

Staff Report

May 2, 2006

TO: City Council

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

SUBJECT: Establishment of an Ombudsman/Auditor Function

Recommendation

1. Approve resolution to implement an independent Police Ombudsman through a contract and authorize the City Manager to execute such a contract.
2. Direct staff to strengthen, streamline and track the internal system for complaints for other city departments. This includes providing additional and better information to the public on how and where to make a complaint and by analyzing potential trends. This information will be reported to the City Council annually.
3. Direct the City Manager to have the Police Ombudsman prepare an annual report for the City Council on police investigations of citizen complaints and recommendations for the Police Department.
4. Direct staff to return to the City Council in 6 months with an update of how the Police Ombudsman position is functioning and possible adjustments to the process as deemed appropriate based on initial results.

Fiscal Impact

The cost of contracting for a Police Ombudsman is estimated to be approximately \$60,000 for the 2006-2007 budget year. This amount has been included as a part of the 06-07 budget, which will be presented to the City Council on May 9. Should funds need to be expended during the 05-06 fiscal year, we will pay for them out of the professional services account in the City Manager's Office. Staff estimates that this amount would not exceed \$8,000 during 05-06.

Council Goal

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

Executive Summary

Over the past several weeks, the City Council and city staff have been reviewing the issue of police oversight. In response to public concern, staff implemented a multi-faceted plan to

address concerns about Police Department oversight. Staff is now recommending that the City Council take action to authorize an independent contract police ombudsman position to review police investigations of citizen complaints, make recommendations on police policies, procedures and training, take citizen complaints as necessary, and conduct independent investigations as necessary. The three-person Police Advisory Committee will review citizen complaint investigations, paying special attention to investigations where the ombudsman noted issues of concern and provide their comments and recommendations to the City Manager. In addition, staff recommends improvements in the intake and tracking of existing complaint systems for other city department issues, in lieu of a full-time general ombudsman position.

Staff has reviewed the models that several other communities use and is recommending a set of responsibilities for a position to fit Davis.

Background and Analysis

Background. During the fall of 2005, the Human Relations Commission recommended to the City Council that the Council adopt a Citizen Review Board, based on a model from Berkeley, to provide citizen oversight of the Police Department. This recommendation came on the heels of several complaints before the Commission regarding alleged racial profiling and discrimination by Davis police officers. In January of 2006, the former City Manager presented the Council with a five-point plan in response to many of the concerns voiced during the fall.

This plan included the use of a 12-member Citizen Advisory Board to the Chief of Police, the creation of a three-person Police Advisory Committee to the City Manager, additional diversity training for police staff and other city staff, an annual report on Police Department activities, and national accreditation by CALEA. (CALEA seeks to develop a set of law enforcement standards and to establish and administer an accreditation process through which law enforcement agencies could demonstrate voluntarily that they meet professionally-recognized criteria for excellence in management and service delivery.) Staff recommended against a Citizen Review Board, such as Berkeley has, for several reasons, including but not limited to costs, legal constraints, and questionable ability to meet objectives for fair and effective oversight.

On February 21, 2006, the City Council directed staff to develop the position concept and funding requirements for an Ombudsman position to facilitate citizen complaints citywide. This direction was primarily a response to continued questions and concerns about police oversight. The Council further directed staff to work with the Police Advisory Committee to review the existing complaint process and report back to the Council in six months.

On April 18, the Council directed staff to bring back a recommendation on an Ombudsman model as soon as possible, rather than waiting to bring it with the 06-07 budget.

Current Systems for Citizen Complaints. Staff has spent the past several weeks reviewing the existing complaint systems in place throughout the city organization. The City currently

has many avenues for citizens to make complaints and/or inquiries about issues, the way the city does business, and interaction with city staff. While staff acknowledges that Departments may tend to overstate the overall satisfaction rate among residents, we also acknowledge that the many systems we have in place are effective as they allow the City to respond to problems quickly, efficiently and effectively. In other words, the great majority of complaints are dealt with by the appropriate department as they are received. Below are some examples of complaint processes already in place.

