

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking on  
Regulations Relating to Passenger  
Carriers, Ridesharing and New  
Online Enabled Transportation  
Services.

R.12-12-011

**COMMENTS OF RALIANCE ON THE PROPOSED DECISION ADOPTING  
UNIFORM TAXONOMIES FOR SEXUAL ASSAULT AND SEXUAL HARASSMENT  
THAT TRANSPORTATION NETWORK COMPANIES MUST USE FOR THEIR  
ANNUAL REPORTS, AS WELL AS ADOPTING TRAINING, INVESTIGATING, AND  
REPORTING PROTOCOLS**

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**I. INTRODUCTION**

Pursuant to Rule 14.3 of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure (“Rules”), RALIANCE submits the following comments on the Proposed Decision Adopting Uniform Taxonomies for Sexual Assault and Sexual Harassment that Transportation Network Companies Must Use for Their Annual Reports, As Well As Adopting Training, Investigating, and Reporting Protocols (“Proposed Decision”).

**II. THE PROPOSED CPUC UNIFORM TAXONOMIES ARE BOTH OVER AND UNDER-INCLUSIVE; THE RALIANCE TAXONOMY© IS MORE ACCURATE, AND SHOULD BE ADOPTED BECAUSE IT IS THE STANDARD USED BY THE SEXUAL ASSAULT MOVEMENT**

The Commission proposes the adoption of its own “uniform taxonomies” to classify sexual assault and harassment. The RALIANCE Sexual Misconduct and Violence Taxonomy© (hereinafter “RALIANCE Taxonomy©), was developed by experts in the fields of sexual

assault/harassment and criminal law.<sup>1</sup> It is more accurate than the Commission's proposed taxonomies and should be adopted, for the following reasons.

First, the Commission's proposed taxonomies are based on a misunderstanding of the definition of sexual battery in California. Second, the Commission's proposed taxonomies include assaults which are not sexual in nature as well as excluding serious sexual assaults. Third, the Commission's taxonomies mischaracterize sexual harassment by conflating sexual harassment standards developed to apply to harassment in the workplace with sexually harassing behaviors usually committed on a one-time basis during a Transportation Network Company (TNC) ride. Finally, defining the behaviors which together constitute sexual assault or sexual harassment in detail allows investigative staff who are not criminal law experts to accurately identify behaviors which constitute sexual assault. Failure to define those behaviors in detail will inexorably result in classification error.

In contrast to the erroneous, vague and broad definition of sexual assault proposed by the Commission, the RALIANCE Taxonomy© is mutually exclusive and collectively exhaustive, created by a group of seasoned sexual violence professionals and attorneys including experts at RALIANCE, the National Sexual Violence Research Center (NSRVC), and an academic research team at the Urban Institute. It accurately characterizes sexual assault consistently with California Penal Code definitions, and it accurately defines sexual harassment in the appropriate context of a TNC ride. Both Uber and Lyft use this taxonomy.

The Proposed Decision indicates the Commission believes that Uber and Lyft use two

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<sup>1</sup> See RALIANCE Taxonomy: "HELPING INDUSTRIES TO CLASSIFY REPORTS OF SEXUAL HARRASSMENT, SEXUAL MISCONDUCT, AND SEXUAL ASSAULT"  
[https://www.raliance.org/report\\_posts/helping-industries-to-classify-reports-of-sexual-harassment-sexual-misconduct-and-sexual-assault/](https://www.raliance.org/report_posts/helping-industries-to-classify-reports-of-sexual-harassment-sexual-misconduct-and-sexual-assault/)

different taxonomies. (Proposed Decision at pp. 3-4.)<sup>2</sup> In fact, both Uber and Lyft use the RALIANCE Taxonomy©. Because it is more accurate and makes it easier for staff who are not experts in the criminal law to use to classify behaviors, the RALIANCE Taxonomy© should be adopted.

#### **A. The Proposed Taxonomy is Under-Inclusive**

The proposed CPUC definition of sexual assault is based on a fundamental misunderstanding of California law on sexual assault. The Commission says it bases its definition of sexual assault on the definition in Penal Code section 243.4, which is the code section defining sexual battery in California.<sup>3</sup> Sexual battery, as the Proposed Decision notes, is an act by a person who touches or attempts to touch the intimate parts of another (e.g., sexual organs, mouth, etc.), and the touching or attempted touching is against the will of the person being touched.

