

Staff Report

February 14, 2006

TO: City Council

FROM: Kelly Stachowicz, Assistant to the City Manager
Bill Emlen, Interim City Manager

SUBJECT: Human Relations Commission's Recommendation to Create Citizen Review Board

Recommendation

1. Receive the report from the Human Relations Commission requesting a Citizen Review Board.
2. To better determine whether a Citizen Review Board model similar to what was recommended by the Human Relations Commission would be a possible option should the initiatives underway in the Police Department and by the City Manager need to be augmented, concur that it is appropriate for staff to explore the concept of creation of a Citizen Review Board with the Davis Police Officers Association during the upcoming meet-and-confer process as part of labor negotiations.

Fiscal Impact

The fiscal impact of creating a Citizen Review Board to monitor police activity and/or investigate complaints against the police department can vary greatly, depending on the scope of the Board. The Human Relations Commission anticipates the low end of cost for such a Board to be \$75,000 or less. Costs could include staff time, legal advice, and investigative personnel fees. Berkeley's Board, for example, is at the high end of the cost range, at over \$500,000 per year. It has not been determined the extent of funding a Davis Board would require, nor has it been determined how such a Board would be funded. Regardless of cost, such a Board would require redirection of existing funds and staff.

Council Goal(s)

Public Safety – Assure top quality fire, police and emergency services for all residents and neighborhoods.

Background

The Human Relations Commission is recommending the creation of a Citizen Review Board to investigate claims of inappropriate police behavior. Below is a timeline of the events leading up to the Human Relations Commission's submittal of a proposal for a Citizen Review Board:

- July of 2005 - Human Relations Commission voted to recommend to the City Council a citizen's advisory committee to address concern about inappropriate police behavior in the community. Commission formed a subcommittee to look into the specifics of the recommendation.
- September of 2005 - Commission voted to recommend the Berkeley model of a Police Review Board to the City Council. The Council, during its joint meeting with the Commission on the same evening, requested that the Commission provide a report to support the reasoning behind this recommendation.
- January 26, 2006 – Commission subcommittee presented the report “Civilian Oversight to Strengthen and Improve the Davis Police Department” to the full Commission. (See Attachment B)
- February 2, 2006 – Commission subcommittee presented two-page proposal which outlined the details of the Citizen Review Board. (See Attachment A) Commission voted 6-2 to forward both the report from January 26 and the two-page proposal, with some modifications, to the City Council. Modifications to the attached proposal included the following:
 - Further information on what qualifications of Board members should be. (The Commission did not flesh out this recommendation.)
 - Specification of the functions of the Board. (The Commission did not provide additional wording.)
 - Wording in the proposal that indicates that this proposal is what the Commission wants because it believes the recommendation to be appropriate for Davis. Further, the “Civilian Oversight to Strengthen and Improve the Davis Police Department” working draft report provides the justification for the proposal to create a Citizen Review Board.
 - Inclusion of Representative from Mental Illness and/or Developmental Disability Community in the list of potential Board members
 - Inclusion of Muslim American in the list of potential Board members
 - Inclusion of requirement that Board members “be really interested in the issue” to serve.

The information from the meetings on January 26 and on February 2, along with subsequent correspondence sent to the City regarding the issue have been included for your information as part of this report.

Analysis

The Human Relations Commission proposal is one that presents a significant change to the way that police officers' conduct is reviewed by the City and the public. Currently, when the Police Department receives a complaint, the Department follows an internal review process. Depending on the findings of the investigation, officers or other employees involved in the complaint may be disciplined. The complainant, if he or she is not satisfied with the outcome the investigation, has the right to appeal the decision to the City Manager. The Commission proposal adds to this process by creating a Citizen Review Board, comprised of a group of Davis residents, to investigate complaints and allegations publicly and then to recommend action, including

discipline, based on its review. This is considered a change of working conditions/requirements for police officers.

If the City were to make this change, it must first reach an agreement with the Davis Police Officers Association (DPOA), the labor union representing Davis police officers. The existing contract with DPOA expires June 30, 2006. To that end, the City is about to open formal negotiations with the union for the period beginning on July 1, 2006 and beyond. Working conditions, disciplinary processes and other related actions are outlined in the Memorandum of Understanding (MOU) between the City and DPOA. Any major change to these provisions must first go through the meet-and-confer process at the bargaining table. To create a Board otherwise puts the City in violation of good faith bargaining and at potential risk of litigation against the City by DPOA. We think it is appropriate for the City's negotiating team to explore the option of a Citizen Review Board with DPOA, as recommended by the Human Relations Commission, to determine if this would be a realistic option in the short- or long-term.

While staff can support discussion of the review board option with the DPOA during negotiations, we continue to express concerns about the particular model recommended by the Human Relations Commission. Citizen Review Boards can be costly. They raise issues about the city's ability to comply with the Peace Officers' Bill of Rights and manage improper release of confidential information. Members must have adequate training and preparation in order to be effective and make sound judgments. Perhaps most importantly, staff questions whether a Civilian Review Board is the best tool to enable, directly or indirectly, the Police Department to provide outstanding public safety service to the community. Because of these concerns, staff will continue to review potential models and solutions to address concerns expressed about the Police Department.

One model that does hold intrigue, and staff will continue to research and evaluate during the 06-07 budget preparation, is the "Ombudsman" model. In this model, the City selects an individual who receives, monitors and evaluates complaints and concerns submitted by community members. Generally, this position or function is independent of other city departments and reports directly to the City Manager. It is likely that such a position would deal with matters citywide, rather than focus solely on public safety concerns.

In the meantime, it is important to note that staff remains committed to the actions outlined in the January 17th report by the former City Manager Jim Antonen and Police Chief James Hyde. This report outlined several actions that the Police Department has underway or in the planning stages to improve public safety services in the community. These actions include the following and in no way preclude a Citizen Review Board:

- Increased Diversity and Inclusion Training. The Police Department will continue their Inclusion Training focus and all departments will increase opportunities for diversity training.
- Certification by the Commission on Accreditation for Law Enforcement Agencies. The overall purpose of the Commission's accreditation program is to improve delivery of law enforcement service by offering a body of standards, developed by law enforcement

practitioners, covering a wide range of up-to-date law enforcement topics. Accreditation results include better departmental accountability and greater opportunities for community-oriented policing.

- Reconstitution of a Citizen Advisory Board. This Board, comprised of twelve volunteers from the community, will advise the Police Chief on matters related to the organization and operation of the Police Department. While the Board will not investigate specific complaints against the Police Department, it will seek input from the community as to current pressing issues, make recommendations to the Police Chief for improvements or changes within the Department and provide a voice from the community to the management of the Police Department.
- Creation of a Three-Member Police Advisory Committee – The resignation of the former City Manager and the designation of the Interim City Manager has delayed implementation of this action several weeks, but staff still intends to pursue creation of this committee. It will be particularly helpful to provide advice to the Interim City Manager during this time of transition.
- Continuation of Presentation of Annual Report by the Police Department to the City Council. This report was most recently given in December and will continue to be given annually. The report will outline challenges and emerging issues for the department, as well as highlight the department's successes.
- Utilization of Technology to Improve Service Delivery. As with all City departments, the Police Department must continue to harness technology to provide better service delivery. The Police Department has been and will continue to do this. Current examples of this include the installation of in-car cameras for squad cars, so that interactions with citizen can be recorded, and the mounting of "red light cameras" at problem intersections around town.

Conclusion

We believe it is imperative that our efforts to maintain and improve police service and accountability proceed in a very deliberate, thoughtful manner. The recommendations of the Human Relations Commission reflect important perspectives and concerns with certain aspects of police operations. While police accountability and conduct is clearly a major priority of City administration, we also recognize the many dimensions that affect public safety responsiveness and effectiveness. We will continue to pursue any available options or improvements that have potential to effectively address legitimate concerns about delivery of city services.

PROPOSAL FOR CITIZEN REVIEW BOARD

The Human Relations Commission strongly believes that it is necessary to establish an independent review board to investigate complaints filed against the Davis Police Department (DPD), for reasons articulated in the Civilian Oversight to Strengthen and Improve the Davis Police Department report. As stated in the report, the best review model is an:

independent, civilian police review [...] board or commission [composed] of a diverse group of citizens, including but not exclusively or predominantly law enforcement and judicial officials. (8)

This board, hereafter the Citizen Review Board (CRB), would be created to promote public confidence in the professionalism and accountability of the sworn staff of the DPD, by independently investigating complaints of alleged police misconduct, recommending changes in police policy and procedure, and advising the City Council on police-community relations.

The CRB shall have eleven (11) members and one (1) alternate member and shall reflect the diversity of Davis by striving to represent members of many different communities, including:

- Senior Citizens,
- Disabled Citizens,
- Homeless Citizens,
- African Americans,
- Native Americans,
- European Americans,
- Mexican Americans,
- Gays Or Lesbians,
- College Students,
- Asian Americans.

One member shall be a senior law student at the University of California Davis' King Hall Law School, and one member shall be a young person between the ages of 15 and 18. All board members shall be appointed by the City Council and will serve for two (2) years in accordance with Davis Municipal Code 2.16.010. The CRB shall elect its own chairperson every year. CRB members will not receive compensation for their work, but may be reimbursed for necessary expenses incurred during official duty with the approval of the City Council. Commissioners shall receive appropriate training of police procedures and policy with respect to Municipal Code 2.16.015a and will participate in two (2) "ride-along" during the year.

The CRB will receive and review complaints against sworn members of the DPD for alleged police misconduct or against specific DPD policy and procedure, and conduct hearings investigating these allegations. It shall have the power to subpoena officers, citizens, and documents pertaining to the complaint and administer oaths to witnesses for testimony. These hearings shall be public, with police and complainants having the option to bring legal representation. Ultimately, the CRB will submit its findings to the City Manager and Police Chief for their adjudication.

In addition, at its discretion, the board may hire an investigator to collect information for the complaint review process. This investigator, acting as an agent of the CRB, will have the power to subpoena officers, citizens, and documents pertaining to complaints in order to create a fair, thorough, and complete report for the Board. He or she should have some prior experience in law or law enforcement and will be remunerated for his work. The CRB will also compile a list of volunteer attorneys who will provide advice and aid when needed

Furthermore, the CRB will also advise the City Council on community-police relations; review and advise the DPD in matters pertaining to police policies and procedures, which includes making formal recommendations to the Police Chief to amend the Police Department's Policy and Procedures Manual; and, with help from community members and experts, create an annual report describing its activities over the past year, analyzing traffic stop, arrest, and other relevant data, and providing information regarding community-police relations.

Consistent with the requirements of California State Law and the Davis Municipal Code, the Board shall adopt rules of procedure that will govern the conduct of its hearings and other commission business. Copies of the rules shall be published and will be available at the office of the City Clerk. The Board shall hold at least one (1) regular meeting per month, and shall also keep a public record of its findings and determinations.

References

Human Relations Commission. Civilian Oversight to Strengthen And Improve The DPD. City of Davis: Davis, CA. 2006.

City of Riverside Community Police Review Commission. Date Accessed: 1 February 2006.
<<http://www.riversideca.gov/cprc/>>

City of Berkeley Police Review Commission. Date Accessed: 1 February 2006.
<<http://www.ci.berkeley.ca.us/prc/>>

***CIVILIAN OVERSIGHT TO
STRENGTHEN AND IMPROVE THE
DAVIS POLICE DEPARTMENT***

[Working Document]

January 26, 2006

Prepared
by

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PREFACE

Studies of law enforcement agencies have yielded empirical data that a small number of police officers are responsible for a disproportionate amount of problematic police behavior.

“Principles for Promoting Police Integrity,” U.S. Department of Justice

There is simply no better way to begin this document than with an affirmation of the excellent job that most Davis Police Department officers do. It has been stated again and again how much it is appreciated that they literally put their lives on the line with each shift worked. That being said, it is also the perspective of this work that there are numerous Davis citizens who have experienced unjust targeting, humiliation, loss of physical freedom, and even physical harm at the hands of a relatively few Davis Police officers. The data herein show that this is not a new phenomenon, nor simply the perspectives of a few Davis activists. Many Davis residents have lost faith in the complaint process as it stands now, and some even believe that they will suffer retaliation by using it.

We believe it is possible to protect and serve Davis residents without violating the integrity of the police profession and without infringing on the civil rights of any of us, even with recent increases in certain crimes within the city. It is possible to have an organization that Davis residents can trust and even be involved in making better and better over time, at least in regard to police-community relations. That is the purpose of this data-driven report: to map out the compelling need for a civilian review board of complaints against the Davis Police Department. Some but not all members of this proposed board would be law enforcement and/or justice officials, and all members would undergo rigorous training like that detailed by the National Association of Civilian Oversight of Law Enforcement (NACOLE).

There is an exciting potential for such a civilian review board, including the establishment of a public, ongoing, bi-directional educational process for both police officers and Davis residents. Especially disenfranchised members of the community would have the opportunity to explain and demonstrate the life experiences and angst they bring to police encounters. And police officers would have the opportunity to educate the public about their unique set of risks, tasks, procedures, and responsibilities in performing their service to Davis residents. Police officers are vindicated in public; others are freed from the considerable burden of silence we are told is demanded of the police brotherhood in not speaking against the dysfunctional performance of a fellow officer.

Finally, the data herein show that it doesn't have to take \$600,000 to establish such a community and police resource for the Davis community. The data also show that there are substantial costs associated with the status quo, of *not* having an independent entity that Davis citizens can be proud of and have confidence in. We look forward to the dialogue and inclusive decision-making that we hope this document will engender.

EXECUTIVE SUMMARY

Where many Davis citizens believe there needs to be independent, civilian oversight of the Davis Police Department (DPD) and its complaint system, both the City Manager and the Chief of Police assert that there is no problem with either of those entities. The City Manager and the Chief of Police, as well as several City Council members, point to the statistic that out of 160,000 service calls in the last 3 years, only 72 formal complaints have been received by the DPD. This is their evidence that very few Davis residents have negative experiences with the DPD, and there is reason to have confidence in the complaint system as it is now.

However, the following 21 pages of various types of substantial and undeniable evidence support the contrary notion that *some* DPD officers are acting in an unprofessional and even harmful manner. It is thus reasonable to conclude that there is something wrong with *the complaint system* and *not* with the literally hundreds of people, including Davis residents and UC Davis students, Davis High School students, *every* past Chair of the Davis Human Relations Commission since its founding, and the leadership of respected community organizations. In addition, both local and national police statistics support these residents' claims, and not the claims of the DPD or of the overwhelming majority of the City leadership.

Recent Cases Involving Davis Residents

If you read no other part of this report, we encourage you to read this first section. There are 12 recent and/or ongoing cases of police misconduct detailed here. The poignant, personal stories by college students, high school students, professionals, the elderly and others of many races put distinct faces on the issue of police misconduct in Davis.