- Online Ombudsman – The City implemented an “online ombudsman” called the Citizen Response Manager approximately twelve months ago. This system allows anyone with access to the web to log a complaint or problem onto the city’s website. If the complaint is marked as to its nature, then the complaint goes directly to the appropriate department. Otherwise, staff in the City Manager’s Office route the complaint appropriate and track all entries to the system. Since its inception, over 350 complaints have been entered and subsequently addressed. The most frequent complaints include those dealing with code compliance issues, lighting or street conditions, and debris/abandoned cars.
- Claims Process – For anyone who believes that they have been the victim of city negligence and have as a result lost property or been injured, the City has a formal claims process through the Risk Management Program. The city receives an average of sixty per year, most of which are processed through YCPARMIA, a joint powers authority that handles the city’s risk management and tort claims.
- Human Resource/Personnel Investigations – Any employee alleging problems with the conduct of another employee or working conditions can register a complaint with the Human Resource Division. This Division, located in the City Manager’s Office will refer the matter to a supervisor in the appropriate department, investigate or hire an outside investigator, as appropriate, based on the complaint.
- Mediation Services – The City is fortunate to have a comprehensive mediation program. This program can be used in instances where both parties agree to mediate a dispute. In a few instances, mediation services have been utilized by those in a dispute with a police officer. The most common types of disputes that the city’s mediation service works with are related to fair housing or interpersonal issues.
- Police Department Citizen Complaint Process – As required by law, the Police Department has a formal citizen complaint investigation process, which is accessible to anyone who believes they have been mistreated by the Police Department. Depending on the nature of the complaint, the Police Department will launch a citizen complaint investigation of the allegation or arrange for the complaint to be investigated by an outside private or public agency.
- Code Compliance – Because the nature of many complaints that the city receives are related to code compliance, the Community Development Department has implemented a system for intake and investigation of these complaints, primarily through a telephone hotline. The Department received approximately 600 complaints in 2005 and checked on each of those.

- Community Partnership Coordinator – Located in the Parks and Community Service Department, the Community Partnership Coordinator is a position specifically geared to acting in an ombudsman capacity for neighborhood and community groups. The position works specifically to allow representatives from such groups to have a place to go to ask questions about city processes, voice concerns, provide input and request information.
- Departmental Complaint Systems – Each Department has a system in place to take in complaints, review them and address them as appropriate. The citizen does not need to know exactly whom to contact as they will be referred to the correct person/department should they call anywhere in the city.

In summary, staff believes that the city has a comprehensive system in place to address complaints. In essence, rather than one person acting in the role of “ombudsman,” the city is fortunate to have many staff acting in that capacity. That stated, there are areas where we could continue to evolve and improve.

- First, each department and sometimes programs within each department vary in degree of tracking of complaints. This makes it difficult to assess citywide trends based on number and types of complaints made.
- Second, the City could do a better job of educating the public and city staff and providing information on the process of making a complaint or registering a concern. Making a complaint should be simple, and complainants should know what to expect (and what not to expect) from making a complaint. They should know what type of information to include, response time, the different ways they can make a complaint, etc.
- While there is a system in place for most types of complaints, there are some areas that are not clearly defined. The most relevant example to this report is when a person has a complaint about the way a complaint or investigation was handled, their lines of recourse are few. They can go to the head of the department against which they have a complaint, although they may have lost trust in that department or even want to complain about that department head. They can go to the City Manager, but that position is not equipped with appropriate staff to launch an investigation. This type of challenge is most frequently noted in police investigations, parking disputes, and code compliance issues.
- Police complaints can be difficult to assess, since the Police Department’s interactions with the public can involve significant legal and criminal issues. In order to assure that both citizens and police officers are treated fairly, review by a professional, fair and neutral outside source can be beneficial.

It is precisely the third and fourth bullets that give rise to the benefit of having some type of oversight or auditing of police activity. The Council has determined that a Citizen Review Board is not an appropriate mechanism to deal with these problems as this time. The Council has acknowledged the City Manager’s decision to create a three-person Police Advisory Committee. The City Council has also recommended the development of an ombudsman position.