That is correct as far as it goes, but the problem is that the definition of sexual battery excludes many other California Penal Code sections which define other types of sexual assaults, including rape, sodomy, forcible oral copulation, and forcible penetration (see, e.g., Penal Code sections 261, 286, 287, 289.)<sup>4</sup> The definition of sexual battery also excludes lewd conduct against minors, such as that defined in Penal Code section 288 (lewd and lascivious acts with a child under 14).<sup>5</sup>

Penal Code section 243.4 does **not** “define... sexual assault and sexual battery the same way.” (Proposed Decision at p. 8.)<sup>6</sup> To the contrary, sexual battery is only one specific type of

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<sup>2</sup> See CPUC Proposed Decision pp. 3-4:

<https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M472/K442/472442955.PDF>

<sup>3</sup> See California Penal Code § 243.4.

<sup>4</sup> See California Penal Codes §§ 261, 286, 287, 289.

<sup>5</sup> See California Penal Code § 288.

<sup>6</sup> See CPUC Proposed Decision p.8:

<https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M472/K442/472442955.PDF>

sexual assault. Its definition excludes the elements of many other sexual assault crimes defined in the California Penal Code, including penetration offenses. And the specific intent required for the crime of sexual is not required for other types of sexual assaults under California law (e.g., Pen. Code, § 261, rape).<sup>7</sup>

The RALIANCE Taxonomy© uses detailed definitions that include all forms of sexual assault in California, including sexual battery. It subdivides sexual assault offenses into ten categories: (1) attempted touching of a non-sexual body part, (2) attempted kissing of a non-sexual body part, (3) attempted touching of a sexual body part, (4) attempted kissing of a sexual body part, (5) non-consensual touching of a non-sexual body part (e.g., hand, leg, thigh), (6) non-consensual kissing of a non-sexual body part, (7) attempted non-consensual sexual penetration, (8) non-consensual touching of a sexual body part, (9) non-consensual sexual penetration, and (10) non-consensual kissing of a sexual body part. (See RALIANCE Taxonomy©.)<sup>8</sup>

The RALIANCE Taxonomy© thus includes all forms of sexual assault covered by the California Penal Code, including rape, sodomy, forcible oral copulation, and sexual battery. The crime of sexual battery (Pen. Code, § 243.4)<sup>9</sup> fits into the RALIANCE Taxonomy© under the categories of non-consensual attempted or completed touching of a sexual body part.

The Commission’s proposed definition excludes many forms of sexual assault.

The RALIANCE Taxonomy©’s definition of sexual assault was divided into ten sub-groups to make it easy for staff who are not criminal law experts to understand and categorize sexual assaults according to the behavior involved. Most of these classifications are listed as “examples” in the Proposed Decision. However, these are not “examples,” but actual ways of

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<sup>7</sup> See California Penal Code § 261.

<sup>8</sup> HELPING INDUSTRIES TO CLASSIFY REPORTS OF SEXUAL HARRASSMENT, SEXUAL MISCONDUCT, AND SEXUAL ASSAULT., *supra* note 1.

<sup>9</sup> See California Penal Code § 243.4.

classifying behavior which create a much more accurate taxonomy of sexual assault.

The Commission's definition of sexual assault is both under-inclusive and misleading. It misses most of the serious sexual assault crimes by attempting to use the rubric of one lesser crime, sexual battery. The flaw is that the elements of sexual battery do not include the elements of many other sexual assaults, including the element of penetration or attempted penetration in more serious sexual assault offenses. Concomitantly, the specific intent required for the crime of sexual battery ("is for the purpose of sexual arousal, sexual gratification, or sexual abuse") is not required for most other sexual assault offenses (see, e.g., Pen. Code, §§ 261, 286, 287, 289.)<sup>10</sup>

The Proposed Decision errs by including the classifications of behavior in the RALIANCE Taxonomy© only as "examples," after excluding many more serious sexual assault crimes in its actual definition of sexual assault.

The design of a taxonomy classifying sexual assault crimes should be left to experts in the sexual assault movement and criminal law and not be attempted by attorneys and staff without that specific legal knowledge and background at the CPUC. The RALIANCE Taxonomy© was developed collaboratively by experts and attorneys in the fields of sexual assault, sexual harassment and criminal law and took over a year to develop. It is the exclusive taxonomy used by the sexual violence movement and is the gold standard.