Davis Police Statistics

Statistics of traffic stops and arrests by DPD officers over the last 3 years are consistent with the stories presented in the previous section. Among the possible explanations for these disparate statistics is the notion that African American and Latino people in particular are disproportionately targeted by DPD officers. For instance, in 2004, African American youth were 5.9 more likely to be arrested by DPD officers than you would predict or expect, given their proportion of the Davis population. We recommend that a Civilian Review Board oversee the compilation of collected data (to include ALL traffic stops), be responsible for securing expert statistical assistance in analyzing those data, and report them in a timely and ongoing fashion to DPD officials, City of Davis officials, and to the public.

Who's Taking Pictures At The High School: The Gang Task Force At Davis High School

Concerns exist about the alleged racially disparate gathering of "intelligence," and the gang validation process by the DPD and Yolo County Gang Task Force officers. Further, there is apparently no

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way to challenge the validation label given to one's child, and the policy of how and when to remove that validation is unclear. As with the taking of photographs of selected students and groups of students on the DHS campus, there is considerable leeway for abuse of power, violation of civil liberties, and the disregard of community standards in handling this important, emerging issue.

Concerns of UC Davis Students, Faculty and Staff

The perspectives of over three hundred UC Davis students and staff were captured in a non-random internet survey by the Concerned Campus Affiliates of UC Davis. This study and advocacy group was formed in response to numerous and ongoing testimonies (over decades) from UC Davis students and staff regarding allegations of racial profiling. On each performance measure, quantitative and qualitative, the City of Davis police received "far fewer positive comments and respondents were harsher in their condemnation of City police."

Statements from Community Organizations

The leaders of the Sacramento NAACP, the Mexican American Concilio of Yolo County, and Davis Blacks for Effective Community Action detail the burden and responsibility of fielding numerous concerns and complaints about their constituents' interactions with some members of the DPD. Each of these three organizations supports the establishment of a Civilian Review Board for the Davis Police Department. In particular, the Concilio recommends establishing a civilian oversight board as part of the Davis City Charter, so that any position or solution proposed would not be de-funded with the whims of political sentiment, as happened after similar considerable community efforts in 1992, after a Human Relations Coordinator position was eliminated after just 3 years, despite clearly ongoing need.

National Data Support, Not Contradict Local Concerns

Davis residents are neither distinct nor radical in asserting that police officers can be unduly influenced by the race and/or ethnicity of the people officers are commissioned to protect and serve. This is a national phenomenon, established by many academic experts and law enforcement agencies, including the U.S. Department of Justice. DPD officials continue to put forth the faulty notion that the ratio of resident vs. non-resident arrests and citations is enough to dismiss the importance of racial disparities in DPD's citation and arrest data. However, other cities have owned the racially disparate statistics as their responsibility, even cities with a much more mobile, international, and cosmopolitan populace where there is much more reason to make the resident/non-resident distinction. Such cities include Miami, Berkeley, Sacramento, San Diego, Philadelphia, New York, and Knoxville, Tennessee. The DPD should hold its officers accountable in the same way that officers in other parts of the country are being held accountable and taking responsibility for their statistics and actions.

Is This A New Problem for Davis?

The substantial, longstanding, and unmet need for an independent means of public accountability for the DPD can be seen in documents and testimonies from Davis' past. This documentation spans at least the last 18 years. Six past City of Davis Human Relations Chairpersons, point to sub-optimal police-community relations and a sense of distrust as

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issues they were called to devote a substantial amount of time to during their tenure as HRC Chair.

How Many Complaints Out of 160,000 Calls For Service?

DPD and City Officials contend that the fact that they have received only 72 formal complaints out of 160,000 calls for service in the last 3 years is a sign of both the quality of the DPD and the adequacy of the current complaint system. However, national expert and University of Nebraska Professor Samuel Walker and others contend that police departments have “traditionally kept the official number of complaints low” by institutional practices that discourage or even make it impossible for citizens to lodge a complaint and have it taken seriously. The number of sustained or validated complaints is also, according to experts, not a good measure of how well a complaint or feedback system is working. This is true for a variety of reasons, including the internal nature of the investigation process, the tradition of giving officers the benefit of the doubt over the testimony of a civilian, and the hesitancy or refusal of officers to report or testify misconduct they see in other officers. We contend, therefore, that in the case of the DPD and Davis, right here and right now, the weight of other evidence in this report points to *an inadequacy of the complaint process* and not of those trying to have their voices heard by their peace officers and elected officials.

What’s Wrong With The Current Complaint System?

A deep, seemingly irresolvable distrust in the current DPD complaint process has developed among some Davis residents. Currently complaints are handled completely internally by a Davis police officer. Davis residents have been refused complaint forms when requested in person, have been asked to speak to a supervising officer (a practice discouraged by the U.S. Department of Justice), and have had trouble obtaining copies of their police reports to better understand officer rationale and behavior before submitting their complaints. Some report subtle retaliatory actions, such as being followed by DPD officers as they are driving. At least one family has been harassed to settle its case against the DPD, which included accepting probation for what they contend was a false arrest.

At least one City Council member has accused those trying to democratically improve the system of public accountability for the DPD of actually increasing crime rates in the downtown area by causing officers to be “paranoid” in performing their duties. City and DPD officials apparently have no idea how such claims that concerned citizens are hurting the morale and willingness of DPD officers to perform their jobs excellently actually support the community’s claim that it is a daunting task to feel that one’s concerns will be heard and taken seriously within the current complaint and feedback system of the DPD.

So What’s So Good About Civilian Oversight of the Police?

We are fortunate in that there is substantial precedent for different types of civilian oversight of local police departments across the country. More than 100 jurisdictions have taken this step to improve and strengthen their police force and police-community relations. A Professor of Law at Columbia University cites “Four Critical Dimensions of Value” for civilian review:

1. Holding officers accountable for misconduct;

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2. Keeping a record; recognizing complaints as vital sources of information about a department;
3. Identifying patterns and problems related to policies or supervision rather than misconduct; and
4. Building public trust and community cohesion through patient listening to all complaint parties, and letting them know they have been heard.”

Benefits specifically relevant to Davis include the following:

- 1) the restoration of trust that is necessary for residents to live without fear and agitation;
- 2) opportunity for officers to be publicly exonerated, especially of superfluous accusations;
- 3) the opportunity for a bi-directional education process, wherein community members share their life experiences and perceptions of misconduct and officers share their unique set of risks and responsibilities;
- 4) an opportunity for police officers who act with integrity, including police administrators, to be freed of breaking the code of silence of the police brotherhood in voluntarily raising concerns about troubled officers;
- 5) opportunity for independent and expert analysis of police data.

What Are Models of Civilian Oversight?

There are 3 basic types of civilian oversight models in the United States:

- 1) A Board or Commission that investigates apart from the police department, whether or not the police department maintains its own complaint investigation process.
- 2) A Board or Commission that simply monitors completed investigations, but does not perform investigations itself.
- 3) An individual independent of both the police and community – an auditor or ombudsman – with broad powers to compel evidence. This person general reviews internal investigations, and may initiate, expand, or repeat investigations as needed.

Many city models are hybrids of these models, depending on the needs and resources of the community. The strengths and weaknesses of each model are reviewed. *Any of the models can be co-opted and manipulated by police and/or city officials, and/or by the community.*

How Much Is This Going To Cost Us?

The costs of *not* having a complaint system in which Davis residents feel heard and their concerns validated is rising in Davis. In 2005 alone, there were 7 law suits against the City regarding the DPD. In each of the previous years there was only 1 lawsuit.

The cost of civilian review depends generally on the size of the police force and the type of model selected. The Berkeley police force has twice as many sworn staff as the DPD (200) and

uses perhaps the most labor-intensive and expensive model of an independent investigator who reports to a civilian board. The cost of the Berkeley model *for Berkeley* is \$600,000 per year.

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However, there are cities with thousands of police officers who run the same model as in Berkeley for substantially less, i.e. Philadelphia has 8,000 sworn staff and its model costs \$400,000; San Diego maintains a Citizens' Review Board that reviews complaints independently, with 2,000 sworn officers and a cost of \$300,000; Richmond, CA's civilian review costs \$287,735 for 203 officers; and Knoxville, Tennessee's civilian review commission receives, investigates, and hears cases, with 414 sworn staff and a budget of only \$73,258.

Final Recommendations of the Human Relations Commission

At the January 17, 2006 City Council meeting, the City Manager announced, by edict, his plan to have a 3 person review board of law enforcement or judicial experts who would only quarterly review DPD's investigations of complaints. Many police officers were present. At least 10 Davis citizens who had no negative experiences with the DPD testified regarding their confidence in the DPD. The broader community was not notified that this announcement would be made. In the City Manager's presentation, many perceived a consistent tone of disdain towards the community's substantial, broad-based, and labor-intensive efforts to have its voice heard by both its elected and DPD officials. Only City Councilwoman Sue Greenwald voiced dissent in her questioning the absence of citizen involvement in the review process. She herself had done a bit of informal research on how regular citizens can be trained to analyze complex police matters in an unbiased and competent fashion. At the end of the City Manager's presentation, Mayor Ruth Admundson stated that she looked forward to hearing in a year about how the City Manager's plan was working.

Perhaps before this 1/17/06 City Council meeting, there might have been some hope on the community's part that City and police officials would not actively co-opt and manipulate the civilian review process of the police. That hope, confidence, and trust are gone.

The HRC affirms its belief that at this time the best model of independent, civilian police review for the community of Davis is that of a Board or commission of a diverse group of citizens, including but not exclusively or predominantly law enforcement and judicial officials. The following elements should be included in this effort to improve and strengthen the DPD:

1. An investigator who is completely independent of the police department and the City manager's office.
2. Such an investigator should have the ability to subpoena officers, citizens, and documents, such as police reports that Davis residents often are not allowed to see on request;
3. The opportunity for citizens to submit their complaints to an entity other than the police department;
4. The transparency of the civilian review process; that is, hearings should be public, with the option of police and residents bringing their legal representation, and public disclosure of review findings;
5. Appropriate training of both civilian and law enforcement members in police procedures and community and cultural perspectives;

6. An independent body, with access to experts, to analyze and publicly report the results of data collection efforts, such as traffic stop and arrest data.

Recent Cases Involving Davis Residents

The very first sentence on the City of Davis Citizen Complaint Form for the Davis Police Department (DPD) is a part of an introductory letter written by City Manager, Jim Antonen. He writes:

The public's trust, confidence, and support are vital to successful police service.

There have been a number of events that have shaken the public trust in the DPD. Some no longer have confidence in the integrity or credibility of the DPD complaint process. It is a shame that perhaps the actions of a relatively few officers have created such a loss of confidence generally in the public servants that make up our police department.

The following cases are based on accounts by people who have critiqued Davis police actions. They clearly represent the perspectives of citizens, without the balance of the police perspective. **Still, as the number of stories mounts – they cannot all be untrue – it is the burden of the Davis City Council members to prove that they are false...BEFORE they cast their vote regarding the establishment of a civilian police review board.** As community leaders, we are being told by many who would preserve the unacceptable status quo, that this person or that person is not credible, not to be trusted, or has other issues with their lives. **All of these stories occurred recently.** How many stories will it take before we see a pattern that is greater than our suspicions about the complainants?

Several of these stories have elements that are clearly verifiable by City Council members and/or the City Manager. While we cannot reveal the identity of these citizens, we are considering submitting a special copy of this report to the City Council, to the Chief of Police, and the City Manager, so that these three entities can have the information they need to either verify or debunk these stories. (Truthfully, we fear a little for how these folks will be treated.) If one of these stories of inappropriate and unprofessional behavior is proved true, the need for an external investigative body is established.

- In 2003, a White college student who is completely self-supporting was attacked by a group of 10 people outside of a Davis apartment complex. By the time the police had arrived, the attackers had dispersed, leaving the student to try and get to safety. The DPD officers who appeared on the scene assumed that the student was the perpetrator of whatever crime had taken place. One tasered him in the face. He fell forward and broke 3 teeth in the taster-induced limp fall against the concrete. When he asked the police why, they told him he was under arrest for “resisting arrest.” He has had 8 different public defenders, has lost much school and work time due to court dates, and is maimed by this encounter with the police. He has refused to agree to lesser charges and believes he is suffering retaliation because of his refusal. He wonders at the wisdom and humaneness of

using so many tax dollars to protect one officer at his emotional and physical expense.

- On June 7, 2005, a 27 year Muslim resident of Davis, a UC Davis Ph.D. research scientist, was visited by the DPD to say that a car he owned had been involved in a hit-and-run accident. None of the drivers in the family remembered hitting a car in the said supermarket parking lot. However, the father was given the name and number of the other car's owner. The father contacted his insurance company, and ended up making a cashier's check directly to the owner of the other car within 3 days. They thought that was the end of it. On June 13, 2005, the 16 year old daughter of this UC Davis employee, an excellent student at Davis High School, with no criminal record, was accused of a non-injury hit-and-run offense by an officer who appeared at her Davis home at approximately 9pm. Intermittently, the police officers assumed an adversarial stance, with their hands on their guns. They demanded of the father that they be able to arrest the girl, take her down to the DPD, book her, and question her. They refused the father's offer to bring her in the next morning, as the girl was sleeping. They refused the father's request to have her get dressed; the DPD officers insisted on taking her in her pajamas, which they did. They refused to let the mother or the father accompany the child in the police car or to the station. During the questioning at the police station on Fifth Avenue, the teenager reported that the officer got angry with her because she wouldn't answer his questions, though she pointed out to him that he had stated that she had the right to remain silent. During the interrogation, she requested to speak to her father's attorney. She reported that the officer laughed at her and said, "Where are you going to get a lawyer at this time of night."
- In 2005, an elderly, wheelchair-bound African American woman was in the midst of a life-threatening asthma attack at her senior housing home in Davis. Two DPD officers arrived while the paramedics were attempting to medically stabilize her inside her home and prepare her for the ambulance ride to the hospital. The DPD officers had questions for her about her son, a son who does not live with her. The woman tried to convince them that she did not know anything about his whereabouts. The DPD officers were so persistent in questioning this critically ill woman, they received a harsh reprimand from the paramedics about the inadvisability of further stressing this asthmatic patient.
- In the Spring of 2005, an African American woman, a UCD graduate and a 20 year resident of Davis, was falsely accused of leaving her children unattended in the parking lot of a senior housing complex. The children had been supervised by their surrogate grandmother, while the mother gave assistance to an elderly friend at the complex who had just been released from the hospital. When the mother realized the police had been called, she struck up a conversation with the first officer on the scene, a supervising officer. He concluded out loud that the children looked well cared for. A second officer arrived on the scene minutes later, aggressively probing the African American mother with questions concerning the names and the ages of the children. The mother refused to give

them, asking only, “Why?” The other officer stated to the mother that she was “acting guilty.” The African American mother made nothing more of the scene until she received a copy of a warrant for her arrest that Saturday in the mail, telling her she needed to report to the DPD station to be booked. She reported immediately. However, on Sunday evening, two DPD officers showed up to arrest her for child endangerment, backing off only when the mother located the paperwork regarding her previous booking just the day before. (Were they going to take the mother into custody, knowing that they must then place the two young kids traumatically and emergently in foster care?) And where was the oversight of the supervising officer, who was not concerned about the safety of the children? Over the next several weeks, the mother tried to obtain a copy of the police report, but was refused, as was her public defender. It was 6 months later that she and her public defender *first* saw the police report justifying her arrest. According to the mother, the report, filled out by the police officer who arrived on the scene second, was blatantly false in many respects. The mother had hoped that after all this time of worrying and mystery, etc., that the case would be dismissed. During her court date in December 2005, she was strongly advised by the judge and her public defender to accept an offer from the District Attorney’s office to have her case dismissed on the condition that she take a parenting class. “But I haven’t done anything wrong!” she pleaded. They advised her that whether she was guilty or innocent, she was taking a chance that she might be found guilty, despite the evidence, which would necessitate a sentencing, etc. She has petitioned to have the DPD accept her complaint form, submitted January 2006, as the time allotted to submit a complaint is 6 months after the incident. She was demoralized and enraged.