Options. While reviewing complaint systems in place, staff also considered the different options in place to create an ombudsman/auditor position.

1. One aspect of this focuses on the scope of employee the city might use:
 - New position. Create a new, in-house ombudsman/auditor position to address all city complaints.
 - Use existing staff. Restructure and realign existing staff to allow for an ombudsman/auditor position within the existing staff pool. This entails removing some or all non-ombudsman/auditor responsibilities from an existing staff person, reassigning those duties to other staff members as appropriate, and designating that staff person as a full/part-time ombudsman/auditor.
 - Contract. Contract with an independent ombudsman/auditor to ensure that costs directly correlate to time spent in this function.
 - Status quo. Do not create an ombudsman/auditor function but instead use existing staff to improve the city's system for reporting, responding to and tracking complaints.

2. The second set of options to consider center around what the ombudsman/auditor position should do – what model or combination of models should the city consider using? The basic options here include:
 - Formal general ombudsman model to respond to all city complaints. The term ombudsman originated in Sweden in the early 1800s as a title for someone who would protect the rights of the common person from the “excesses of the bureaucracy”. Since that time, the public sector has used the term ombudsman to refer to a person who “investigates complaints against administrative acts of the government.” This may come in many forms but is generally someone who is available to the public to listen to complaints against a government body and then to assist that person through the complaint process. The Ombudsman function is intended to help guide a citizen through a complaint process; the ombudsman does not supplant the existing processes of the organization.

 - Police Ombudsman/Auditor model generally focuses only on law enforcement related complaints. Depending on the size of the program, a police ombudsman/auditor may spend varying amounts of time on public outreach and community involvement. There are also different levels of review for police ombudsman/auditors, dependent primarily on time and budget available.

Examples from other communities. Staff researched models in several communities, both in California and in other states, and spoke with representatives of national organizations related to oversight of law enforcement (specifically, National Association of Civilian Oversight for Law Enforcement and the United States Ombudsman Association) for suggestions. While there are varying structures within which these models operate, below are the communities that have functions in place most similar to what Davis might want to implement.

Santa Cruz – Santa Cruz, a university community with a population size similar to Davis originally had a Citizens' Police Review Board but then disbanded it due to fiscal constraints. In January of 2003, the City Council created the position of an Independent Police Auditor. The auditor is an attorney charged with providing independent reviews of the citizen complaint process and with reviewing and making recommendations regarding Police Department policies and practices.

Specifically, the Independent Police Auditor is responsible for the following:

- Review of Police Department Internal Affairs Investigations (all investigations alleging excessive or unnecessary force and some other Internal Affairs investigations) to determine if investigation was complete, thorough, objective and fair.
- Review of Officer Involved Shootings
- Review of Police Department Policies and Procedures
- Independent Investigation of Citizen Complaints, as necessary
- Provision of Reports to the City Council
- Being accessible to the Santa Cruz Community

Santa Cruz also has a council subcommittee (Public Safety Committee) that evaluates the activities of the Independent Police Auditor. The Auditor operates on a contract basis with the City and provides reports to the City Council through the City Manager, however his contract clearly states that no employee of the City or member of the City Council will endeavor to undermine or taint his impartiality in connection with his duties.

As part of his review of investigations, the Auditor may attend citizen complaint interviews of any civilian witness/complainant, interview any civilian witnesses or complainants and request further investigation if he believes that such action is warranted.

Santa Cruz contracts out for their Police Auditor, so he spends approximately 3 days per month reviewing internal affairs investigations, for a maximum of about 25 hours per month. Santa Cruz generally has 25-30 formal internal affairs investigations per year and an additional 60 inquiries. He does not do complaint intake nor does he do extensive public outreach. That said, any member of the public may contact him with a complaint and he will assist that person in the complaint process. The current total for the Police Auditor contract is \$42,000 per year.

