

STAFF REPORT

DATE: June 12, 2018
TO: City Council
FROM: Council Subcommittee on Police Oversight (Robb Davis, Lucas Frerichs)
SUBJECT: Police Oversight Recommendation

Recommendation

1. Receive proposed Police Oversight System recommendation from subcommittee Davis and Frerichs.
2. Consider recommendation that involves a dual oversight structure, including a revised and enhanced Independent Police Auditor position and the creation of a Davis Police Accountability Commission.
3. Direct staff to return to the City Council with documents necessary to create the Davis Police Accountability Commission and to recruit for an Independent Police Auditor.

Fiscal Impact

An Independent Police Auditor has direct cost implications. The current budget includes \$60,000 for a contract auditor position, which equates roughly to 22-25 hours per month. This cost could vary based on the conditions set and qualifications required for the actual auditor position/contract.

Costs for city boards/groups are generally incorporated into existing budgets, with primary costs being staff time to coordinate agenda items and provide administrative support for the group. Citizen participants/members are historically unpaid resident volunteers.

Council Goal(s)

This work falls under the goal of “Ensure a Safe and Healthy Community” but is not a specific task.

Executive Summary

The purpose of the City of Davis Police oversight system is to increase transparency concerning policing practices and policies, build police accountability to strengthen trust between the police and the community, and to provide for ongoing correction and quality improvement. To achieve this purpose the system has two critical and highly integrated parts: an Independent Police Auditor (IPA) and a Police Accountability Commission (DPAC). They work together to receive concerns and complaints about policing, and review police policy and procedures. In addition, the IPA receives and refers misconduct complaints and reviews and provides publicly available summary reports of misconduct complaint investigations in accordance with state law. The IPA audits the complaint processes, reports on these in summary fashion, and facilitates a systematic review of police policy and training by the DPAC and makes recommendations based on the reviews and audits. The IPA provides annual reports to the City Council and City Manager. The

DPAC is responsible for creating and implementing a community outreach plan to assure that all members of the community have an opportunity to share concerns about policing with the assurance that follow up to their concerns will be provided. The DPAC, as representative of the community, reviews and provides input into police policy and training and receives and reviews public IPA reports on misconduct complaints.

In order to fully implement this model, the City will need to meet and confer with the Davis Police Officers Association, as the structure of the model is considered to change the working conditions of members of the association. Initial outreach to the representatives of the group has been undertaken, and they understand the nature of the recommendations.

Background and Analysis

On July 11, 2017, following a discussion on police oversight, the City Council motion directed staff to hire a short-term consultant to complete the following:

1. Review current system, historical documents and recommendations from the Human Relations Commission.
2. Participate in up to five public or sponsored forums (sponsored forums could be for vulnerable groups who may not be willing to come to public forums) as content expert. Forums should be used to solicit community input on the goals of oversight, guiding principles, and key desired processes for oversight.
3. Recommend 1-3 options that would seem to fit in Davis given size, history of policing and community needs.
4. Include model contract and scope of work for ombudsman/auditor and details of the role of any other entities and how they might change from what is currently in place.

Although the original motion requested that work be completed by December 31, 2017, additional time has been taken to allow for multiple community conversations and a vetting of the options.

On November 7, 2017, the City Council authorized the City Manager to execute a contract for \$44,000 plus expenses with Barbara Attard of Accountability Associates and Kathryn Olson of Change Integration Consulting, LLC to complete a police oversight review process. Ms. Attard and Ms. Olson were selected based on their relevant police oversight experience in other communities, both in California and in other states.

The consultants proposed a three-phase process, which included:

Phase I	Complete by February 16, 2018	Information Gathering and Review	Review historical information and gather information through community meetings, interviews with stakeholders, etc.
Phase II	Complete by March 31, 2018	Report Preparation	Analyze information and prepare report with recommendations and findings for Davis.
Phase III	Complete by April 30, 2018	Present Findings	Make presentation to City Council.

After extensive outreach in the community and drawing on their research, past experience and expertise, the consultant team presented their findings and recommendation report to City Council on April 10th and recommended a two-pronged approach.

1. A revised/enhanced independent police auditor as the first facet of an oversight system.
2. The establishment of a Davis Police Accountability Board as a citizen group to work with the Police Auditor and provide input on police accountability issues throughout the community.

At that time, the City Council appointed a subcommittee of Mayor Davis and Councilmember Frerichs to further research the recommendations of the consultants and return to the City Council with a proposed plan for moving forward with a police oversight model.