- An African American woman is a 23 year resident of Davis. She claimed she and her partner have been harassed by DPD officers for reasons that are not clear to her. She is currently in the process of suing the City of Davis for this treatment, and claims to have videotape taken by a KOVR reporter of DPD officers searching her front lawn at 10pm, coming upon the Channel 13 camera, and subsequently fleeing the scene. She also claims to have video tape of a DPD officer showing up in plain clothes on a Saturday morning at the African American’s home, leaving her BMW to search the residents’ truck. The officer apparently fled when she understood she was being filmed.
- In 2004, a White lawyer and Davis resident was stopped for driving his pickup truck on Parkside Drive above the speed limit. He contends that the officer, also involved in the tasing event immediately previous to this case, lied about the evidence. By his testimony a Superior Court Judge reportedly agreed, by the measurements taken, that it was mathematically impossible for the truck to have been traveling at the speed reported, given its relative positions to the DPD patrol car that followed him. The lawyer believes he was stopped because of his appearance, with a sleeveless t-shirt on and tattoos on his arms.
- In 2004, an African American college student was stopped twice within two weeks while driving on Davis streets late at night. The young driver was a Davis

High School graduate and award-winning community servant. On one occasion, the DPD officer made a U-turn and flipped on his lights before he could have seen the back of the driver's car. He issued a fix-it ticket for a tow ball (which helps a car tow other vehicles) obstructing the view of registration tags. On the other occasion, the young man was stopped on Russell boulevard for unclear reasons and the first words out of the DPD officer's mouth were, "Is this car stolen?" The young man's father called the President of Blacks for Effective Community Action, enraged and afraid for his son, whom he had raised as an upstanding young citizen in Davis.

- In 2005, a UC Davis staff member of Iranian descent was pulled over by a DPD officer for unclear reasons. The only thing the DPD officer did was ask, "Where are you going? Are you *sure* you're on your way home?" No citation was issued.
- In 2004, an African American senior citizen, an award-winning community activist and longtime Davis resident, was returning home near midnight from a Human Relations Commission meeting, driving north on F Street. A DPD officer parked pointing South on F Street with no headlights on made a U-turn after she drove northward past him. He immediately made a U-turn and drove close behind her car, still with the headlights off. She was understandably terrified. Finally, the officer turned on his headlights and the police lights as well. After having stopped her, he told her the light that illuminates her license plate was out. No citation was issued, and she was allowed to proceed home, still shaken and terrified by the incident.
- In 2005, the wife of a prominent Muslim community member was driving to pick him up from a meeting at the DPD station. The wife was stopped by a police officer for not having stopped completely at a stop sign. She was adamant to the officer and to her husband that she had stopped. When the community leader spoke to a high level police administrator, he was told, "That officer is going to retire next month. Let it go. Go to traffic school."
- A White grandmother encouraged her White grandson to attend UC Davis. She was dismayed that shortly after arriving to college and gifting him an older model car to him, he was stopped several times. She presumes it was the older model car, perhaps a signal of lower economic class, that drew officers' attention.
- In early 2005, an African American mother was driving her kids to a Davis elementary school. She stopped at a stop sign a couple blocks from the school and proceeded into the intersection behind the car that had entered the intersection just prior to her from the same direction. Reportedly immediately upon her entering the intersection, a DPD car put on its lights and stopped the mother. "What's wrong, Officer," she asked. Rudely, the officer said, "Give me your license and I'll tell you what's wrong." The officer disappeared for what seemed like a long time, so the mother sent the kids on to school on foot, a couple blocks away. When the officer returned, she said I stopped you because you were going 26 miles per hour." "That's impossible," the mother responded, "I just got into

the intersection. And if I was going that fast, then the car ahead of me had to be going that fast.” The officer also said the mother’s tail light was not working and she didn’t have a registration tag. The mother informed the officer that the care was brand new, nothing was wrong with her tail light, and the tags had not been issued yet. The mother was detained for 25-30 minutes, and was made late for work. The mother lost the case in court against the officer’s testimony.

Again, we present only these most egregious cases for our elected and appointed officials to prove or disapprove. Again, these are all *recent* cases. DPD and City Council members have previously objected to dated stories. **Members of the HRC, community leaders, or ordinary citizens do not have access to information that will prove these stories with witnesses, testimony from participants, including officers, and other supporting documentation.** *That is why we are asking for a Police Review Board with an independent investigator, so that the burden of proving these stories and providing redress does not lie with community members or leaders.*

We are often told by City officials that the complainants are not reliable, or the information around the case is confidential, etc., etc. It seems that the stronger a case becomes, the less credible the complainants are described as being. Yet, if we probed them for reasons for these conclusions, they rightly say they cannot reveal confidential information. So, we are both trapped between a rock and a hard place, with community members feeling as though justice is not being served, and their DPD is not trustworthy. What is the solution?

Davis Police Department Activity Statistics (Based on Data Presented 8/22/05 by DPD)

The following summary of data is from a presentation given by Assistant Chief of Police Steve Pierce on Monday, August 22, 2005 at the Davis Public Library. (See full Powerpoint presentation in Appendix One).

Traffic Citations by Race/Ethnicity showed that compared to their composition within the City of Davis population*

- *in 2003*: African Americans were 2.2 times as likely to receive a traffic citation (compared to what you'd expect, given their proportion of Davis' population; Latinos were 13% more likely, those designated as "Other" were 35 times more likely to receive a citation. Whites were 12% less likely and Asians were 16% less likely to receive a traffic citation based on their respective proportion of the Davis population.
- *in 2004*: African Americans were 2.13 times more likely to receive a traffic citation than what you'd expect, given their proportion of the City's population, whereas, Latinos were 34% more likely, and 'Other's were 36.5 times more likely to receive a traffic citation. Whites were 13% less likely and Asians were 27% less likely to receive a traffic citation based on their respective proportion of the Davis population.
- *in 2005 (to 8/19/05)*: African Americans were 1.8 times more likely to receive a traffic citation than what you'd predict, given their proportion of the City's population, whereas, Latinos were 27% more likely, and 'Other's were 39 times more likely to receive a traffic citation. Whites were 13% less likely and Asians were 20% less likely to receive a traffic citation based on their respective proportion of the Davis population.

Please note that these citation data do not include ALL TRAFFIC STOPS, whether or not they resulted in citations or arrests, etc. Sacramento and other cities collect information on race/ethnicity for ALL traffic stops. Length of stop, whether the stop resulted in a search of the vehicle, and other information is collected in other jurisdictions, but not in Davis.

Adult Arrests by Race/Ethnicity showed that compared to their composition within the City of Davis population:

- *in 2003*: African Americans were 3.3 times more likely to be arrested than what you'd predict, given the proportion of African Americans in the Davis population. Those designated as "Other" were 30 times as likely to be arrested. Whites were 16% less likely to be arrested and Asians 32% less likely to be arrested, based on their respective proportions of the Davis population.

- *in 2004*: African Americans were 3.3 times more likely to be arrested than what you'd predict, given the proportion of African Americans in the Davis population. Latinos were 12% more likely to be arrested, and those designated as "Other" were 35 times as likely to be arrested. Whites were 9% less likely to be arrested and Asians 30% less likely to be arrested, based on their respective proportions of the Davis population.
- *in 2005 (to 8/19/05)*: in 2003: African Americans were 3.75 times more likely to be arrested than what you'd predict, given the proportion of African Americans in the Davis population. Latinos were 17% more likely to be arrested, and those designated as "Other" were 35 times as likely to be arrested. Whites were 15% less likely to be arrested and Asians 61% less likely to be arrested, based on their respective proportions of the Davis population.

Juvenile Arrests by Race/Ethnicity showed that compared to their composition within the Davis Joint Unified School District population. To do the comparisons across race, one needs an appropriate denominator. (We used the number of each racial group of students within the Davis Joint Unified School District (Davis public schools). Thus, the cross-racial comparisons are conservative estimates, because they do not include student residents of Davis who attend St. James Catholic School, Merryhill, Waldorf, Sacramento Country Day, or Sacramento's Catholic high schools, Christian Brothers, Jesuit, or St. Francis. Because the proportion of students, just based on the economics of who gets to attend private school, are more likely to be white than African American or Latino, the denominators we use probably include fewer White juveniles. Thus, the proportion of White students arrested reported here are probably actually lower in reality, especially compared to Black and Latino students. Thus, the cross-racial disparities are most likely conservative estimates.)

- *in 2003*: African American young people were 2.4 times more likely to be arrested than what you'd predict, given the proportion of African Americans in the Davis public schools. Latino youths were 17% more likely to be arrested, and those designated as "Other" were 80% less likely to be arrested. White youths were as likely to be arrested and Asian youths 54% less likely to be arrested, based on their respective proportions of the Davis population.

In 2003, if you used White youth as a comparative population, African American young people were 2.2 times more likely and Latino young people 16% more likely to be arrested than White young people.

- ***in 2004*: African American young people were 5.9 times more likely to be arrested than what you'd predict, given the proportion of African Americans in the Davis public schools.** Latino youths were 48% more likely to be arrested, and those designated as "Other" were 80% less likely to be arrested. White young people were 21% less likely to be arrested and Asians 87% less likely to be arrested, based on their respective proportions within the Davis public schools.

In 2004, if you used White youth as a comparative population, African American young people were 7.2 times more likely and Latino young people 1.8 times more likely to be arrested than White young people.

- *in 2005 (to 8/19/05)*: African American young people were 3.3 times more likely to be arrested than what you'd predict, given the proportion of African Americans in the Davis public schools. Latino youth were 2.2 times more likely to be arrested, and those designated as "Other" were 2.6 times more likely to be arrested. White young people were 21% less likely to be arrested and Asians 87% less likely to be arrested, based on their respective proportions of the Davis public school population.

In 2005, if you used White youth as a comparative population, African American young people were 4.1 times more likely and Latino young people 2.8 times more likely to be arrested than White young people.

Gang Validations in Davis, by Race/Ethnicity

All 12 of the 'validated' Asian gang members within Davis are apparently *not* Davis residents. Only 1 out of 6 of the African Americans 'validated' as gang members within Davis is a Davis resident. However, 74% of all persons validated as gang members within Davis were Latino, compared, oddly with 68% of gang members statewide. Given that the proportion of Latinos in Davis is only 10% of the total population (2000 U.S. Census figures) and only 13.9% within the Davis public schools, AND 1 out of 3, or 33% of Californians is Latino, the proportion of 'validated' gang members who are Latino in Davis seems high. (Please see: "Who's Taking Pictures At The High School?").

Should The DPD Analyze Its Own Traffic/Arrest Data?

As distressing as the racially disparate data from the previous section are were some of the comments made by Assistant Chief Pierce during the course of his 8/22/05 presentation. We mean no disrespect to Assistant Chief of Police Pierce, but the following observations highlight the need for an Independent Citizens Review Board. For example, Assistant Chief Police Pierce stated that arrest data were not valid because so many of the arrests (48%) were from outside of Davis. He also hinted that numbers could be made to say anything. *Whatever is the truth behind the data, they are consistent with concerns brought forth by dozens of community members.*

Second, and most disturbing, Assistant Chief Pierce described how DPD officers were directed to collect race/ethnicity data on all stops. However, Chief Pierce stated that after 6 months of data, they (DPD officials) realized "we didn't know what to do with it," so they just put it aside and never analyzed it. Current Chief Hyde confirmed that these data were never analyzed as far as he could tell, and **WERE THROWN AWAY DURING THE MOVE TO THE NEW DAVIS POLICE STATION ON FIFTH STREET!** *This is disturbing and enlightening at the same time, as it highlights again the need for an independent review board that will oversee the compilation of collected data, be responsible for securing expert assistance in analyzing those data, and report them in a timely and ongoing fashion to DPD officials, City of Davis officials and to the public.* The National Organization of Black Law Enforcement Executives (NOBLE) has stated:

Data collection has symbolic as well as practical value. The willingness to collect data can instill public trust and confidence. The courage to mandate data collection can improve accountability systems, fortify organizational values, and help "operationalize" the Law Enforcement Code of Ethics. Data analysis can be crucial in diagnosing types and levels of bias within an organization, as well as developing systems to remove bias. The value of data collection clearly outweighs the associated time and costs, but it is also true that data collection poorly done or poorly analyzed can lead to misunderstandings at best and mistaken policies at worst...Law enforcement must now call upon statistical experts in academia for assistance.

NOBLE, p.2

Who's Taking Pictures At The High School?: The Gang Task Force Activity At Davis High School

Davis has an emerging gang problem. However, in attempts to contain and eliminate that problem, civil rights and community standards, especially in regard to how our children are treated, cannot be tolerated. *The following case reports from Davis High School define a need for community oversight of the activity of the Yolo County Gang Suppression Unit in Davis.*

- In Spring 2005, an African American student at Davis High School was arrested and handcuffed on campus for allegedly inciting gang activity. He was marched by Gang Task Force officer across the DHS quad during the lunch period. Though he was only accused and not yet proven guilty of such activity, this act of humiliation was described (at a 9/21/05 DHS Social Climate meeting) as a reasonable deterrent tactic by a Gang Task force officer.
- In Spring 2005, a DHS (Davis High School) staff member was recruited by the Gang Suppression Unit to take a photograph of a specific African American student when the latter was wearing red on the DHS campus. The student's picture was taken when he wore the only red outfit his mother says he owns, an outfit complete with red shoelaces, which she bought for him. Gang Suppression Unit officers were visibly surprised to learn at a subsequent DHS Social Climate Committee meeting (9/21/05) that matching and/or red shoelaces are not against the school dress code, as stated by Principal Mike Cawley at that meeting.