Boise, ID – On July 20, 1999 the Boise City Council officially established the Office of the Community Ombudsman. This office was established to investigate complaints of misconduct against Boise City police and law enforcement officers. The Community Ombudsman's Office is independent from all other City departments and reports directly to the Mayor and City Council. In addition to investigating misconduct, the Community Ombudsman's Office seeks to ensure that police policies and practices reflect the needs of the community.

The Office of the Community Ombudsman exists to promote public confidence in the

professionalism and accountability of Boise City's police and law enforcement employees through unbiased investigation of citizen complaints, independent review of police actions, policy recommendations, and on-going public outreach. A citizen can contact the Office and express their concern about the way the police responded to a call, how the police treated them or someone they know or just general concerns about the department. Depending on the issue, the Ombudsman will look into the matter. Because this function of the Ombudsman does not necessarily result in a formal investigation, the Ombudsman will report back to the complainant about the process and often will make recommendation to the Police Department regarding procedure.

Boise is a community of more than 180,000 people (and is the regional hub of a population of more than 400,000). The Office of the Community Ombudsman has three full-time staff and one part-time staff member. In discussions with the Boise office, staff reported that the majority of time is spent on actual investigations. The Deputy Ombudsman and a part-time investigator are both attorneys. The Ombudsman has both a law enforcement background and a human resource/organizational management background. While the many of the functions of the Community Ombudsman are noteworthy to Davis, it must also be noted that Boise has a different structure and has different laws (state and local) than does Davis. Boise operates under a strong mayor-council form of government, with a full-time mayor running the operations of the City.

Sacramento - Sacramento has an Office of Public Safety Accountability. In 1999, the Mayor and Sacramento City Council established the Office of Police Accountability for the purpose of monitoring the investigation of citizens' complaints. In July 2004, the City Manager, with City Council approval, increased the Office's responsibilities to include the Sacramento Fire Department, and the Office was renamed the Office of Public Safety Accountability (OPSA).

The Office has had one Director since its inception. The Director recently retired from the City but will be returning in mid-May. The Office reflects mostly a police auditor style of oversight, and is soon to have three full time staff members. The Office is under the direction, control and supervision of the City Manager. The Director has broad oversight authority with responsibility to

- Evaluate overall quality of performance by employees
- Encourage systemic change
- Track and monitor high profile or a serious complaint case to conclusion
- Take complaints to forward to the Internal Affairs Unit
- Monitor general citizen complaints
- Observe interviewing of officers or firefighters
- Independently re-interview complainants and witnesses in exceptional cases where integrity of investigation is in question
- Serve as liaison with complainants who are intimidated by or unfamiliar with investigative process.
- Review completed investigations (in 2004 the Office performed 11 formal audits and 80 informal audits)

- Advise the City Manager of any deficient investigations.
- Establish and maintain relationships in the community.
- Produce an annual report of existing policies and procedures, analyzing trends, and making recommendations to improve complaint process

In addition to receiving complaints, the OPSA Director is on the Critical Incident Call-up list for the Police Department and the High Profile Incident Notification Call-up list for Fire Department and will be notified when incidents occur. The Director will have the option of responding to any and all such incidents. Additionally, the Director shall have the authority to monitor interviews of subject employees, employee witnesses and citizens immediately following such an incident.

Examples of high profile cases are

- Serious misconduct
- Vehicle accidents with death/serious injury involving fire apparatus
- Fire related death/serious injury
- Industrial accident where OSHA response mandated
- Law enforcement arrest of personnel
- Harrassment issues involving personnel
- Workplace violence claims against personnel
- EMS patient care complaints that rise to level of disciplinary action

San Jose - San Jose uses a police ombudsman/auditor style of oversight, with an Office of the Independent Police Auditor. The Office, which includes six full-time staff members, provides independent review of the police complaint process and promotes public awareness of a person's right to file a complaint. The Auditor is appointed by the City Council. Of the remaining staff members, three are attorneys (one specializes in public outreach), one maintains the information database, and one is an office assistant.