#### **B. The Proposed CPUC Taxonomy is Over-Inclusive**

The taxonomies proposed by the Commission include actions that do not constitute sexual harassment or sexual misconduct. The Proposed Decision states that an assault or battery may be included in its taxonomies if sexually motivated. Confusingly, it cites Civil Code section 1708.5 for this proposition. (Proposed Decision at p. 10.)<sup>11</sup>

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<sup>10</sup> See California Penal Codes §§261, 286, 287, 289.

<sup>11</sup> CPUC Proposed Decision., *supra* note 2, at 10.



The RALIANCE Taxonomy© specifically includes the offenses of attempted sexual assaults as well as completed sexual assaults. The Penal Code notes that an attempt to commit a crime contains two elements: 1) a specific intent to commit the crime, and (2) a direct but ineffectual act done toward its commission. (Pen. Code, § 21a).<sup>12</sup> Citation to the Civil Code only confuses the issue.

Assault and battery are non-sexual crimes. These become sexual crimes only if the defined intent in a specific offense is present, at which point they are described by the Penal Code as attempts of specified sexual assault crimes. The RALIANCE Taxonomy© accurately and completely describes attempted as well as completed sexual assaults consistently with the California Penal Code.

The Proposed Decision, on the other hand, confuses this issue and appears to include the non-sexual crimes of assault and battery in its taxonomies. Physical altercations that do not contain the elements of an attempted sexual assault should not be included in a taxonomy for sexual misconduct and sexual assault. The Penal Code includes attempts in its definition of the various Penal Code offenses comprising sexual assault and these are reflected accurately and in the necessary detail (“granularity”) in the RALIANCE Taxonomy©.

### **III. THE RALIANCE TAXONOMY© INCLUDES SEXUAL HARASSMENT, WHICH IS ALSO REFERRED TO BY RALIANCE AS SEXUAL MISCONDUCT, AND IS MUCH MORE ACCURATE THAN THE SIMPLISTIC DEFINITION USED IN THE PROPOSED DECISION**

#### **A. The RALIANCE Taxonomy© Includes All Forms of Sexual Harassment (Sexual Misconduct) In Its Carefully Subdivided Definitions**

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<sup>12</sup> See California Penal Code § 21a.

The Commission seems to be under the misimpression that the RALIANCE Taxonomy© does not include definitions of sexual harassment. To the contrary, the many forms of sexual harassment (sexual misconduct) are subdivided into eleven (11) categories in the RALIANCE Taxonomy©. The individual forms that sexual harassment can take were broken down to make it easier for investigative staff who are not criminal or civil law experts to recognize behaviors that meet the definition of sexual harassment under California and federal law.

The categories of sexual misconduct, all of which may constitute forms of sexual harassment, are listed in the RALIANCE Taxonomy© as follows: (1) staring or leering in an uncomfortable, prolonged or sexual manner, (2) comments or gestures/asking personal questions, (3) comments or gestures/comments about appearance, (4) comments or gestures/flirting, (5) comments or gestures/explicit gestures which are sexually suggestive, (6) comments or gestures/explicit comments describing or representing sexual activity or body parts in a graphic fashion, (7) displaying indecent material including pornography or sexual images, (8) indecent photography/videography without consent, (9) soliciting sexual act(s), (10) masturbation/indecent exposure in the presence of another, and (10) verbal threat of sexual assault. (See RALIANCE Taxonomy)<sup>13</sup>

The Proposed Decision states that sexual harassment is defined as an act of “unwelcome visual, verbal, nonverbal, or physical conduct (either a single act or multiple acts), based on sex (i.e., gender), which creates an intimidating, hostile or offensive environment to a reasonable person.” (Proposed Decision at p. 11.)<sup>14</sup> Because this one overarching definition is so vague, it is an invitation to individual bias when investigators must classify actual behaviors. By

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<sup>13</sup> HELPING INDUSTRIES TO CLASSIFY REPORTS OF SEXUAL HARRASSMENT, SEXUAL MISCONDUCT, AND SEXUAL ASSAULT., *supra* note 1.

<sup>14</sup> CPUC Proposed Decision., *supra* note 2, at 11.

specifically defining the various behaviors which constitute sexual harassment, the RALIANCE Taxonomy© eliminates the potential for interpretive bias.

The RALIANCE definitions of sexual misconduct are not “examples” of sexual harassment, but together comprise a complete definition of sexual harassment. In contrast, the vague definition assigned to sexual harassment by the Commission will lead to investigator error. Investigators will err by including behaviors that do not constitute sexual harassment and omitting behaviors that legally do constitute sexual harassment.