In addition to the recommendation of the consultants, the subcommittee reviewed information from NACOLE (National Association for Civilian Oversight of Law Enforcement) as well as other jurisdictions and expanded upon the original recommendation report to prepare a proposed Police Oversight System for Davis.

The following is the result of these efforts and represents the proposal of the subcommittee.

Police Oversight—A Primer

The Final Report of the President’s Task Force on 21st Century Policing (May 2015), provides the following recommendation (2.8)

Some form of civilian oversight of law enforcement is important in order to strengthen trust with the community. Every community should define the appropriate form and structure of civilian oversight to meet the needs of that community.

The Davis Police Department, in its 2017-2019 Strategic Plan has an objective to Provide transparency and information to the public in a timely, efficient, and respectful manner and has a task committed to determining how to best implement the “21st Century Policing” plan.

For over a decade Davis has wrestled with how to create an effective oversight system, with citizens taking the lead in defining the need and proposing a way forward.¹

The foregoing indicates that we are at a key moment in the history of the City. A time when federal guidance joins with local police and community desires for some form of oversight. But as the “21st Century Policing” report makes clear, each community must define what system will work best for it. What is clear in these documents is that any oversight system must be seen as

¹ See The HRC Report prepared by the Subcommittee for Civilian Review Board: Cecilia Escamilla-Greenwald, William Calhoun, Hamza El-Nakhal, Chithra Lakshmanan, and Diane Carlson with assistance from Jann Murray-Garcia, and which is an attachment to the City Council Staff Report of 04/10/2018, “Human Relations Commission’s Recommendation to Create Citizen Review Board,” (February 14, 2006).

legitimate in the eyes of all stakeholders, including elected officials, community members, and the police themselves.

But what is oversight? What is it really all about and what does it include? In *The New World of Police Accountability* we read²:

It is a basic principle of a democratic society that the police are answerable to the public. That is the core meaning of police accountability... Police accountability is a broad and multifaceted phenomenon.

On one level it refers to holding law enforcement agencies accountable for the services they deliver: crime control, order maintenance, and miscellaneous services to people and communities... At the same time, accountability also refers to holding individual officers accountable for how they treat individual citizens, particularly with regard to the use of force, equal treatment of all groups, and respect for the dignity of individuals. (page 8) Police accountability thus encompasses both organizational policy and practice and the behavior of individuals. As a result, any accountability system should allow for community understanding and review of police agency policy and practice and should also provide for input into individual officer behavior.

A successful accountability system will build trust between the community in the police. It must be accepted as legitimate by all stakeholders and should be structured to ensure learning and change. It must seek to move beyond an adversarial police/community relationship and commit to creating space for change.

Purpose and objectives for Davis' Police Oversight System

Purpose:

The purpose of the City of Davis Police oversight system is to increase transparency concerning policing practices and policies, build police accountability to the community (both the police as an agency and as individual officers), and provide for ongoing correction and quality improvement. The outcome will be a police department that has legitimacy in the eyes of citizens and enjoys the trust and support of the community.

Objectives:

1. Receive, refer and assure responses are provided for community member misconduct complaints.
2. Review and provide input into police policies, procedures and training.
3. Audit internal investigations and discipline findings.
4. Provide routine and regular reporting on complaints, investigations, trends, results of audits, and outreach efforts.

Elements of the Davis Police Oversight System:

² Walker, Samuel and Carol A Archbold, Second edition (2015) Sage Publications

Independence and Interdependence of Each Part

Overview

The Davis Police Oversight System has two distinct components that are independent of each other and the police. However, the two are interdependent; working closely together to provide a comprehensive oversight approach with clearly defined roles and responsibilities.

The two components are an Independent Police Auditor (IPA) and a Police Accountability Commission (DPAC). While their roles are distinct, they are charged with working closely together to achieve effective oversight. The close collaboration includes the IPA providing technical support, critical analysis, and training to the DPAC, while the DPAC organizes community outreach and evaluates audit reports and provides recommendations in conjunction with the IPA. Together they review police policy and training and issue routine reports to the City Council and community. They mutually assess the efforts of the other and produce reports.

Both the IPA and the DPAC can receive misconduct complaints from the community. These can come via community outreach meetings or via direct contact with community members. The DPAC will refer all such complaints directly to the IPA who will, in turn, follow up and refer them to the police for action.

The Independent Police Auditor (IPA)

The IPA is intended, at this time, to be a part-time position with 25-30³ hours of work each month and done on a contract basis. This is similar to the current IPA role but a critical piece of the IPA role in the proposed model is to work closely with the DPAC and facilitate their work.