San Jose has a Charter that allows for the powers and duties of the Independent Police Auditor. The Auditor has the following responsibilities:

- Review Police Department investigations of complaints against police officers to determine if the investigation was complete, thorough, objective and fair. The Auditor is to review all complaints against officers which allege excessive or unnecessary force and a minimum of 20% of other complaints. The Auditor shall participate in the Police Department's review of officer-involved shootings.
- Interview any civilian witnesses in the course of review, suggest questions for Internal Affairs interviewer to ask, and request further investigation if determined necessary.
- Make recommendations with regard to Police Department policies and procedures based on the Independent Police Auditor's review of investigations of complaints against police officers.
- Conduct public outreach to educate the community on the role of the Independent Police Auditor and to assist the community with the process and procedures for investigation of complaints against police officers.

- Take complaints from any member of the public against the Police Department.
- Prepare an annual public report to include statistical analysis of complaints, trends and patterns, and recommendations.

San Jose also has an Independent Police Auditor Advisory Committee. The Committee, comprised of approximately a dozen people who are chosen by the Auditor, advises the Auditor on issues and concerns in the community. They help the Auditor provide independent review of the police complaint process and promote public awareness of a person's right to file a complaint.

Portland, Oregon – Portland has both an Ombudsman staff of two and an Independent Police Review staff of eight, all of whom are located within the Office of the Auditor. (The Auditor is an elected position in Portland.) The Police Review staff deal specifically with police-related complaints and investigations. The Ombudsman responds to all other types of complaints by the public. Both the Ombudsman and the Police Review staff will take in complaints to refer to the existing systems in the appropriate department. They will provide the complainant with information about how the processes work and follow up with that person as necessary.

The Independent Police Review has five primary functions:

- Receive all citizen complaints against the Police Bureau that cannot be resolved by the Police Bureau.
- Monitor Internal Affairs investigations.
- Coordinate appeals of Internal Affairs findings to the Citizen Review Committee.
- Hire an expert to review closed cases of officer-involved shootings and in-custody deaths.
- Recommend policy changes to the City Council and Chief of Police

The Citizen Review Commission is responsible to:

- Hold public meetings.
- Hear appeals of Police Bureau investigation findings related to citizen complaints
- Work with the Independent Police Review to recommend policy changes

In Review

Davis has many avenues currently in place to address citizen complaints. As noted earlier, many existing staff functions serve in a partial role as "ombudsman". This system works well the majority of the time for general city issues. To implement an ombudsman position for all city complaints requires restructuring of several existing positions. While this is feasible, there are two downsides to consider. Police concerns aside, staff questions whether it would be worth the cost to reorganize a functioning system already in place. The organization and the community are not so large that residents have a difficult time contacting a person at the city and registering a complaint or voicing a concern. There are, obviously, exceptions, but in general it is questionable

whether a dedicated ombudsman position would make a difference in terms of overall city complaints. Second, and less important, a reorganization of this nature would take time to implement and Council has expressed interest in acting now.

In lieu of creating a position that would address all city complaints, staff recommends strengthening, streamlining and tracking the internal system(s) for complaints for other (non-police) departments. This includes providing additional and better information to the public on how and where to make a complaint, educating staff on which departments handle what types of complaints, analyzing potential trends and developing a more uniform complaint process for the public to use. Already, staff is creating a universal complaint form for someone to use when they have a concern but are not making a monetary claim against the city. This, coupled with individual formats used by departments, should allow for a complaint of any nature to be adequately processed. Information and recommendations from tracking complaints internally can be presented to the City Manager and reported to the City Council annually.

This leaves us with how to effectively address complaints against the Police Department. Staff believes the analysis supports the implementation of a police ombudsman/auditor model focused specifically on police issues. The model recommended closely follows many of the responsibilities of the aforementioned communities. Such a function would have the following responsibilities:

- Review of Police Department citizen complaint investigations to determine if investigation was complete, thorough, objective and fair.
- Review of investigations involving alleged use of unnecessary or excessive force.
- Review of Police Department Policies/Procedures and training.
- Review of citizen inquiries, as appropriate and independent investigations, as directed.
- Intake of complaints from citizens who have a concern about the Police Department.
- Provision of Reports to the City Manager for transmittal to the City Council.