When asking non-attorney investigators and staff to classify potentially criminal or tortious behavior it is much better if a taxonomy specifically describes the behaviors that constitute the elements of the offense or tort. Leaving the decision to staff who are not experts in the field of sexual assault means they must decide whether a set of behaviors in a given case are criminal or tortious (misconduct) without professional experience or legal training. Without more guidance than the very broad and vague definition proposed by the Commission there will undoubtedly be errors in classifying behaviors.

#### **B. The Commission’s Overarching Rubric for Sexual Harassment Conflates Harassment Based on Gender with Harassment Based on Sex**

The next problem with the Commission’s proposed taxonomies is that they conflate sex with gender by relying on a 1990 decision which is outdated and superseded in current thinking about sexual harassment. In fact, the Commission later cites the more current standard, which recognizes that sex is not the same thing as gender, immediately after announcing the outdated standard it proposes to adopt. (Proposed Decision at p. 12.)<sup>15</sup>

Harassment based on sex might only relate to people who are gender binary, meaning their gender identity is the same as their sex assigned at birth. Harassment based on gender is more

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<sup>15</sup> CPUC Proposed Decision., *supra* note 2, at 12.

inclusive. For example, trans people who are not gender binary are included when sexual harassment is defined as based on gender.

Federal rulings have expanded protections based on sex to those based on gender. “Although federal law does not explicitly prohibit employment discrimination based on "gender identity" or "gender expression," recent interpretations in case law under Title VII extend the Act's prohibition of sex discrimination to include bias based on gender identity and gender expression.” (See National Conference of State Legislatures, online at <https://www.ncsl.org/research/labor-and-employment/-gender-and-sex-discrimination.aspx>.)<sup>16</sup> California law specifically addresses sexual harassment based on gender. (See, e.g., Cal. Govt. Code, § 12940.)<sup>17</sup>

### **C. The Proposed Taxonomy Does Not Clearly Articulate the Difference Between Workplace Sexual Harassment and Sexually Harassing Behaviors in the TNC Context**

The next problem with the definition of sexual harassment in the Proposed Decision is its reliance on laws relating to sexual harassment in the workplace. As noted above, the Proposed Decision defines sexual harassment as “an act of visual, verbal, nonverbal, or physical conduct (either a single act or multiple acts) based on sex (i.e., gender), which creates an intimidating, hostile or offensive environment to a reasonable person.” (Proposed Decision at p. 11.)<sup>18</sup> If the definition was altered to clarify that sexual harassment can be based on gender *or* sex, it would be more accurate but would still lack the specificity needed by investigators.

The second problem is that the Commission’s examples wrongly import concepts from workplace sexual harassment requiring the harassment be severe or pervasive by posing

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<sup>16</sup> See National Conference of State Legislatures, online at <https://www.ncsl.org/research/labor-and-employment/-gender-and-sex-discrimination.aspx>.

<sup>17</sup> See Cal. Govt. Code, § 12940.

<sup>18</sup> CPUC Proposed Decision., *supra* note 2, at 11.

questions relating to victims' reactions. The requirement that sexual harassment behaviors must rise to the level of being severe or pervasive and creating a hostile working environment in order to constitute an offense or tort makes sense in the workplace.

In the context of a one-time ride with a TNC, however, the TNC and the Commission will want to know about sexually harassing behaviors even if they would not, in the workplace context, rise to the level of creating an intimidating, hostile or offensive [work] environment.

The California Department of Fair Housing and Employment (DFEH) defines sexual harassment as:

“a form of discrimination based on sex/gender (including pregnancy, childbirth, or related medical conditions), gender identity, gender expression, or sexual orientation. Individuals of any gender can be the target of sexual harassment. Unlawful sexual harassment does not have to be motivated by sexual desire. Sexual harassment may involve harassment of a person of the same gender as the harasser, regardless of either person's sexual orientation or gender identity.” (Online at [https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2020/03/SexualHarassmentFactSheet\\_ENG.pdf](https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2020/03/SexualHarassmentFactSheet_ENG.pdf).)<sup>19</sup>

For a claim of workplace sexual harassment to go forward, however, the person alleging harassment must show either that the harassment was either quid pro quo (giving a benefit in exchange for compliance with a wrongful demand) or that it created a hostile working environment. (*Ibid.*) In the context of a one-time (usually) ride with a TNC, however, the issue is not whether a “hostile environment” was created. The issue is whether the comment was appropriate in the context in which it was made.