The IPA should have strong facilitation and community outreach skills because they will work with the DPAC in community outreach and will provide technical support to their work. In addition, the IPA will carry out audits of a variety of police practices including the complaint processes and investigations, receive and review complaints, and respond to critical incidents.

Specifically, the IPA will carry out the following tasks

1. Review DPD Misconduct Complaints

- Receive notice of all complaints, classification and assigned investigator.
- Receive complaints directly and refer them to the police department for investigation.
- Receive real time updates on investigations for monitoring and to coordinate interviews, if needed.
- At the discretion of the IPA, attend interviews of complainants, public witnesses, and sworn officers, asking questions directly (civilians) or through the lead investigator (police personnel).

³ An initial estimate of time needed that can be adjusted.

- Have full access to completed complaint investigation files; all evidence related to the issue, reports (as allowed by state law), analysis, proposed findings, and any proposed discipline.
- Provide evaluations as to whether an investigation is complete, thorough, and objective; an explanation if more investigation or a change in finding is recommended;
- Document any recommendations on policy, procedures, or training growing out of a complaint investigation.
- If an external investigator is used, provide input into the scope of work of the investigator, and offer assistance in the selection of the investigator.
- Work with the DPD and DPAC to promote Alternative Conflict Resolution ACR⁴ /mediation as a complaint resolution option.

2. Audit Davis Police Department (DPD) Misconduct Complaint and Discipline Process

- The IPA will have access to the DPD complaint database and regularly assess issues such as the nature of complaints, how complaints are classified, and whether investigation timelines are met.
- The IPA will have access to DPD personnel and discipline records and will assess the discipline system for fairness and appropriate levels of discipline.

3. Receive Notice of Death, Serious Injury, or Other Critical Incidents

- The IPA will receive timely notification of critical incidents with authority to respond to the scene, if needed. Critical incidents include:
 - Officer-involved shootings, regardless of whether a person was hit by gunfire;
 - A traffic collision involving police officers that result in death or serious bodily injury to another person;
 - A use of force resulting in death or serious bodily injury to another person; or
 - All deaths while an arrestee/detainee is in the custodial care of the Department unless there is no preliminary evidence of any of the following: misconduct, a use of force, or an act committed by an arrestee/detainee that appears intended to cause injury or death.

4. Audit DPD Policies, Procedures, and Training

- Collaborating with the DPAC, the IPA should prioritize and audit DPD policies, procedures, or training related to these topics or other matters that may be identified and take precedence for auditing purposes. The following is not an exhaustive list of issues but indicative of what can be done.⁴

⁴ This list of potential audit topics is not intended to be exhaustive; all Police Department practices should be open to scrutiny by the IPA, including but not limited to: recruitment, background investigations, hiring, training, promotional processes, community policing initiatives, equipment, performance evaluations, etc.

- Progress on meeting DPD Strategic Plan goals - in particular, goals with regards to training on procedural justice, the Guardian mindset, implicit/unconscious bias, and de-escalation
- Progress on DPD compliance with CA Racial and Identity Profiling Act of 2015 (RIPA) requirements DPD stop data, using DPD data reported under RIPA and other appropriate sources
- DPD enforcement actions with regards to the homeless
- Compliance with the Surveillance Technology Ordinance
- Individual use of force investigations, including Taser usage, and use of force aggregate data
- Body camera usage by officers and review by supervisors, Professional Standards, etc.

5. Recommend Changes/Improvements to Policy, Procedure, or Training

- Work with the DPAC to systematically review DPD existing policies and procedures and evaluate new or changed DPD policies.
- Work with the DPAC to systematically review DPD training.
- With input from the DPAC the IPA make written recommendations for improvements or changes to DPD policy, procedure, or training regarding any matter, with recommendations to the Police Chief.

6. Help Develop and Participate in Community Outreach

- Working closely with DPAC, help develop a community outreach plan and participate in community outreach efforts to both educate the community about the work of oversight in Davis and to hear from the community about current policing concerns. The initial outreach plan should take into consideration the variety of stakeholder groups that participated in the community engagement process and how to use social media to keep community members informed.

7. Produce Reports

- Publish written reports in conjunction with the DPAC, at least on an annual basis, to include information about: misconduct complaint investigations and trends; recommendations concerning improvements to DPD policy, procedures, or training; results of audits; and joint projects with the DPAC, including outreach.

8. Conduct independent investigations

- In cases in which the IPA deems an investigation insufficient or the DPD does not open an investigation, and recommendations for additional investigation are not heeded, after written notification to and concurrence from the City Manager and the City Attorney, the IPA may conduct additional or an independent investigation. The DPD will provide full access to all materials concerning the incident underlying the complaint and all relevant personnel.