This function would audit citizen complaint investigations, as is typical of an auditor role, but would also take citizen complaints against the police department that do not necessarily result in a formal investigation, as is more common with an ombudsman. This may include, but is not limited to, individuals who have a complaint against the police but do not feel comfortable complaining directly to the police department, individuals who feel that the police investigation of a complaint was not handled appropriately, individuals who are concerned about certain policies or procedures of the police department, etc. Depending on the nature of the complaint, the Police Ombudsman may explain the reasons or actions of the Police Department to the complainant, forward the complaint to the Police Department for review/investigation and response to the Police Ombudsman, research the complaint to determine if policy and procedure was followed, or make recommendations to the Police Chief and/or the City Manager on administrative changes. The position would need to abide by all state and federal laws governing such investigations and inquiry, including but not limited to the Peace Officers Bill of Rights.

In determining what type of police ombudsman to use (contract, new hire, reorganization of existing staff), staff recommends that the city contract for a police ombudsman/auditor position, similar to the approach used in Santa Cruz. This has several benefits:

- It is virtually immediate. The City Manager can begin to contact qualified candidates and put someone on contract with very little lead time. Creating a permanent in-house position could take several months to fill.
- It is flexible. There may be times that there are few complaints/investigations to monitor, while at other times, there may be an influx of complaints. Having a contract allows the City to be flexible and responsive, while only paying for what we need. Because this is a new function for the City, a contract will allow us to review the effectiveness of the function and make adjustments as necessary in the future. Having a contract does not preclude the possibility of implementing a permanent full-time position in the future if it is determined that the role of police ombudsman is beneficial.
- It is cost effective. With a contract, the City pays for the service that the City receives. Staff believes that, in a city of Davis' size, the police ombudsman position will not be a full-time job.
- It is independent. Even more than an in-house position, a contract position can be structured so that it is independent of organizational and local politics. Staff believes that this complete independence from the organization will allow an auditor to look objectively at the Police Department and present an unbiased review of investigations.
- It is not subject to negotiations with the Davis Police Officers Association. Because the position, as proposed, would not change the existing conditions of employment for police officers or actually implement discipline, it will not be necessary to negotiate the implementation this form of a police ombudsman with the DPOA.

The primary downside to a contract police ombudsman is that he or she may not be available in person to meet with a citizen or a staff member any time during regular business hours. This does not mean, however, that a citizen is precluded from registering a complaint at any time. The City will set up a telephone hotline, provide the police ombudsman with a City email address and office space in the City Manager's Office. An existing staff person will be responsible for logging in and then passing on written complaints mailed or delivered to the police ombudsman. These options should allow for enough accessibility to the police ombudsman. Staff will look for someone in the region who can be available to hold office hours and spend some time on-site.

Another downside to the contract police ombudsman function is that it is not structured to allow for much public outreach to the community. This is an important function of many of the larger cities that have multiple full-time staff in an ombudsman or auditor office. Existing staff will develop a communications plan to spread the word about the existence of the police ombudsman. This plan will include such actions as creating a page on the

city's webpage to explain the function and roles of the police ombudsman and to allow for complaints to be made electronically.

In addition, the Police Department has worked diligently over the past several years to strengthen its community outreach. The Department continues to make presentations in neighborhoods, upgrade its online and print information and share information about its activities and procedures with the public. Chief Hyde has made a commitment to continue and enhance community outreach. Inclusion of information about the police ombudsman function will certainly be an important part of future outreach activities.