Later in the summer (2005), when this photograph was used to "validate" this young person as a gang member, a Yolo County judge did not agree that the student met the criteria of a gang member. The judge had heard testimony from a DHS administrator and from the student's longtime basketball coach. In a letter the mother requested to have written on her son's behalf (shared here with both her and her son's permission), the Chief Deputy Public Defender of Yolo County wrote, "I spoke with _____, your son's attorney, and he confirmed that the court found insufficient evidence presented to find your son a gang member...If police agencies believe your son is a gang member, the court and the public defender have no control over information kept in a police file on this subject."

Thus, the gang validation, a police designation of a young person as a gang member apparently cannot be contested by the young person or his parents, even if the courts do not believe the young person meets the gang criteria. What recourse do young people and their families have to challenge this validation process? This situation needs oversight.

- As of early September 2005, Davis Joint Unified School District Board members had the understanding that, as of last Spring, Gang Unit personnel were not taking photographs of students on the DHS campus. Davis Police Department officials are clear that this is an "understanding or agreement," but not a rule, since they contend that they have the right to be anywhere they feel public safety dictates, and that it is legal to take a picture of anyone who is in a public place, whatever that person's age. However, during the 9/21/05 Social Climate Committee meeting at DHS, one Gang Detail officer stated that she had in fact

been on campus the second day of the 2005/2006 school year, “taking pictures of groupings of kids.”

Another DHS student said there was a separate day this Autumn when Gang Task Force officials came on campus and sat, “...just taking notes. It was creepy,” this student stated.

The Chief of Police Jim Hyde stated in the November 15, 2005 City Council meeting that photographs at DHS are only taken after a gang member has been identified as such. Apparently this policy is not being followed in the photographing of “just groupings of kids,” and in the taking of students who have never had behavior consistent with gang membership. For instance, another DHS student, an African American, perceived that her picture was being taken along with the group of African American friends she was with on the DHS quad. When she went over to ask the Gang Task Force officials why they were taking her picture and how she had not given them permission, she was reportedly told that “The administration knows we’re here doing this. It’s for our research.” This student is a positive leader on campus, is on her way to a four year college, and has never been in trouble with the police or in a gang. She and her parents were enraged and unsettled by the incident. As parents have to give even school officials consent to take and keep their child’s picture, we can understand why they were upset.

Gang Task Force officials reportedly did not anticipate or understand the degree of community resistance to the taking of student photographs on the school campus, stating during the standing room only DHS Social Climate meeting, “There’s nothing to worry about as long as you don’t commit a crime.” **We wonder what the racial composition is of those DHS students whose photographs are sitting in DPD files. If Black and Latino kids are photographed for sitting together, as is developmentally not surprising, are White kids who are sitting or congregating together being photographed and having their pictures saved as well? This situation clearly needs oversight.**

- The Davis Gang Task Force designated officer has stated that it takes 5 years of a clean record and disassociation from gang activity before the police will remove the designation of gang validation...*at the DPD’s discretion.* However, during a presentation to the City Council on November 15, 2005, the DPD Chief stated that that length of time is made “on a case by case basis.” It is not clear what the policy is on the length of the gang validation/label is to be and who makes that determination.

This situation clearly needs oversight.

CONCERNS OF UCDAVIS STUDENTS AND STAFF

The recently formed study group, Concerned Campus Affiliates of UC Davis, reported findings from its 75 page report concerning longstanding and ongoing concerns of racial profiling by the Davis City Police and the UC Davis Police. **The group's November 2005 report can be downloaded in its entirety from www.policeracerelationsreport.net.** The report was reviewed in full in preparation for this Human Relations Commission Report.

Briefly, the group undertook this survey study because of “ongoing reports of difficult interactions with the UC Davis Campus and City of Davis Police by People of Color within the campus Community.” They write that the effects of racial profiling include the following:

- “Fosters mistrust and tension between the community and the police.
- Makes people of color feel unsafe, unwelcome.
- Threatens a healthy academic environment.
- Can affect the recruitment and retention of students, staff, and faculty of color.” (from the Executive Summary).

The group created and launched an Internet survey, using various University list serves to “over-sample” for students and staff of color. The non-random sample of 364 participants responded to the survey, with 27% of respondents being White, 28% Asian Pacific Islander American, 18% African American, 14% Latino, 8% Multiethnic, 1% Middle Eastern, and 1% Native American. 3% of respondents did not indicate their race/ethnicity. In each case, students and staff rated the actions of the City of Davis police more negatively than the performance of UC Davis police. Open-ended questions also documented respondents' incidents in their own words. (Please see full report.)

In this survey, City of Davis police were more likely to stop people of color while driving than Whites. Latinos were 180% more likely to be stopped than Whites. Latino men were 330% more likely to be stopped than White men. African American men were 310% more likely to be stopped than White men.

Negative open-ended comments far outnumbered positive comments about the City of Davis police, with reports of rudeness and explicit comments expressing officers' perception of the suspiciousness of student/staff. The Executive Summary states: “Though the types and comments about City of Davis Police...were similar to those about the campus police, there were far fewer positive comments and respondents were harsher in their condemnation of City police.”

On Monday, November 21, 2005, the report was presented at a UCD forum to a crowd of *approximately 150-200 people. Clearly, these are the concerns of more than a few Davis activists.* **Ironically, a UC Davis Alumnus hosting the 2005 event, now a UC Davis administrator, started off the forum with a sobering observation. He contends that one of the most prominent memories about Davis that stands out in the mind of African American UC Davis alumni is their negative encounters with the police.**

**STATEMENTS OF SUPPORT
FROM COMMUNITY ORGANIZATIONS**
(All letters are included in the following pages.)

Sacramento NAACP

Ms. Betty Williams, President of the Sacramento Chapter of the National Association for the Advancement of Colored People (NAACP), submitted a letter in support of the establishment of “an Independent Police Accountability Review Board” on September 20, 2005. Ms. Williams also attended the Joint Davis City Council/Davis Human Relations Commission meeting on September 22, 2005. *She stated that she was surprised by the number of complaints of police misconduct and harassment that the Sac NAACP office was being asked to respond to by Davis residents.*

The Mexican American Concilio of Yolo County (????)

The Concilio states that it has been asked to serve as a mediator in police-community relations by both members of the police and members of the community. It strongly recommends the establishment of a civilian oversight body. In addition, the Concilio recommends that such an oversight body be made a permanent part of the City Charter, so it will not be subject to political forces calling for its de-funding after the current, labor-intensive attention dies down. The President of the Concilio, Rick Gonzales, remembers how there was indeed a Human Relations Officer for three years in the 1990’s, but the position was de-funded with the change in political winds.

Davis Blacks for Effective Community Action

Like the Sac NAACP, Davis Blacks for Effective Community Action has been asked to advocate in the last several years for Davis citizens of many races concerning alleged racial profiling and harassment by the Davis City Police. BECA contends that some residents are afraid of the complaint process because of the way others have been treated once they attempted to make a formal complaint or after having submitted a formal complaint. While publicly contending that not all Davis Police officers are engaging in this behavior, BECA has asked to be relieved of this de facto, time-consuming responsibility of validating citizens’ complaints, obtaining appropriate redress for them, and being characterized as anti-police in the process..



NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
SACRAMENTO BRANCH

P.O. Box 186231 • Sacramento, CA 95616 • phone (916) 447-8629 • fax (916) 447-8671

Branch Officers:

Betty Williams
President

Fred Gayle, Jr.
1st Vice President

Rory Kaufman
2nd Vice President

Debbie Richardson
Branch Secretary

Shelly Bailey
Asst. Branch Secretary

David DeLuz
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Mae Wortly
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Members at Large:

Rev. Archie Sims
Nate Smith

Executive Committee:

Mary Bell, Chair
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Rick Warren, Chair
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Rev. Ashby Odeye, Chair
Community Coordination

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Dr. Reggie Fair, Chair
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Y'vonne Heriveauz, Chair
Reg. Adult Membership

Velma Sykes, Chair
Publicity and Media

LaMills Garner, Chair
Young Adult and College

Royetta Fulgham, Advisor
Youth Council

Velma Siskaly, Proumoy
ACT-SD

September 20, 2005

COPY

City of Davis
City Council
239 Russell Blvd
Davis, CA 95616

Attention: Ruth Asmundson, Mayor
Sue Greenwald, Mayor Pro Tem
Ted Puntillo, Councilmember
Don Saylor, Councilmember
Stephen Souza, Councilmember

The Sacramento Branch of the National Association for the Advancement of Colored People (NAACP) find it necessary and is in support of a community Police Accountability Review Board and a liaison person as the Director of the Office of Police Accountability for the City of Davis due to the number of complaints from the community and within our office. We are asking the Davis City Council to establish an independent Police Accountability Review Board (or individual) to reduce and resolve the complaints by citizens against the Davis Police Department.

We do not feel comfortable in "police policing police". It makes no sense, therefore, we will never support it. It is my opinion that the police have proven that they cannot do the job and if they continue to go forward in this manner, we will ask publicly for a resignation of specific staff within the Davis Police Department and will not support those who are publicly appointed to official positions. We will also inform the public of our lack of support of the publicly appointed officials.

Please contact me at (916) 447-8629 for further information or to schedule a meeting to discuss the establishment of an independent Police Accountability Review Board (or individual) for the Davis Police Department. I hope to hear from you soon.

Sincerely,

Betty Williams
President
Sacramento NAACP

cc: Administration File

Laura Byrd, Legal Redress Chair

www.naacpsacramento.org



Mexican-American Concilio of Yolo County

P.O. Box 879, Woodland, California 95776

January 17, 2006

City Council Members
Human Relations Commission Members
City of Davis
23 Russell Boulevard
Davis, CA 95616

Members of the Davis City Council and Human Relations Commission:

The Mexican American Concilio of Yolo County overwhelmingly supports the proposed Civilian Oversight Commission or Review Board currently under your consideration.

The Concilio was founded in 1970 and is a non-profit organization that advocates for all residents and specifically those of the Latino community. Our primary focus is to award scholarships to deserving graduating high school students in Yolo County. We have given nearly 200 scholarships the past six years.

The Concilio has been contacted by Davis residents as well as the Davis Police Department concerning conflicts and misunderstandings between the two. This has been an ongoing issue in Davis since 1975 when I moved here. It seems that people of color feel targeted by the Police Department. Recent 2004 data provided by Davis Police Chief Jim Hyde makes the point. This data shows that people of color are twice or three times as likely to be cited, arrested, or validated as a gang member than those who are white. This data reveal that there is a definite mistrust between people of color and the Davis Police Department.

We strongly recommend that such an oversight body become part of the City's Charter, so that it cannot be de-funded at the whim of political adversity. This de-funding and disappearance of the Human Relations Coordinator happened in 1992 after 3 years of its existence. This oversight position was initially established after a long, labor-intensive community struggle, similar to that going on today in Davis. The need for such an oversight body did not stop with its de-funding in 1992 and has been ongoing. Here we are today, again, asking for such public accountability. Hence, we are recommending that whatever oversight body is established this time around be made part of the City Charter.

We sincerely believe that an independent review process would go a long way to restoring trust in the Davis Police Department and make the complaint process one that Davis residents can have confidence in and approach without fear of being invalidated or not taken seriously. This will make Davis a better community.

If you have further questions for us, please do not hesitate to contact me.

Sincerely,

Rick Gonzales
Rick Gonzales, President
Concilio of Yolo County

B
E
C
A

Blacks for **E**ffective **C**ommunity **A**ction
P.O. Box 4146 - Davis, CA - 95617
(530) 753-7443

“Joining together to build a better community.”

January 18, 2006

Davis City Council Members
Human Relations Commission
City of Davis
23 Russell Boulevard
Davis, CA 95616

To the members of the Davis City Council and the Human Relations Commission:

Davis Blacks for Effective Community Action (BECA) is excited about the bi-directional educational process that would benefit both the police and the community, a process that is represented in the notion of a citizens’ oversight body for the Davis Police Department (DPD). We are also looking forward to the restoration of confidence and trust in a complaint process that increased public accountability would bring. For these reasons, we recommend in the strongest terms possible that the Davis City Council establish a *citizens’* review board to provide public accountability of the Davis Police Department.

BECA was founded in 1979 as a non-profit organization that would represent the unique advocacy and cultural enrichment needs of Davis’ Black families and residents. We have provided substantial opportunities for community education and coalition-building. BECA also raises money for scholarships for deserving Davis high school students, especially from groups underrepresented in the higher education system. We work closely with and in Davis schools to ensure that the potential of each Davis child is equitably nurtured.

Over the decades, a substantial portion of our volunteer staff time has been spent in mediating misunderstandings and other sub-optimal interactions between members of the DPD and Black residents. We hear especially from UC Davis undergraduates and graduate students about disproportionate attention DPD officers have given them while driving, walking, riding bikes, and in their residences.

BECA leaders fully recognize that we do not have access to the all the information we need, usually from both the police and from those who feel that they have been unfairly targeted or inappropriately treated by DPD officers, to make fair and impartial

judgments. Still, the ongoing nature and the volume of complaints from those who do not trust effectiveness or the fairness of the existing complaint process cannot be denied by BECA officers. We as an organization want to be relieved from the burdensome, time-consuming and often-adversarial role we must play as intermediaries between members of our community and the DPD. We are not anti-police, but rather want to be publicly counted among Davis citizens as those who support and work for the continued improvement of the DPD and its relations with all segments of the community. *This is precisely why we are asking for a mediating oversight body, independent of both the DPD and the community, but made up of members of both, to mediate these encounters. This does not seem like an unreasonable request.*

Such a civilian review process would be an incredible opportunity for DPD officers to learn in a substantive and ongoing manner from community members about community members' perspectives. And likewise, an independent, review panel would be a great opportunity for community members to learn about the unique tasks, risks, and procedures that DPD officers have to negotiate on every shift. That bi-directional learning could transform both the DPD as an organization and the community's level of trust in its police officers.

No doubt, civilians would have to be trained and engaged in ongoing learning about police procedures, but that is possible. No doubt, there would have to be a restructuring of the police union's agreement with the DPD in not allowing access to DPD employees, records, etc. that increased public accountability would mean. That too is possible.

