstructed or disrupted the process.*
- D. Disciplinary history: prior violations unrelated, prior violations related.*
- E. Impact on others: input from the complainant, protection or safety of the community.*