With the development of this new function, there are several things to keep in mind:

- **Development of a police ombudsman function is in addition, not in lieu of, existing processes** – We must be clear that the police ombudsman provides a complementary level of oversight to police actions; the position does not replace them. The police ombudsman is not meant to circumvent the Police Department. The position does not normally do investigations in lieu of the police doing them. Rather, the position reviews, audits and provides response to investigations. In addition, the position would communicate with the Police Department concerning citizen complaints. The only time a police ombudsman might actually do a formal investigation is if the original investigation was deemed to be flawed and/or if it falls into a specific category (i.e. excessive use of force, etc.) where the police ombudsman believes that the nature of a complaint warrants an independent investigation. In these cases, the ombudsman shall receive direction by the City Manager.
- **Whenever possible, the police ombudsman should be contacted only after exhausting other opportunities.** The police ombudsman should not be a citizen's first stop if they have a complaint about city services/employees. Every department has a complaint system in place and attempts should be made to resolve the issue through the existing system. If the complainant does not feel that the issue has been resolved or if the complainant believes that the process was somehow flawed, s/he should turn to the police ombudsman.
- **Position should report to the City Manager.** There has been much concern that any oversight position needs to be independent to allow for objective review. Staff agrees that the position needs to be able to provide independent feedback to the City Council but believes that the position can do this through the City Manager. Based on the City Manager form of government, the position should report to the City Manager, rather than to the Council directly. This is critical to ensure that the position is not politicized and to allow for the City Manager to make changes in administrative policies and procedures as suggested by a police ombudsman. This is not to suggest that the City Council will not receive independent reports from the ombudsman. It should be clearly stated in the contract that no city employee or city councilmember will attempt to undermine the police ombudsman or taint his/her impartiality. Should the City Council wish

to have a position report directly to them, then we would need to change our existing ordinance to include that designation. While this is possible, it is a departure from our existing structure and takes additional time to implement.

- **City should continue to look at other ways to improve community's ability to report concerns (of any nature) to the City government.** While the most recent focus has been on police oversight and accountability, the community should be able to communicate concerns with the City government easily and with results. Staff will continue to look for ways to improve complaint reporting and tracking for other city departments. New technologies continue to improve our ability to sort and respond to complaints quickly.

Role of the Three-Person Police Advisory Committee

In addition to the development of the police ombudsman function, staff had already proposed the creation of a three-person Police Advisory Committee (PAC) to work with the City Manager. The PAC will provide an added level of review on police complaints and on the police ombudsman function. The PAC will review citizen complaint investigations, paying special attention to investigations where the police ombudsman noted issues of concern, assess the workload and effectiveness of the police ombudsman and provide comments and recommendations to the City Manager. They will review citizen complaints so that they may look for trends and for the thoroughness of the investigations and will look at Police Department policy and training.

Execution of Contract

To expedite the implementation of these recommendations, staff recommends that Council authorize the City Manager to execute a contract with a qualified individual as soon as possible. In addition, because this is a complex topic, staff would ask for some flexibility in implementation. A skilled and experienced individual hired for the task may have ideas and suggestions about how best to implement the position to achieve the goals the City desires.

ATTACHMENTS:

- A. Resolution
- B. Proposed Scope of Services

RESOLUTION 06-XX, SERIES 2006

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAVIS AUTHORIZING
THE CITY MANAGER TO INITIATE A SEARCH FOR AN INDEPENDENT POLICE
OMBUDSMAN AND TO EXECUTE A CONTRACT FOR PROFESSIONAL
SERVICES TO HIRE AN INDEPENDENT POLICE OMBUDSMAN

WHEREAS, the City Council has as one of its primary goals the provision of top quality police protection and law enforcement services for all residents of and visitors to the community; and

WHEREAS, the City Council expressed an interest in creating a position to coordinate and provide for oversight of police investigations and actions; and

WHEREAS, the City Council has determined that the best model for Davis is a hybrid to include an Independent Police Ombudsman and a three-person Police Advisory Committee.

WHEREAS, an Independent Police Ombudsman can review police investigations, make policy and procedure recommendations for change, take citizen complaints and provide objective statistical analysis to the City Council; and

WHEREAS, a qualified, independent Police Ombudsman will likely cost the city up to \$60,000 per year for services.