We do not want to believe that City Manager Jim Antonen and the City Council members meant to augment the distrust in this ongoing community dialogue about the need or lack thereof for a civilian review body for the DPD. But that is what he did. At the January 17, 2006 City Council meeting, the City Manager's plan was "handed down" to the community as a done deal, announcing a Police Advisory Committee, to be made up of three law enforcement officials and no civilians to review already completed DPD complaint investigations. No indication prior to this meeting of his unilateral edict was given to make certain, in a good faith effort, that relevant segments of the community were there to give him and the council the feedback they must be seeking, as to whether this proposal engendered a deeper level of trust and redress for our concerns. No dialogue. No back and forth. No "How does this sound?" The proposal seemed to be presented as something that would hopefully shut up the complaints of those perceived to be anti-police in the community. Only Council Member Sue Greenwald (Mayor ProTemp) raised the question of where the citizens were to be in this review process, and how is it that other cities trained and trusted nominated citizens to play a role in the oversight process. ***Both in process and outcome, the City Manager's leadership this week left us with more, not less distrust in the DPD complaint process.***

We know so many of our non-Black neighbors know neighbors, or their neighbors' children who perceive that they have been unjustly or discourteously treated by DPD officers. We have lost so many opportunities for education and healing from what is, after all, a national phenomenon of police-community disconnects in perspectives. We

can only hope that our City leadership will engage the community in what would be an effective and fiscally responsible model to accomplish the reasonable goal of increased public accountability and community trust in the Davis Police Department.

Sincerely,

Jann L. Murray-García, M.D., M.P.H, BECA President.

National Data Support, Not Contradict Local Concerns

Rationale for Looking at National Statistics

For at least two reasons it is important to include data documenting racial profiling and bias policing from across the country:

- 1) We do not have to pretend that those in support of a Civilian Review Board are coming from ‘left field’ or making an unreasonable request that has no precedent elsewhere. Indeed, from Baltimore to Berkeley, Miami to the New Jersey Turnpike, racial profiling has been documented and validated by researchers, independent investigators, and by judicial entities. Thus, it seems, across the country, the zeal of *some* police officers to identify people who seem like they do not belong where they are sited, has become an excuse for excessive and abusive surveillance and harassment. **Davis residents are neither distinct or radical in asserting that police officers can be unduly influenced by the race, and/or ethnicity, of the people these officers are paid to protect and serve.**
- 2) Chief Jim Hyde and Assistant Chief of Police Steve Pierce continue to put forth the **faulty notion that ratio of resident vs. non-resident arrests and citations is enough to dismiss the importance of racial disparities in DPD’s citation and arrest data.**

However, there are cities across the country that have proportionately many more people moving in and out of them on a daily basis from an international denominator of possible non-resident police encounters. Many of these cities have documented racial disparities and took so serious the responsibility they have for the behavior of their officers that they have established Independent Review Boards within these cities. They did not dismiss the urgency or validity of the racial disparities by blaming the non-resident status of the civilians disproportionately involved in police encounters. These cities include Berkeley, Miami and Sacramento. In addition, highway patrol officers from such extremely busy roadways as the New Jersey Turnpike and the Maryland Interstate 95 were not excused by U.S. Superior Court jurisdictions from the racial disparities in their encounters. Clearly, much more so than Davis, these patrol officers were serving people from up and down the Eastern coast of the United States.

Further, people who do not live in Davis nonetheless include faculty, staff and students of the University, visitors to the City’s entertainment attractions (i.e. the Mondavi Center and downtown Davis), and friends, relatives, and business contacts of those residents within the city. It is not clear why the resident/non-resident distinction is important to point out when one considers the character and uniqueness of our university community. Indeed, unlike Berkeley and other large cities that are immediately contiguous with innumerable suburban communities, one has to have a good reason to exit highway 80 or 113, cross the agricultural buffers that surround our city, and ultimately enter our city. The DPD should be held accountable, as should any city, for its behavior to all the folks within our city limits while they are here.

In summary, should the DPD take responsibility for the behavior of DPD officers and not 'blame' a characteristic of the victim, i.e. the (Davis) resident or non-resident status of the victim? Yes, we believe so. Other cities have owned this as their responsibility, even within those cities that had much more reason to make the resident/non-resident distinction. The DPD should hold its officers accountable in the same way that officers in other parts of the country are being held accountable and taking responsibility for their actions. The appearance that the DPD attempts to evade that responsibility contributes to the lack of public confidence that it currently suffers.

Examples from the National Data of Racial Profiling/Bias Reporting

- Data from 1999, reported in a U.S. Department of Justice report, showed that Blacks in the United States were 20% more likely than Whites to be stopped, and 50% more likely to have been stopped more than once (**consistent with the recent UC Davis survey**). Nationally, Blacks and Latinos were more likely than Whites to be stopped and searched, and yet less likely than Whites to be in the possession of contraband.(YWCA reference)
- John Lamberth, social psychologist, statistician, and expert witness regarding racial profiling, collected data on the occupants of 43,000 cars on the New Jersey Turnpike in June 1993. Though Blacks on the Turnpike made up 13.5% of drivers, and 15% of those violating traffic laws, they made up 35% of those stopped by New Jersey State Police. With stop and arrest data, Lamberth and colleagues found that Blacks were 4.85 times more likely than Whites to be stopped and 16.5 times more likely to be arrested. **Based on these data, Judge Robert E. Francis of the Superior Court of New Jersey ruled in March 1996 that defendants and statisticians “had proven at least a de facto policy on the part of State Police...of targeting blacks for investigation and arrest.”** (Lamberth, 1998).
- Between 1995 and 1997 on the Maryland State Highway, 30% of drivers stopped were Black, and 70% of drivers stopped and searched were Black, even though Blacks made up only 17.5% of traffic violators along this roadway. “U.S. District Judge Catherine Black ultimately ruled that ...Maryland troopers on I-95 were continuing to engage in a ‘pattern and practice’ of racial discrimination...***Police officers everywhere deny racial profiling.***” (Miami-Dade reference, 2005)

Please note that those analyzing data from other communities pay particular attention to stops that did not result in any citation, arrest, or relevant evidence (i.e. contraband) of wrongdoing that may have justified the stop. This type of data has been used as evidence that there is no justifiable reason to stop the person, and the signal to stop the person was disproportionately based on race. This is one of the reasons to record data on *all stops*, not just on stops that result in citations or arrests.

IS THIS A NEW PROBLEM FOR DAVIS?

Some City officials are contending that these allegations and concerns of police misconduct and profiling are the accusations of just a few community activists seeking attention. The breadth of cases, the letters of support, the racially disparate data should be substantial evidence that this is not the case.

Further evidence exists of the legitimacy of the notion that the Davis City Police has engendered the distrust of community members. The substantial and **longstanding, unmet** need for an independent means of accountability for the Davis City Police can be seen in documents and testimonies from Davis' past. Documentation exists for at least the past 15 years.

The 1989 Report On Racial Issues In Davis.

In 1989, at the direction of the Davis City Council, the Davis Human Relations Commission authored a report entitled, *Report On Racial Issues In Davis*. In the section on "Police Issues" (page 3), the authors wrote:

A major area of concern expressed by residents and the African American community Students United of U.C. Davis (AASU) relates to the City's Police Department...On several occasions during the preparation of this report, comments were made regarding the performance of police personnel during interactions with persons of color. During a public hearing conducted by the Human Relations Commission, testimony was received which alleged that the police department often followed persons of color because they were not considered 'typical residents.'

Currently in 2006, we are recommending a Police Review that is independent of the Human Relations Commission and of the Davis Police. This is due to the lack of trust over years of inaction by their public officials regarding this issue. Still, it is interesting to note that *even in 1989*, the Human Relations Commission recommended the establishment of such a review board, although not independent of the Human relations Commission. On page 4 of their report

The Human Relations Commission recommends that the City Council authorize a standing subcommittee of the commission to be established which would address complaints against the Davis Police Department. Guidelines for the type of complaints to be heard by the subcommittee require further definition; however, it is expected that the majority of complaints would address racial, cultural, and civil rights issues. The intent of creating such a subcommittee is not to level any criticism against the police department, but rather to promote and facilitate ongoing communication and responsiveness between the department and the community. (p. 4, 1989 Human Relations Commission Report)

The Arroyo Report 2001

Arroyo Associates , Inc., a management consultant company, was commissioned by the City of Davis to perform a routine “management and performance audit of the Davis Police Department.” The report is dated February 5, 2001.

There are several places in this report from 5 years ago, documenting DPD’s strained relations and a lack of trust with some citizens of color within Davis. For instance in the Executive Summary of the 47-page report, the consultants took the time and space to write;

...recent incidents involving police contact with racial minority individuals and the resulting negative publicity, rumors, and community speculation has given rise to questions regarding the Department’s ability to deal fairly with racial minorities. (p. 7)

In the Community Relations Section of the report, under the heading “Race Relations,” unfortunately there is ironically and hauntingly similar evidence from 5 years ago of concerns that community members are again raising and continue to raise with their elected officials and public servants. The Arroyo Consultants wrote in 2001:

When we met with racial minorities, the attitude toward the police seemed more strained. Recent incidents involving contacts between police and members of the African American and Asian communities have caused some negative publicity in the media and set off rounds of speculation and rumor within minority groups. Whether warranted or not, incidents such as these tend to raise doubts as to the Department’s ability to deal fairly with racial and other minorities...Indeed, even the officers themselves are cognizant of a problem in their relations with minority communities. Seventy-eight percent (78%) of the respondents to our employee questionnaire indicated that relations between DPD and racial minorities communities “could be better.” However, ninety percent (90%) of the respondents felt that minority community perceptions about the Department were not warranted. (p. 46-47)

Again, ironically, almost all the DPD employees polled were in contrast to the perceptions of the community (“not warranted”). The longstanding need for a mediating body, independent from both the DPD and the community, was apparent in the report from 5 years ago.

Statement of Need from Every Past HRC Chair (on page 26, immediately following)

January 6, 2005

Cecilia Escamilla Greenwald
Chair, City of Davis Human Relations Commission
Davis, California 95616

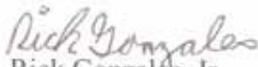
Re: Support for the creation of a Civilian Police Oversight Review Commission.

Dear Ms. Escamilla Greenwald,

We the undersigned, all former chairs of the Davis Human Relations Commission, support the current Commission's recommendation made in September 2005 to the Davis City Council requesting the establishment of a Civilian Police Oversight Review Commission.

All of us, during our service on the commission, were confronted with complaints from citizens alleging that City of Davis Police Officers were profiling by race and age. The complaints alleged that traffic stops and detentions were being made for no apparent reason other than the race or age of the driver or the occupants of the car. This has been a serious issue that repeatedly came to the attention of the commission.

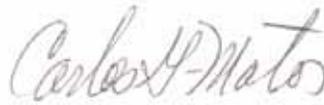
We look forward to the Davis City Council taking positive action on this issue.


Rick Gonzalez, Jr.
Chair, 1988 to 1991


Arun Sen
Chair, 1993 to 1995


Gay Powers
Chair, 1995 to 1996


Bill Ritter
Chair, 1996 to 1998 & 2001


Carlos Matos
Chair, 1998 to 2000


Tansey Thomas
Chair, 2000 to 2001

How Many Complaints Out Of 160,000 Calls For Service?

Both DPD Chief Hyde and the City Manager point out that out of 160,000 calls for service to the DPD over the past 3 years, there have been only 72 complaints. Of these 72 complaints, only a relatively few have been sustained, where the behavior of a DPD officer was clearly sub-optimal. City officials use these data as proof that very few if any Davis residents have had negative experiences with the police. City officials, by their use of this statistic, are asserting their confidence in the complaint system as it exists now.

However, as the previous section demonstrates – 21 pages of evidence – there is substantial and undeniable evidence that supports the notion that *some* DPD officers are acting in an unprofessional and even harmful manner. It is reasonable to conclude that there is something wrong with the complaint system and not with the literally hundreds of people, including Davis residents and UC Davis students, Davis High School students, six past Chairs of the Davis Human Relations Commission (back to 1988), and the leadership of respected community organizations. In addition, both local and national police statistics support these residents' claims, and not the claims of the DPD or City leadership.

Second, the next section covers reasons why Davis residents in particular have found it difficult to lodge complaints against the DPD. The reputation precedes the police department, and many, historically disenfranchised from the social institutions within our country, don't even bother trying. University of Nebraska Criminal Justice Professor Samuel Walker explains *this national phenomenon*:

Police departments have traditionally kept the official number of complaints low by either not accepting complaints at all, not officially recording them, or deliberately misclassifying them. In some instances, complainants have been actively turned away when they walk into a police station, deliberately provided misinformation about where complaints can be filed, or even threatened with arrest.

Walker, *The New World of Police Accountability*, p.81.

Further, based on national experience and expertise, the low rate of sustained complaints should come as no surprise to a well-educated community, and this low rate should not be used as a sign of adequacy of the system. According to Professor Walker:

Complaints against officers are inherently difficult to sustain, usually because there are no witnesses or forensic evidence. And in fact, citizen oversight agencies do not sustain significantly higher rates of complaints than police internal affairs units. For these and other reasons, the sustain rate is not a valid measure of the effectiveness of a complaint review process.

Walker, p. 99.

The next section details experiences of Davis residents as they have attempted to lodge complaints.

SO WHAT'S WRONG WITH THE CURRENT COMPLAINT PROCESS?

A deep, seemingly irresolvable distrust in the current complaint process of the Davis Police Department has developed among some Davis residents. Currently, complaints are handled completely internally by a Davis Police Officer assigned to this task. Davis residents have reported the following adverse consequences or suboptimal experiences in attempting to lodge complaints or advocate for themselves within the current system.

- Residents have been told that they could not receive a complaint form just by asking.
- Residents have been requested to wait and speak to a supervising officer, without subsequently being explicitly offered to leave their complaint in writing, at least for documentation purposes. (No written record of the complaint in the complainants writing.) It is disturbing that this practice is done in Davis, as the U.S. Department of Justice has actively discouraged it:

Civilians should not be required to meet with or speak with a supervisory officer as a requirement for filing a complaint.

“Principles for Promoting Police Integrity,” U.S. Dept. of Justice, p.7

- Upon complaining about mistreatment by a given officer, the officer who came out to field the complaint verbally only, stated, “I know that officer. He wouldn’t do that.” End of complaint process for that individual.
- Complainants have reported that after they filed a complaint or reported their negative experience in a City Council or Human Relations Commission meeting, the following happened:
 - They were subsequently followed in their car by Davis police officers;
 - Davis police officers parked outside of their apartment following a public critique;
 - Davis police officer parked in the center aisle outside of a Davis restaurant while a complainant family tried to enjoy their whole meal.
 - A potential witness was called at her place of employment regarding elements of a complaint case. Her boss was not pleased and required an explanation.
 - Without a warrant, a Davis police officer requested in-person of an apartment manager the names and phone numbers of apartment residents who may have witnessed an act of police misconduct at that apartment complex.
 - Complainants have had to wait literally months for responses to complaints.
 - When a complaint has been sustained or found with merit, at least one complainant reports that they have been harassed to settle with the City regarding their substantiated complaint.
 - Davis residents also report being refused by the DPD copies of the police report relevant to their case, so they could know to make an intelligent case, incorporating elements of the officers’ account of the interaction. In one incident, a Davis resident and then also her Public Defender were refused requests to see her police report by either the Davis Police Department or the Yolo County District Attorney *until 5 months after the incident.* This turned out to be just days

before a scheduled court date in which she needed to defend herself against what she continues to contend was a false and vindictive arrest by Davis Police.