Thus, the reaction of a particular victim is not significant. The behavior or comment itself should be examined regardless of a particular individual's reaction to it. The question is not whether the behavior rose to the level of being unlawful for purposes of making a federal or

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<sup>19</sup> See [https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2020/03/SexualHarassmentFactSheet\\_ENG.pdf](https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2020/03/SexualHarassmentFactSheet_ENG.pdf)

state claim of sexual harassment. Rather, it is whether the behavior was appropriate in the TNC context and whether the response to it was appropriate.

Any sexually harassing comments or behaviors, regardless of their subjective impact on the victim (reasonable or otherwise) should be investigated by a TNC. The definition of a sexual harassment cause of action in section 51.9 of the California Civil Code, (cited at p. 12)<sup>20</sup> of the Proposed Decision, is irrelevant and misleading in the TNC context. Civil Code section 51.9 is relevant when the elements of a civil cause of action for workplace sexual harassment must be proven. It is not helpful in determining whether comments made during a TNC ride (whether by a driver to a passenger, passenger to a driver, or passenger to another passenger) were sexually harassing.

It follows that it does not matter if the standard for meeting a “service” relationship under Civil Code section 51.9 is met for purposes of a TNC investigation. The TNC investigation is much broader than the context of determining if a legal claim of sexual harassment can be alleged and filed. For that reason, the detailed sexual harassment behaviors spelled out in the RALIANCE Taxonomy© are helpful in classifying various types of sexually harassing words and behaviors—because the behaviors are what is relevant, not whether a civil cause of action can be alleged.

The TNC and potentially the Commission will want to understand the types of behaviors about which a rider or driver felt strongly enough to make a report (i.e., felt was harassing sexually or based on gender). A taxonomy should classify such behaviors without regard to the “reasonableness” of a victim’s reaction since the end goal is not determining whether a civil actionable claim can be made. The RALIANCE Taxonomy© therefore breaks down the various

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<sup>20</sup> CPUC Proposed Decision., *supra* note 2, at 12.

types of sexually harassing words and behaviors into categories which can easily be recognized by investigators, without regard to a particular victim's reaction. The examples used at p. 14 of the Proposed Decision are in reality the various types of sexually harassing behaviors developed in the RALIANCE Taxonomy© -- and should be cited as such. They should, however, constitute the definition of sexual harassment—not merely be cited as “examples”.

Some of the proposed questions for investigators in the Proposed Decision relate to the victim's reaction or response to the harassment. Some of these questions are not appropriate in the TNC investigative context, for the reasons stated above. (Proposed Decision at pp. 25-26: “How did you react?” “What response did you make when the incident occurred or afterwards?” “If the perpetrator claims that the allegations are false, ask why the claimant would allegedly fabricate a story.”)<sup>21</sup> Using more open-ended questions would be more appropriate because they would not focus on victim reaction, would sound less victim-blaming, and would be more trauma-informed (see Comments on the Proposed Decision filed by VALOR regarding the necessity for trauma-informed investigations in the sexual assault field.)<sup>22</sup>

Workplace sexual harassment definitions do not account for behaviorally-specific sexual misconduct. This means specific behaviors may be considered sexual misconduct regardless of their impact on a victim/target/survivor. This also means that words or behavior do not have to be severe or pervasive and create a toxic or offensive environment, since most of the sexual misconduct occurrences that may happen when using TNCs are one-time experiences. In fact, a sexually harassing comment may be offensive to one victim and not to another person. For that reason, the taxonomy must look at behaviors to classify incidents, not at victim reactions.

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<sup>21</sup> CPUC Proposed Decision., *supra* note 2, at 25-26.

<sup>22</sup> See VALOR Comments on Proposed Decision:

<https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M424/K114/424114611.PDF>

#### IV. TRAINING ON TRAUMA-INFORMED INVESTIGATIONS IS ESSENTIAL

RALIANCE agrees with VALOR that the Proposed Decision omits a crucial requirement for a protocol on sexual assault/harassment investigations. The Commission states that investigations by TNCs must adhere at a minimum to specified requirements in the claim investigation process. (Proposed Decision at p. 24.)<sup>23</sup> The Proposed Decision also says that the Commission’s own staff may want to do further investigation of a sexual assault complaint to determine whether a decision not to terminate a TNC driver was well-founded. (Proposed Decision at p. 11.)<sup>24</sup>

The list of specified investigation requirements in the Proposed Decision, however, lacks a requirement that all investigators be trained on how to conduct a trauma-informed investigation. Without such training, staff run the risk of further traumatizing victims of sexual assault and harassment. Also, important information about the incident can be lost or remain hidden when an investigator is not trained to do a trauma-informed victim interview.