NOW, THEREFORE, BE IT RESOLVED that the City Council:

1. Adopts the Independent Police Ombudsman model of police oversight to ensure that police interactions, policies and departmental processes are fair and thorough. The attached Scope of Service outlines the Police Ombudsman job responsibilities; and
2. Authorizes the City Manager to initiate a search for a qualified, independent police ombudsman; and
3. Authorizes the City Manager to enter into a contract for police auditor services, after consultation with the City Attorney, in an amount not to exceed \$60,000 per year for 2006-2007. The City Manager is also authorized to utilize existing professional services funds from the City Manager's Office not to exceed \$8,000 should funds need to be spent during the 05-06 fiscal year.

PASSED, APPROVED AND ADOPTED on the ____ day of _____ 2006 by the following vote:

AYES:

NOES:

ABSENT:

Ruth Uy Asmundson
Mayor

ATTEST:

Margaret Roberts, CMC
City Clerk

City of Davis Police Ombudsman Scope of Services

A. Overview

Police Ombudsman will review various Police Department investigations (as described below), review Department policies and practices, take citizen complaints about the police department, investigate citizen complaints as necessary, recommend for further review by the three-member Police Advisory Committee those cases that warrant more detailed review/investigation, prepare reports for the City Council and be accessible to the public.

B. Ombudsman Functions

1. Review of Investigations: The Police Ombudsman will review the following categories of materials, where the extent of each review will be commensurate with the gravity of the underlying matter:

Review of Internal Investigation of Complaints: The Police Ombudsman will review investigations of citizen complaints against police officers and investigations which allege excessive or unnecessary force by a police officer to determine if the investigation was complete, thorough, objective and fair.

The Police Ombudsman may attend Professional Standards Unit interviews of any civilian witness/complainant, consistent with the Peace Officers Bill of Rights and may suggest questions to the interviewer. The Police Ombudsman may interview any civilian witnesses or complainants in the course of his reviewing an investigation into any citizen complaint. The Police Ombudsman shall make a request, in writing, to the Police Chief for further investigation whenever the Police Ombudsman concludes that further investigation is warranted. Unless the Police Ombudsman receives a satisfactory written response from the Police Chief, the Police Ombudsman shall make a request, in writing, for further investigation to the City Manager. The Police Ombudsman will abide by all applicable state and federal laws in conducting reviews and investigations.

2. Review of Department Policies and Procedures: The Police Ombudsman will review Department Policies and Procedures as they become relevant in the course of accomplishing obligations pursuant to Section 1 above or in response to a request from (1) the City Council; (2) the City Manager; or (3) the Chief of Police. Such review will encompass both the effectiveness of the policy as applied to the City as well as practices implemented in other agencies. The Police Ombudsman need not wait until any of the foregoing personnel matters has been investigated to respond to requests for assistance from the Chief or his designee.

3. Independent Investigation of Citizen Complaints: The Police Ombudsman may recommend to the City Manager that an independent investigation of a citizen complaint be conducted. Such recommendations will be in writing and will contain the reasons supporting such a recommendation.

4. Reports to the City Council

a. Reporting as requested by the City Council: In any instance that the City Council desires an oral report from the Police Ombudsman, the City Manager will contact the Police Ombudsman to arrange his attendance at and preparation for the City Council meeting.

b. Reporting at the discretion of the Police Ombudsman: The Police Ombudsman will report to the City Council either orally or in writing at his discretion.

c. Periodic written reports: The Police Ombudsman will render to the City Council through the City Manager, periodic written reports covering the Police Ombudsman's activities.

5. **Take Citizen Complaints:** The Police Ombudsman will take citizen complaints/inquiries and either address them immediately (as appropriate), submit them to the Police Department for review, or review an investigation previously completed by the Police Department. The Police Ombudsman should be contacted in cases where the complainant does not feel comfortable talking with the Police Department and/or in cases where the complainant has already been through the Police Department.

6. **Police Ombudsman's Access to the Davis Community:** In connection with his work, the Police Ombudsman will be accessible to the Davis community via City-provided email, telephone and office hours.