Hence, there are those who don't trust the complaint process for a variety of reasons, including fear of police retaliation, belief that nothing will come of the complaint, anticipation of humiliation or discouragement in the process of obtaining a complaint form or relevant police records, harassment after a sustained complaint.

Are Those Critiquing The DPD Causing Davis' Increase In Crime?

Some in the Davis community were shocked and deeply disappointed by the comments by City Council member Ted Puntillo during the November 15, 2005 City Council Meeting. Councilman Puntillo, in his question to Chief Hyde, seemed to suggest that those critiquing the DPD, those seeking justice for their Davis neighbors, those exercising their democratic right to dissent and to insist on checks and balances to power, are actually responsible in part for the increase in crime Davis has seen, especially in the downtown area. Transcribed from videotape verbatim, Councilmember Puntillo asked:

Is there any relationship with the way we're doing business now and all these armed robberies that are happening, especially downtown? Are we doing something different? Are we a little more paranoid? Or are we just...what's happening with that?...

Chief Hyde seemed to answer affirmatively:

I'll be candid. Because of the allegations made against the members of the Davis Police Department referencing racial profiling, many officers feel that they should not engage....(City Council Meeting, 11/15/05)

So, according to one of our own elected officials, the cries from many Davis residents to improve the DPD in the quintessentially democratically-oriented community of Davis have actually put our city at greater risk for more crime. This blaming of those Davis residents victimized by discrimination as an excuse not to improve or make more publicly accountable the behavior of some DPD officers is as old as the hills. It is not consistent with a democracy, or with what we know of Davis as a community.

Citizens need to know their complaints and concerns will be received and investigated by a party independent of the police. Davis residents also need to know that though their life experiences may not be shared by their City officials, still their right to dissent, critique, and put enormous amounts of energy into improving their public services should not be treated with disdain and disregard. A civilian review board in Davis will enhance the credibility of the complaint process and would go a long way in restoring the trust of some Davis residents in their police department.

What's So Good About Civilian Oversight of the Police?

Summary of Benefits from a National Perspective

Ms Debra Livingston, Professor of Law at Columbia University and Member of the New York City Civilian Complaint Review Board describes “Four Critical Dimensions of Value:

- 1 Holding officers accountable for misconduct;
- 2 Keeping a record; recognizing complaints as vital sources of information about a department;
- 3 Identifying patterns and problems related to policies or supervision rather than misconduct; and
- 4 Building public trust and community cohesion through patient listening to all complaint parties, and letting them know they have been heard.”

Local Benefits/Rationale for a Civilian Oversight Commission

1. The existence of such a Commission, with an independent investigator, would help restore the trust that is necessary for community members to live without fear and agitation in regards to their public servants, the peace officers. Thus, the DPD’s relationship with historically disenfranchised communities would be strengthened.
2. If there is indeed no problem and the DPD is acting with appropriate procedures and mandated professionalism, the proposed Commission should not be a threat, but rather an opportunity to exonerate their reputation.
3. To my knowledge, there are seven active suits against the DPD for illegal and/or inappropriate officer behavior. Very quickly, the City will exhaust what it would cost to initiate and sustain a Police Review Commission with an independent investigator. And now that citizens feel less isolated and silenced, there will likely be more suits brought against the City of Davis, if not a substantial class action lawsuit.
4. This call for the proposed Commission should not automatically be assumed as a criticism against the leadership of Chief Jim Hyde or the entirety of the DPD. In fact, such a Commission will help DPD leadership do what it needs to do in his interface with individual officers and the police union, the latter of which may be pressuring Chief Hyde to do nothing at the threat of a vote of “No Confidence” or a call to stay in sync with “the brotherhood.”
5. There has been mention that the HRC should be making the police look good, not working for an investigative body that does not automatically assume the integrity of DPD officer behavior. There has been mention that the HRC should be making the police look good, not working for an investigative body that does not automatically assume the integrity of DPD officer behavior. The HRC is an advisory body to City Council and hears concerns and complaints of discrimination within the DPD and other public entities. The HRC is in fact doing what it is supposed to be doing in providing access and ombudsman-service to

citizens who do not find their voices heard in the regular avenues to the power structures of City governance.

6. According to Dan Silva of the Berkeley Police Commission, some of the biggest fans of such a commission are the officers that have been exonerated, some of whom had no way to exonerate themselves because it was his word or her word, or because confidentiality precluded the officer's sufficient defense.
7. It must be difficult for bystander officers who witness inappropriate behavior by their fellow officers to hand a citizen a complaint form or fill one out themselves. For those bystander officers, I would think this independent process would be enormously helpful, as they most certainly are psychologically conflicted between doing the right thing and not breaking ranks with 'the brotherhood' of officers.
8. The percentage of unsustained claims in the Berkeley example should not be equated with the un-necessariness of the commission. Much like the Truth and Reconciliation of South Africa, some of what is most powerful for folks is to have their case heard and to face the officers that had so much power over them in a situation in which the citizen felt humiliated and stripped of dignity. The fact that nothing illegal was done by the officer does not mean the Commission investigation didn't produce something invaluable to that citizen and to that officer and to the community that has to be subjected to the otherwise uncensored behavior of the officer.
9. Even when complaints are unsustained by such a commission in Berkeley, Mr. Silva reported that when an officer ends up with several of these complaints in their files, even if unsustained, there begins to be what police officers can identify as a pattern of behavior that is increasingly suspect.
10. Assistant Chief of Police Steven Pierce has stated in essence that you can make statistics say anything, and they didn't know what to do with the stop data they collected in 1999. (Those data were thrown away in 2001). A commission, such as that established in Berkeley, could be responsible for analyzing those data and trends over time in the data.
11. The DPD will install video recorders in all police cars in February. (Initially we were told that installation would occur in October 2005). This hopefully will mean the DPD officers will be exonerated and protected from false complaints or invalid complaints, and it will hopefully mean that citizens will be protected from inappropriate DPD behavior. The proposed Commission will provide another level of accountability for what obviously is a need that even the DPD acknowledges – if only for officers' protection - in its installation of these cameras.
12. What does the number of police review commissions (100) nationwide, compared to the total number of police jurisdictions nationwide (50,000?) say about the necessity for a Commission here? Nothing. We can't use that excuse not to do what seems like the right thing in this city at this time. Especially if we see how difficult it is to organize a marginalized segment of a city's population, then get those complaints validated by their elected officials, it is not surprising that a greater number of jurisdictions have not allowed' this in their community.

Models of Civilian Oversight of Police Departments in the U.S.?

On September 22, 2005, the Davis City Council and Human Relations Commission recommended the Berkeley Police Review Commission (BPRC) as the model most appropriate for the Davis City Council to adopt. The BPRC has several features *that even more in January 2006 than in September 2005 fit the needs of Davis at this time:*

- An investigator who is completely independent of the police department and the City manager's office;
- The ability of the investigator to subpoena officers, citizens, and documents like police reports that Davis residents often are not allowed to see at their own request;
- The opportunity for citizens to submit their complaints to an entity other than the police department;
- The transparency of the BPRC's actions: the hearings are public, and the public gets to know the recommendations of the BPRC;
- The use of citizen volunteers, appointed by City Council members, to hear the evidence in the cases;
- An independent body, with access to experts, to analyze and publicly report the results of data collection efforts, such as traffic stop data.

Other models of civilian oversight are included in this report as follows for completeness sake and to give Davis residents and decision makers their own opportunity to review these models. There is great urgency to re-infuse the Davis community dialogue on the need and appropriateness of the following models.

On January 18, 2006, City Manager presented his own suggested and officially adopted model for police review, without announcing his announcement to the community or inviting dialogue. The City Manager will appoint 3 people considered "leaders" in the justice system, serving "wholly at the will of the City Manager. Their primary role is to look for trends and for the thoroughness of the investigations." They will not receive citizen complaints independent of the police, and will only review complaint investigations after the DPD has finished them.

The model was handed down as an edict, meant to address what he called perceptions of the community he did not agree with or think were valid. It was obvious the police department was prepared for this action, as dozens of police officers were in attendance, and approximately 10 police department supporters read from largely prepared statements. After his presentation and apparently prepared, read-from comments of some City Council members, Mayor Ruth Asmundson congratulated the City Manager and said she expected to hear about this issue again in a year.

If the purpose of this proposed Police Advisory Committee is to engender trust, then the process of introducing the concept on January 17, 2006 as a done deal, without notifying the community or inviting dialogue about it. Again, for these reasons, we continue to recommend the civilian oversight board model, with an independent investigator and sufficient staff, and the ability to

subpoena officers, citizens, and documents, as the best model for Davis at this time to achieve this purpose.

Functions, Strengths and Weaknesses of Various Models of Civilian Oversight in the U.S.

(Sue Quinn, National Association for Civilian Oversight in Law Enforcement)

	Investigative Board/Commission	Monitoring Board/Commission	Auditor/Ombudsman with Broad Powers (power to compel evidence)
Function	<p><u>Produce an investigation; make findings & recommendation; give citizen, the public, and department information.</u></p> <p><u>Provide firm, fair, consistent external investigations</u> in order to help law enforcement agency better provide firm, fair, consistent law enforcement services, and better management.</p>	<p><u>Identify adequate vs inadequate Internal Affairs investigations; direct department to take corrective action. Improve quality of IA investigations. Make policy recommendations.</u></p> <p><u>Provide firm, fair, consistent internal reviews of IA investigations</u> in order to help law enforcement agency better provide firm, fair, consistent law enforcement services, and better management.</p>	<p><u>Identify, monitor and in some cases investigate problems/complaints; draw conclusions; make findings/recommendations; conduct audits.</u></p> <p><u>Provide firm, fair, consistent reviews and/or investigations</u> in order to help law enforcement agency better provide firm, fair, consistent law enforcement services, and better management.</p>
Strengths	<p>Model can give complainants & community a greater sense of participation and a sense the decision is made outside the police department.</p> <p>To maintain its integrity, investigative model needs members/staff with sufficient knowledge, ability, and training to conduct competent investigations. In addition, it needs: -ability to compel evidence (subpoena) -funding sufficient to fully investigate -accessible, open public hearings; -due process for officers</p>	<p>Model can produce findings faster than investigative model, and can provide more citizens' input than auditor model.</p> <p>To maintain its integrity, monitoring model needs to have sufficient knowledge, ability and training to identify problems in Internal Affairs investigations.</p>	<p>An auditor can operate more flexibly and freely than a Board; may have a broader mission than monitoring/investigating complaints.</p> <p>Auditor must have the authority to compel evidence from the department, and adequate funding to carry out duties.</p>
Weaknesses	<p>Much time/labor required of volunteers.</p> <p>If members/staff are inadequately skilled and/or trained, poor quality investigations result.</p> <p>Adversarial process.</p>	<p>Much time/labor required of volunteers.</p> <p>If Internal Affairs process is inadequate, and Board is inadequately skilled and/or trained to examine, then Board may not recognize problems in investigations.</p>	<p>Depends on the skills, abilities and commitment of one person. Continuity of quality may become a problem.</p> <p>Public may want more than one person's oversight.</p>

How Much Is This Going To Cost Us?

The Cost of NOT Having Civilian Review

A question just as important to ask is: *How much will it cost Davis to NOT have civilian oversight of the DPD complaint process?* According to the Davis City Clerk's response to a public records request, dated November 16, 2005, *the City of Davis currently is facing "seven (7) pending lawsuits against the Police Department."* *In each of the last 4 years, the City lists only one closed lawsuit (a total of 4 from 2001-2004).* Because of the City's insurance, the City was responsible for paying only \$5000 (its deductible) for 3 of the cases and \$3064.09 for the remaining case, for a total of \$18,064.09 for the last 5 years.

According to the City Clerk, the City will incur apparently no more than \$35,000 for the present 7 pending lawsuits, even if its legal expenses exceed the \$5,000 deductible for each case. **However, a reasonable follow-up question is how much the City of Davis insurance premiums will rise or have risen as a result of this marked increase in lawsuits against the DPD?** Can we afford *not* to have some form of civilian or external review that citizens trust enough to not threaten litigation without one?

The Cost of Civilian Review

In general, the cost of civilian review boards and/or other types of oversight models depends on the type of model and the size of the police force. The Berkeley model, for instance, includes a staff independent of the police department, that both receives and investigates citizens' complaints, and presents findings to a 9-person civilian review board publicly. It can subpoena officers, citizens, and relevant documents. For instance, the Berkeley investigator would be allowed to obtain police reports that Davis citizens are routinely not allowed to see, despite the fact that the reports pertain to them, their person, or their alleged criminal activity.

It is important to keep in mind that Berkeley has a police force twice the size of Davis (200 sworn staff). DPD has 100 sworn staff. Dan Silva, Secretary and Investigator of the Berkeley Police Review Commission states that the model's budget is \$588,646. Our City Manager Jim Antonen quoted a figure of \$610,000.

Other cities have a similar model of civilian review as does Berkeley, with much larger police forces, as listed in the table following. Briefly, Richmond, CA has 203 officers, with a budget of \$278,735; Philadelphia has 8,000 sworn staff, with a budget of \$400,000. San Diego County employs 2,500 Sheriff's deputies and 750 sworn probation officers, and has a budget of \$524,289; Denver, CO has 1,400 police officers and 750 sworn sheriff's deputies with a civilian oversight budget of \$557,000.

The City of Knoxville, Tennessee has 414 sworn staff, yet their civilian review board budget costs \$73,258 per year. There is an Executive Director and staff, along with the 7 civilians, the Knoxville Police Advisory and Review Committee has the power to receive, investigate, hear cases, make findings on complaints and to disclose those findings to the Mayor and the KPD Chief of Police. (See Knoxville Police Advisory and Review Committee in Reference Section).