RALIANCE concurs with the Comments on the Proposed Decision filed by VALOR and agrees that training on the nature and neuroscience of trauma and on how to do a trauma-informed sexual assault/harassment investigation is an essential part of any investigative protocol on investigating sexual assault/harassment today.

The Proposed Decision states that “the Commission may want its own staff to conduct its own investigation into a sexual assault incident to understand the circumstances that led to the decision not to deactivate a TNC driver.” (Proposed Decision at p. 11.)<sup>25</sup> Before such any such investigation should be permitted, Commission staff conducting investigations of sexual

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<sup>23</sup> CPUC Proposed Decision., *supra* note 2, at 24.

<sup>24</sup> *Id.* at 11.

<sup>25</sup> *Id.*



assault/harassment must have training about conducting a trauma-informed investigation. The risk of failing to do so is potential re-traumatization of the victim and the loss of accurate information about the incident itself. As noted by the U.S. Department of Justice's Office for Victims of Crime, trauma-informed approaches place priority on restoring the survivor's feelings of safety, choice and control. Contacting survivors takes their choice and control away and can be detrimental to their healing process. (<https://ovc.ojp.gov/sites/g/files/xyckuh226/files/model-standards/6/ovcttac-model-standards-508.pdf>)<sup>26</sup> Before any such contact is made by a TNC investigator or Commission staff, training on trauma-informed interviewing and on the brain science of trauma is essential.

## **V. CONCLUSION**

The Proposed Decision should be modified in several respects. First, the erroneous definition of sexual assault proposed is both under and over-inclusive. It should be replaced with the RALIANCE Taxonomy©, which was developed by experts in the sexual assault movement. The RALIANCE Taxonomy© is easier for non-experts to use because it carefully defines the behaviors that constitute sexual assault and harassment (sexual misconduct).

Second, the proposed taxonomies on sexual harassment are erroneous in adopting workplace sexual harassment standards which are not appropriate in the TNC context. The RALIANCE Taxonomy© more accurately defines sexual harassment and should be adopted.

Finally, RALIANCE and VALOR agree that the proposed investigative framework omits any requirement for trauma-informed training of investigators, which is essential to an accurate sexual assault/harassment investigation and which is necessary to avoid the risk of re-traumatizing victims.

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<sup>26</sup> See U.S. Department of Justice's Office for Victims of Crime <https://ovc.ojp.gov/sites/g/files/xyckuh226/files/model-standards/6/ovcttac-model-standards-508.pdf>

RALIANCE respectfully requests that the Commission modify its Proposed Decision accordingly.

Respectfully submitted,

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## **SETTING FORTH PROPOSED FINDINGS OF FACTS AND CONCLUSIONS OF LAW**

### **Findings of Fact**

1. TNCs are required to include sexual assault and sexual harassment claims as part of the information provided in their Annual Reports to the Commission.
2. Taxonomy is a standardized set of terminologies, definitions, language, and references.
3. Uber and Lyft have been using a consistent taxonomy, the RALIANCE Taxonomy©, for sexual assault and sexual harassment, but not all TNCs have been using this taxonomy, which was developed by experts in the field of sexual assault and is uniformly used by the sexual assault movement.
4. Some TNCs have not been reporting sexual assault and sexual harassment claims consistently in their Annual Reports.

### **Conclusions of Law**

1. It is reasonable to conclude that TNCs should be using the same taxonomy for sexual assault and sexual harassment in reporting such claims in their Annual Reports, and that the industry standard which should be used for that purpose is the Raliance Taxonomy©.
2. It is reasonable to conclude that TNCs should be using the same baseline standards for training TNC drivers about what constitutes sexual assault and sexual harassment.
3. It is reasonable to conclude that TNCs should be using the same baseline standards for investigating sexual assault and sexual harassment claims made against TNC drivers.
4. It is reasonable to conclude that the claims investigation process should follow a standard protocol which should be designed by experts in the field of sexual assault and include a standard interviewing method which follows a trauma-informed approach to forensic interviewing, to avoid re-traumatization of victims and ensure accuracy of facts gathered.
5. It is reasonable to conclude that training for sexual assault investigators investigating reports by TNCs should be standardized and include training on the brain science on trauma as

well as trauma-informed interviewing techniques.

6. It is reasonable to conclude that TNCs should be using the same baseline standards for reporting sexual assault and sexual harassment claims in their Annual Reports.