**CIVILIAN OVERSIGHT BOARD BUDGETS
IN U.S. CITIES
(Partial List)**

CITY/COUNTY	# SWORN OFFICERS	TOTAL BUDGET	TYPE OF OVERSIGHT
Knoxville, TN* (* = Civilian Review Boards)	414 sworn staff	\$73,258	Police Advisory & Review Commission has the power to receive, investigate and hear cases; make findings on complaints; and disclose those findings to the Mayor and Chief of Police. Audits discipline and policies of police department.
Key West, FL*	90 sworn officers	\$138,000 (Accountant donates his time. Attorney works for only \$20,000 per year)	7-member Citizen Review Board (CRB) has the authority to review and investigate complaints and provides findings and recommendations to City management, Chief of Police, State Attorney, other State and federal agencies or grand juries.
Las Vegas, NV	4,800	\$200,000	Subpoena power but no independent investigative power; all cases initially investigated by police. Can receive complaints initially or review investigations done by IA. Is an advisory board to Sheriff, with power to make recommendations as to discipline and policy.
Boise, ID	250 sworn police officers, plus 18 sworn airport officers,	\$250,000	Ombudsman system with full, independent authority to receive and investigate complaints. Authority to make policy, procedure, and training recommendations. Ombudsman reports to the Mayor and the City Council.

Richmond, CA*	203 sworn officers	\$278,735	Independently investigates citizen complaints of use of force and racially abusive treatment; reviews policy and hears appeals of IA investigations. Has authority to recommend discipline and policy changes.
San Diego City	2,000 sworn officers	\$300,000	Citizens' Review Board reviews citizens complaints and Internal Affairs (IA) investigations of them; evaluates IA investigations and makes recommendations to the Police Chief and City Manager.
Philadelphia, PA*	8,000 staff	\$400,000	Police Advisory Commission investigates complaints and studies policy, practices, and customs. Has subpoena authority. Findings go to Mayor, City Manager, and Police Commissioner for review 3 days before being made public.
San Diego County*	2,500 Sheriff's Deputies and 900 sworn Probation Officers	\$524,289	Staff receives and independently investigates citizens' complaints. Reports and recommends to 11-member non-paid review board.
Denver, CO*	1,400 police officers and 750 sworn sheriff's deputies	\$557,000	Police Monitor with a staff of 5, reviews all Internal Affairs Office. Investigates and makes recommendations to the Chief of Police and Manager of Safety. Works with a 7-member Citizen Oversight Board that evaluates the work of the Monitor, holds public meetings, and makes policy recommendations.
Berkeley, CA*	200 sworn staff	\$588,646	Receives complaints of police misconduct and independently investigates complaints. Findings

			advisory to City Manager. Also reviews policies and provides mediation opportunities.
Austin, TX	1,347 police officers	\$664,181	First point of contact for citizens' complaints. Monitors IA investigations. Recommendations to the Chief of Police regarding quality of investigations or improvements to the police department. Can refer cases to Citizen review Panel for further investigations or referral to independent investigator.
Portland, OR	1,000 police officers	\$844,000	Independent Police Review Director is independent of the police department and reports directly to the elected City Auditor. The IPR consists of 8.5 staff members and a 9-member Citizen Review Committee appointed by City Council. Takes all citizens complaints related to police misconduct.

Final Recommendations of the Human Relations Commission

At the January 17, 2006 City Council meeting, the City Manager announced, by edict, his plan to have a 3 person review board of law enforcement or judicial experts who would only quarterly review DPD's investigations of complaints. Many police officers were present. At least 10 Davis citizens who had no negative experiences with the DPD testified regarding their confidence in the DPD. The broader community was not notified that this announcement would be made. In the City Manager's presentation, many perceived a consistent tone of disdain towards the community's substantial, broad-based, and labor-intensive efforts to have its voice heard by both its elected and DPD officials. Only City Councilwoman Sue Greenwald voiced dissent in her questioning the absence of citizen involvement in the review process. She herself had done a bit of informal research on how regular citizens can be trained to analyze complex police matters in an unbiased and competent fashion. At the end of the City Manager's presentation, Mayor Ruth Admundson stated that she looked forward to hearing in a year about how the City Manager's plan was working.

Perhaps before this 1/17/06 City Council meeting, there might have been some hope on the community's part that City and police officials would not actively co-opt and manipulate the civilian review process of the police. That hope, confidence, and trust are gone.

The HRC affirms its belief that at this time the best model of independent, civilian police review for the community of Davis is that of a Board or commission of a diverse group of citizens, including but not exclusively or predominantly law enforcement and judicial officials. The following elements should be included in this effort to improve and strengthen the DPD:

7. An investigator who is completely independent of the police department and the City manager's office.
8. Such an investigator should have the ability to subpoena officers, citizens, and documents, such as police reports that Davis residents often are not allowed to see on request;
9. The opportunity for citizens to submit their complaints to an entity other than the police department;
10. The transparency of the civilian review process; that is, hearings should be public, with the option of police and residents bringing their legal representation, and public disclosure of review findings;
11. Appropriate training of both civilian and law enforcement members in police procedures and community and cultural perspectives;
12. An independent body, with access to experts, to analyze and publicly report the results of data collection efforts, such as traffic stop and arrest data.

REFERENCES

- Arroyo Associates, Inc. *Report On Administrative And Management Review Of The Police Department For The City Of Davis, California*. February 5, 2001.
- Burris, John. *Blue Vs. Black: Let's End The Conflict Between Cops And Minorities*. New York: St. Martin's Press, 1999.
- Concerned Campus Affiliates of UC Davis. *UC Davis/City of Davis Police Survey: Perceptions And Realities Of Racial Profiling*. October, 2005. www.policeracerelationsreport.net. Accessed 11/18/05.
- Davis City Council Meeting. Davis, California. November 15, 2005. Videotape obtained from the Yolo County Public Library, Davis Branch.
- Davis Police Department. Presented by Assistant Chief of Police Steven Pierce. Yolo County Public Library. Davis, CA. August 22, 2005.
- Citizens Holding Miami-Dade Accountable Independent Review Panel. *Independent Review Panel Staff Report on Miami-Dade Police Department Racial Profiling Study*. May 17, 2005. Accessed on 11/14/05 from www.miamidade.gov/irp.
- Human Relations Commission, City of Davis. *A Report On Racial Issues In Davis*. May, 1989.
- Knoxville Police Advisory and Review Committee. www.ci.knoxville.tn.us/kpd/services.asp. Accessed 1/20/06.
- Lamberth, John. Driving while Black: A statistician proves that prejudice still rules the road. *Washington Post* August 16, 1998, pC1.
- Livingston, Debra. "Citizen Review of Police Complaints: Four Critical Dimensions of Value." Address presented at Eight Annual Conference of NACOLE (National Association for Civilian Oversight of Law Enforcement). www.nacole.org/livingston_12_02. Accessed 1/9/06.
- NACOLE (National Association for Civilian Oversight of Law Enforcement). "Roster of U.S. Civilian Oversight Agencies," updated by NACOLE on 9/1/05. www.nacole.org. Accessed 1/9/06
- NOBLE (National Organization of Black Law Enforcement Executives). "Bias-Based Policing." www.nacole.org/noble.htm. Accessed 1/9/06.
- Quinn, Sue. National Association for Civilian Oversight of Law Enforcement. (NACOLE). "Varieties of Civilian Oversight: Similarities, Differences, and Expectations." www.nacole.org. Accessed 1/9/06.
- United States Justice Department. *Principles For Promoting Police Integrity*. www.ncjrs.gov/pdffiles1/ojp/186189.pdf. Accessed 1/20/06.
- Walker, Samuel. *The New World of Police Accountability*. Thousand Oaks, CA: Sage Publications, Inc., 2005.
- YWCA Eliminating Racism; Empowering Women. *The Elimination of Racism End Racial Profiling Fact Sheet*. www.ywca.org/atf/cf/. Accessed on 11/14/05.

ARGUMENTS AGAINST THE CITY MANAGER'S PROPOSAL REGARDING CHANGES TO POLICE PROCEDURE

The City Council should choose a Civilian Review Board model that will best serve the Davis community, including both members of the community and visitors to it.

In order to change structures that have perpetuated inequality in our community, and in order to build community trust for the police, we must create structures that are open, fair, and responsive to community issues and needs. The process must be transparent, timely, and independent of one police officer reviewing a complaint towards a fellow officer.

The City Manager's proposal for a Police Advisory Committee (PAC) cannot meet the needs of the community because it is neither open nor responsive. Furthermore, in his effort negate the idea of a Civilian Review Board, the City Manager's proposal presents arguments that are often lacking in evidence, misleading, or even inaccurate.

Not open or fair:

- An open process would involve more than merely advising and being selected by the City Manager. When one person selects a whole commission, this cannot be seen as a transparent or fair process.
- Any number of biases, even if unintentional, may be present when one person selects a commission. If commissioners serve at "the will of the city manager", too much power is placed in the hands of the City Manager without the review of the community. To add to this, the City Manager himself stated during the city council meeting of January 17, 2006 that he has a "background in law enforcement."
- A commission appointed by and serving the City Manager may not be within the police department, but it is still too close to the relationship between the City Manager and the Police Chief to engender trust from the community. We need a body outside this hierarchy that is not merely a **higher up** "fox guarding the hen house".
- The City Manager may also be caught in a conflict of interests in that he (or she in the future) hires the Chief of Police and may have interests in promoting positive views of police procedures.

Not responsive:

- It is much more difficult to guarantee fairness when one person does the appointing than when a city council that is elected to represent the community

does the appointing. If a council is unresponsive to the community, there are future consequences for them.

- A commission or committee of three (3) people cannot possibly represent the full needs and issues of the community, especially if they are not even members of the community. Such outside individuals could be potential advisors, but should not be panel members.

Lack of evidence or inaccurate and/or misleading statements:

- The City Manager's proposal says that "disparities in findings between a CRB and a police department have been credited with eroding, rather than enhancing, the trust a community places in its police force" without offering any evidence of such an erosion. Even *if* an erosion initially took place, trust would build over time with a CRB because the transparency of the process and consequent trainings would provide opportunities for change within the police department. Trust will not have a chance to build without an appropriate structure and process in place.
- Some statements such as the fact that many "civilian commissioners are not trained in police procedures or in the realities of the profession" which, according to the proposal, results in the findings of CRB's being overturned, both lacks evidential support and ignores that our Commissioners could receive training regarding police procedures and the realities of the profession.
- The City Manager's proposal suggests that there are many remedies that already exist in the legal system to deal with abuse of police power. However, the proposal ignores the historic and current reality of bias in the judicial system against many of those people who would access it in relation to police abuse. Judicial remedies are often not a viable, feasible, or fair option. **Judicial remedies are often left for those with the financial resources to seek such remedies and we should not require Civilians to go through that financial burden because they filed a complaint that was determined to be unfounded by a fellow police investigator. This is seen as punishing the victim. We have a responsibility to the community that we should not pass off onto others.**
- The proposal indicates that there is debate about how much of the power to direct local police affairs should be "surrendered" by local government to independent police boards. However, **civilian review boards serve at the will of local governments**. City Council members appoint the commissioners and, therefore, surrender nothing. In fact, local government becomes even more responsive to the community on police issues through its Civilian Review Board.
- Reference is made to research by "UC Berkeley Professor" Douglas W. Perez. Professor Perez is not a faculty member at UC Berkeley.

- Finally, the City Manager's proposal refers to a small percentage of cities around the country with some type of civilian review and indicates that many of these are large metropolitan areas. There are a number of cities, such as Santa Cruz and Iowa City, that are similar in size to Davis. Iowa City, for example, is also a university town and has a similar demographic make up. Iowa City adopted a CRB because an unarmed shop owner was shot to death by police in his own store. **We should not have to wait for a tragic event such as this to form a Citizen Review Board in Davis, regardless of the current number of CRB's in the United States.**

The City of Davis should adopt what the community *actually* wants and needs, not what the City Manager decides the community wants and needs.

^a (Responses are HRC, not Jim Antonen)

2/2/06

Staff Report
January 10, 2006

TO: Davis City Council
FROM: James W. Antonen, City Manager
SUBJECT: Report on Ongoing Changes to the Police Department
Recommendation: Informational

Fiscal Impact

Antonen's Report claims: costs to be approximately = \$32,000 + staff time which can be considerable. These are the estimated costs *so far*. Add to this the *reasonable stipend* to be given to the CAB & PAC members mentioned in the City Manager's report. *As of today, we do not know what is meant by reasonable stipend.*

- **In Reality:** The costs of \$32,000 + staff time + reasonable stipend given to PAC members are nearly comparable to the low end of \$75,000 or less to implement a Civilian Review Board (CRB). Why not regain the public's trust and establish a CRB?

Council Goal

Antonen's Report claims: that "Public Safety" is Council's goal.

- **In Reality: The Council's goal should also include:**
 1. Public Safety for all regardless of race, ethnicity, disability, sexual orientation, age, gender or religion, or socio-economic status
 2. Transparent, Independent, Timely review process for complaints filed against an officer or the Davis Police Department.

Background and Analysis

Antonen's Report claims: "In the case of our city, there no fewer than 19 separate local, state and federal police review systems currently in place."

- **In Reality:** An important example of one of the "systems" that was left out of the City Manager's report include the tax-paying, voting citizens of Davis. There may be layers of bureaucracy which give the appearance that there is a fair process by which citizens are having their concerns fairly and independently addressed; however, the system established by the City Manager (who himself has a background in law enforcement) leaves out a very important component: the citizens of Davis.

Antonen's Report claims: [that] an independent judiciary is meant to be the guarantor in the enforcement of fundamental rights.

- **In Reality:** Citizens must seek legal council at their own expense when a fellow officer investigates citizens' complaints and finds them to be unfounded. Citizens should not be forced to use their own financial resources due to the city failing to have a fair, neutral, transparent, and independent system by which to have their complaints reviewed.
- **In Reality:** We know that there are biases in our judicial system and that countless hours and dollars are spent trying to protect individuals who have been wrongly accused of crimes they did not commit. A Civilian Review Board provides a unique opportunity (in a democratic, involved, and volunteer driven community like Davis) to allow those who feel they have been wrongly treated by an officer to have their complaint addressed by an investigator who then refers the complaint to the Civilian Review Board. This process is transparent, timely and independent and helps to re-build trust in a broken system. We should not require those who feel that City Management has been unresponsive to their concerns to pay money for an attorney, when the issue can be handled at the lowest level possible: the CRB.

Antonen's Report claims: that the PRC is the most costly of all oversight options.

- **In Reality** Davis is a unique community in which the citizens volunteer countless hours on boards and commissions without pay. All, for the sake of making our city a better place. The City Manager focuses on Berkeley's model not pointing out the fact that they have a larger population and perhaps not as big a volunteer base as Davis. His current plan, without looking at all costs involved is already estimated to cost an additional \$32,000 + staff time. **One wonders, what is the cost to preserve one's civil rights and civil liberties? Must we wait until a life is taken before we take the proactive approach to respond to citizen concerns?**

Antonen's Report claims: The Berkeley PRC, for example, has had 18 appeals to their sustained findings in the last 3 years. According the City of Berkeley, 17 of those 18 findings were overturned by the administrative law judge who hears these appeals. The one employee who had the one unsuccessful appeal had already been found responsible by the Berkeley Police Department.

- **In Reality:** Whether or not he realizes it, the City Manager is making an **argument IN FAVOR of the CRB not against it.** The idea of a **CRB** is to eliminate cases of wrong doing so that the community gains trust for the police. A sign that the PRC was not doing its job would be many complaints and sustained findings against the police. **A CRB creates a climate where officers know that if they violate a person's rights there are going to be a number of complaints against them and they will be held accountable.**

2/2/06

June Forbes
1611 El Capitan Street
Davis, CA 95616

February 1, 2006

City of Davis
Human Relations Commission

Dear Commissioner Greenwald and Members:

I urge you to explore if and how Davis citizens can be trained adequately to serve expertly on an independent citizens' review board. Both expertise and independence are indispensable to a credible police review function.

I urge you, too, to advocate for police training to protect people whose disabilities hinder their ability to immediately recognize and respond appropriately to police authority. I am particularly concerned about people with mental illnesses, whose abnormal brain chemistry causes hallucinations, delusions and extreme feelings of fear, sorrow and elation. I urge you to keep their special needs in mind in your overall concerns in the future.

Special training programs for police contacts with people who have mental illness are available and increasingly popular with law enforcement. According to NACO, the National Association of Counties, www.naco.org, best practices in policing now include rapid, compassionate police response to mentally ill people in crisis, diverting them to appropriate treatment instead of arresting them.

Police Departments all over the country are training Crisis Intervention Specialists, Crisis Response Teams and Police Emergency Response Teams to recognize mentally ill people in crisis and intervene appropriately before their symptoms lead to the tragedies of violence, homelessness and criminalization. Without such training, too often police encounters lead to unnecessary arrests, taser-ings, even death-by-cop.

According to a Bureau of Justice Statistics report, 16% of jail inmates suffer from mental illness, and 70% of them are non-violent offenders. (Paula M. Ditton, Mental Health and Treatment of Inmates and Probationers, 1999.)

In the Yolo County jail, where Davis police take people they arrest, mentally ill inmates are commonly "locked down" in isolation for 23 hours a day, without even radio or TV to distract them. They are commonly held in this situation for months, even after Yolo County judges have ruled them too ill to stand trial and ordered them hospitalized. In such circumstances, many people experience the most extreme psychotic symptoms, despite medication. (Yolo County Mental Health Services Act Adult Services Planning Committee, 2005.)

NACO President Kenneth Mayfield, from Dallas, Texas, says "The nonviolent mentally ill should not be in county jails. I first realized this when I was a prosecutor in Dallas County and came to understand fully how the justice system works. ...For that reason, one of my initiatives as President of NACO focuses on ...programs to divert the nonviolent mentally ill from jails...[Police training] programs can save money, provide better treatment for the mentally ill, and improve public safety...". (NACO, Ending the Cycle of Recidivism, 2003.)

Thank you for considering the special needs of mentally disabled people in Davis.

Sincerely,

June Forbes

YAHOO! MAIL

Print - Close Window

Date: Thu, 02 Feb 2006 20:12:34 -0500**From:** joturn5@aol.com**Subject:****To:** ceciliagreenwald@yahoo.com

February 2, 2006

From: Joann Turner

To: Commissioner Greenwald and City of Davis Human Relations Commission Members:

Speaking as the parent of a mentally ill adult son who grew up in Davis, was in Special Education classes for SED, and has had schizophrenia for eleven years:

I support the establishment of an independent civilian Davis Police Review Board to review complaints against the Davis Police Department. I thank the HRC for including people with disabilities of all sorts within the range of incidents which their commission will address.

I strongly support implementation of programs designed to appropriately and effectively respond to the needs of disabled people having a mental illness crisis. Successful programs exist nationwide, including in San Diego and San Francisco, which have decreased the proportion of police responses which led to arrest of people having severe mental illness. In Memphis, TN, the number of cases leading to arrest of a mentally ill person dropped to 2% of responses and the number of injuries to officers decreased.

These website links lead to descriptions of such programs. These programs are referred to as Crisis Intervention Teams, Police Emergency Response Teams, and Forensic Assertive Community Teams.

PERT and PERT www.bazelon.org/issues/criminalization/factsheets/criminal6.htm
see fact sheet #6 on "Pre-booking Jail Diversion")

FACT www.sonoma-county.org/health/mh/mhsa_part3_exh4.pdf
Mental Health Services Act plan for 24/7 crisis interventions, see page 8, work plan #3)

Ongoing training of police officers and response team members is essential for successful and fair treatment of disabled community members who have mental illness and other disabilities. Police need training to have the knowledge and the patience to accommodate the cognitive processes and confusion that the person they interact with may be experiencing. In Birmingham, Alabama, PERT team members receive 80 hours training and a team of officers and mental health clinicians respond to calls; only 1% of cases led to arrest among 3000 cases in a 2 year period.

An essential component of appropriate response is a link between law enforcement and emergency mental health services. Circumstances are de-escalated by referring the person to these services.

<http://www.namif.org/crisis-serv.html> (mobile crisis team)

Independent civilian Police Review Board be formed to review police department complaints

From: "brunelle" <brunelle@davis.com>
To: ceciliagreenwald@yahoo.com
CC: lacarrol@yahoo.com
Subject: Police review
Date: Wed, 1 Feb 2006 10:59:43 -0800

Dear Ms. Greenwald,

I am relieved that attention is being directed to the needs of the disabled in crisis situations and the beneficial role police could play. We had several occasions when we needed to call on the police due to difficulties with our son who lives with us and has brain disorders. Police trained in and sensitive to the needs of the mentally ill and their caregivers could be of tremendous help. They could provide support and sound advice and prevent unnecessary criminalization and serious harm.

Sincerely,

Edelgard Brunelle

Date: Tue, 31 Jan 2006 20:35:13 -0800
To: ceciliagreenwald@yahoo.com
From: "Leslie Carroll" <lacarrol@yahoo.com>
Subject: Police Review Board
CC: kstachowicz@ci.davis.ca.us

As a member of NAMI-Yolo, a chapter of the National Alliance on Mental Illness and the sister of someone with bipolar disorder, I thank you for advocating for an independent Police Review Board. It's important this board be independently appointed so that our community can have confidence in objective evaluations of citizen's complaints.

Police officers are often called on to intervene with homeless people who are delusional, transport people with severe mental illnesses who need emergency evaluations in the hospital and intervene in situations involving threats of suicide. It's vital that police are trained to recognize and understand mental illnesses and to be able to communicate effectively with people experiencing psychiatric symptoms. Studies and data from states using Crisis Intervention Teams (CIT) and Psychiatric Emergency Response Teams (PERT) show these programs to be effective in reducing incidents of hospitalization, homelessness, arrests and incarcerations.. We hope that eventually, the Davis Police Department will include one of these programs. A program like CIT might have prevented what happened to my sister.

Several years ago, my sister, a white 51 year old female diagnosed with bipolar disorder went to Sutter Davis Hospital at 4am to see a homeless man she knew who had been admitted to the emergency room. She was barefoot, in her nightclothes and had left her car doors wide open. It would have been obvious to a casual observer that she was behaving erratically. When the nurse at the desk asked her to leave, she refused, telling him she had bipolar disorder. She was not violent. When she continued to refuse to leave the premises, the police were called. A rookie policeman came to the hospital alone. Although she told him that she had bipolar disorder and it was obvious she was having serious psychiatric problems, instead of being evaluated and taken to a hospital with psychiatric services, she was arrested for disrupting a business and disturbing the peace and taken to jail, put in isolation and kept there for 11 days. Eventually, the charges were dismissed. For months afterward, this experience was a dominant factor in my sister's life and interfered with her recovery. Situations like this should not happen.

I hope that the Human Relations Commission will include the needs of people with disabilities, including psychiatric disorders as part of their ongoing concerns. Prejudices, fear, and misinformation often surround mental illness and other disabilities resulting in stigma that plays a huge role in how people are treated. The commission's role in promoting "cohesiveness and understanding among members of the community" could be of great assistance in helping to address the discrimination often directed at the mentally ill.

Sincerely,
Leslie Carroll, Davis

Department. The receptionist and both of the officer's at the Police Station refused to take a report, or take a photo of the bruises on my face because the Yolo County Sheriff's Office was a sister agency and they didn't want to get involved.

1987: When I was 18, an elderly man driving a small pickup with no side view mirrors, broken blinkers, and his rear view completely obstructed by an oversize load, made an illegal lane change in front of me on Covell, and forced me into the center divider. He then fled the scene. He had to stop at a traffic signal a block away, and I caught him on foot. The officer who responded refused to give the old guy a ticket for the lack of side view mirrors or missing blinkers because he didn't witness it. I asked him to turn around, as the truck was five feet behind him, but he said he could not. I got a ticket in the mail for excessive speed a few weeks later. The officer who could not turn around to look for a broken mirror, measured my skid mark. I beat the ticket in court, as the evidence "expert" officer who testified for the Davis Police Department didn't know as much about breaks and tires as I did when I was 18. My faith in their crime fighting ability dwindled. I forgot to mention the car I was driving was a cherry 66 Mustang. I was 18, so my car was my life. I was very unhappy.

1988: My sister had her purse stolen in downtown Davis and she flagged down a cop. She pointed the purse snatcher out and the cop refused to give chase. She chased the guy down and apprehended him herself. The cop took her purse as evidence, and the purse snatcher got her money as it was in his possession at the time he was arrested.

1992: I was 23 and was giving my 21 year old friend a ride. We stopped at the store and bought a keg of beer. When we pulled up to his house five police cars pulled in behind us and sealed us in. I asked them if they could pull out so I could leave but they would not. They then started searching the inside of my truck and took the guns out of my gun rack. I told them they did not have my consent to search my vehicle but they refused to stop until I raised my voice. Neither of us had been drinking and there was no sobriety test given. They just thought we might be having a party, and they wanted to break it up with their presence.

I lived in Reno from 1992 to 1999, so I didn't have any problems with the Davis PD for a while.

1999: I was pulling into a parking space in front of the downtown Golden One Credit union, and a guy backed out and hit me. I came to a complete stop, and honked my horn, but the other driver had a jacked up truck, and he could not see my little Dodge Neon. He put a nice dent in my car and the Davis PD took a report. The other guy did not see me at all, so he felt I must have made an illegal U-turn and hit him. I got the report a couple of weeks later. My statement in the report is that I made an illegal U-turn and hit the other driver. That is not what I said. So I went down to the police department and told officer Franty he had put the other driver's statement in the space where my statement went. I assumed it was an honest mistake. He said he did that on purpose because he felt that is what happened. He admitted to falsifying my statement because he felt I was lying

anyway. If one of my employees did that, they would loose their job. Law enforcement officer's can not make up information, and say people made statements they never made. It is just not done. Unless you are a cop in Davis. I moved to Woodland shortly after that incident.

And since the man who ran into my car was hispanic, I honestly feel that racial discrimination is not a problem in Davis.

From: Testerman Family <testrmn@mac.com>
To: <ceciliagreenwald@yahoo.com>
Date: 1/30/2006 8:49:05 AM
Subject: police review board

I strongly support an independent Police Review Board to improve relationships with police and non-mainstream groups including people living with disabilities, people living with mental illnesses, people who have a low income, students, and people of non-white ethnic backgrounds, and people who have language barriers when communicating with the police.

I applaud the work our brave men and women do in protecting the public and helping those in need. I work for Mobile Crisis in Yolo County, so I see weekly how vital the work is that our police officers do in our community. (This letter does not represent the views of Mobile Crisis, but I am a concerned citizen and would like to contribute my unique perspective having seen a variety of types of situations that the police in our area have responded to.) I am a Licensed Marriage and Family Therapist and my job is to assess the people that police have transported to the local ERs when the officers have suspected that psychiatric issues may be causing their dangerous behavior.

I believe that if our elected officials establish an independent review board the public's trust in the police will grow and citizens may have less fear in asking for the help they need. Even if a mentally ill person cannot ask for help due to paranoia or other distorted thoughts, if their family felt their loved one would be safe and treated as humanely and sensitively as possible, perhaps more families would seek police intervention.

It is very important that many non-mainstream groups' needs be identified and addressed when a board is established, including but not limited to citizens who do not speak English, homeless citizens and the multiple issues they may have including drug, alcohol or mental health issues, and also people living with disabilities that can impair their ability to communicate. Some people with disabilities have multiple reasons why they have difficulty dealing with the police, and may react in ways that do not help the situation. These people who may be developmentally disabled, autistic, or deaf often are very frightened to deal with the police for fear of getting shot or treated roughly because of a misunderstanding. As much as our police officers would never want to hurt someone unnecessarily, miscommunication can happen and a review board can help find any gaps in training, gaps in cultural competency, or problems with procedures that may avoid future misunderstandings.

I would love to see a Police Emergency response team like the model being proposed in Sacramento County where a trained mental health professional can go with an officer to defuse an emotionally charged situation or help communicate with someone who is psychotic, suicidal, etc.

I know of several encounters between the police and disabled people that would have benefited from the presence of a mental health professional, but because of confidentiality issues I cannot give

details. In these situations the police did the best they could with the training they had, but they were complicated situations ripe for misunderstanding. As our county grows we may encounter an increasing number of these complicated situations where police need additional resources like 24 hour interpreters including sign language interpreters.

Sometimes young men with autism or Prater-Willis disease become violent around the ages of 18-22, and sometimes hit their family members when previously they have been gentle and compliant. Many families I have dealt with have not known how common this symptom can be for young men, and have not sought the help they might need from the police or the ER staff fearing that a domestic violence report would be filed and their son would be arrested. I believe that police officers and/or members of a police emergency response team could give workshops or in some way help disseminate information and help educate the public so that families will not fear getting the emergency help they might need.

It is a good step to begin to dialogue together about these issues so that trust and information can be increased.

Sincerely,

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Antonen's Report claims: The Police Chief will be required to make an annual report to council.

- **In Reality:** Past Chiefs have made reports to both the HRC and city council on a frequent basis. This is a not new process, but rather, a re-establishment of prior procedures.

Antonen's Report claims: A board of 12 people representing a cross-section of the community based on race, religion, gender, representation (e.g., business community) and other factors has been formed under the Police Chief. The members are selected by the Police Chief with the City Manager's approval and serve at the will of the Chief and the City Manager.

- **In Reality:** This board has been in existence for many years under different Chiefs. Each board member previously received a stipend of \$500 per month. This board was disbanded last year and has now been re-established a few months later under the guise of a new board.