9. Assess the work of the DPAC

- Provide annual written input to the City Manager on the effectiveness of the DPAC

Davis Police Accountability Commission (DPAC)

The Davis Police Accountability Commission (DPAC) is a new entity being created as part of the Davis Police Oversight System. As noted above, the DPAC will work closely with the IPA to provide a comprehensive oversight approach.

The key role of the DPAC is to develop and implement a community outreach plan that will enable it to inform the community about police oversight and receive input from all members of the community about concerns and/or complaints they have concerning policing in Davis. An overwhelming need expressed during the consultants' community input process was that members of the community may lack an understanding of, or harbor fears about, making misconduct complaints. The DPAC, along with the IPA, is a critical means to create more, and more convenient channels for filing complaints (a recommended practice noted in *The New World of Police Accountability*)

When receiving complaints in this way the DPAC refers them immediately to the IPA. Their role is to assure that their meetings are accessible to any member of the public who might have a concern to assure that concerns and complaints are comprehensively collected and dealt with in a clear and effective way. If members of the public approach individual DPAC members with complaints or concerns, they will also immediately refer the complaint/concern to the IPA and not seek to otherwise resolve or deal with the issue.

In addition to this role, the DPAC will review DPD policies, procedures and training and make recommendations about changes to them. The IPA will play a critical role in educating the DPAC about these things and will use DPAC recommendations in reports to the DPD, the City Manager and the City Council. The DPAC will not have access to complaint documents but will receive publicly made IPA reports on them.

Specifically, the DPAC will carry out the following tasks.

1. Develop Community Outreach Plan

- Develop and execute a community outreach plan with input from the IPA.
- Hold regularly-scheduled meetings⁵ and provide notice and an opportunity for community input. These meetings should be coordinated with various non-profit and/or faith-based groups to assure under-represented or vulnerable groups have a safe space to fully participate. This implies meeting

⁵ The frequency of the meetings will be determined but can be monthly or bi-monthly.

should use all forms of informal networking and social media to extend invitations to members of the public. All meetings will be open to the public.

2. Provide Input to Audit DPD Policies, Procedures, and Training

- Coordinate with the IPA to identify and prioritize topics for IPA auditing. The IPA will conduct the audits but the DPAC will provide input and recommendations on prioritization of audits.

3. Recommend Changes/Improvements to Policy, Procedure, or Training

- With IPA input, systematically review DPD policies and procedures and analyze new or changed policies.
- With IPA input, systematically review DPD training
- Provides input to the IPA on recommendations for improvements to DPD policy, procedure, and training.

4. Review IPA Reports on Misconduct Complaints

- Receive IPA reports on misconduct complaints
- Recommend, for the IPA's consideration, further analysis of complaints or the complaint process
- Work with the IPA and DPD to promote ACR/mediation as a complaint resolution option.
- Request further investigation by the IPA. ⁶

5. Provide Input into Reports

- Provide input to the IPA into reports, at least on an annual basis, to include information about: misconduct complaint investigations and trends; recommendations concerning improvements to DPD policy, procedures, or training; results of audits; and joint projects with the IPA, including community outreach.

6. Assess the work of the IPA

- Provide annual written input to the City Manager and the City Council on the effectiveness of the IPA.

7. When time permits, respond to DPD requests for input on matters outside IPA/DPAC priorities, such as commenting on new programs.

⁶ This should occur only when new information comes to light to the DPAC and the IPA retains the discretion to determine the best course of action.

It should be noted that the creation of the DPAC does not change the role of, or the desire to have a separately functioning Chief’s Advisory Board. That body is appointed by the Police Chief for the purpose of public safety related information share to and from the Police Department. The Police Chief will use this opportunity to review the structure of the CAB in accordance with the Police Department Strategic Plan and adjust it to ensure there is no unnecessary overlap with the new oversight structure.

Summary of Roles

The following table lays out, at a glance, the various roles within the Davis Police Oversight System. It is intended to clarify the differing but complementary roles of the two key entities and demonstrates, again, the critical nature of their collaboration to provide effective oversight.

Task/Action Domain	Role of the IPA	Role of the DPAC
Community Outreach	Assists in developing the plan and acts as content expert during outreach	Develops the outreach plan and implements it
Misconduct Complaints	<ul style="list-style-type: none"> • Receives complaints directly, receives notice of all complaints and monitors investigations. • Provides summary reports on complaints and responses to the DPAC • Encourages use of ACR 	<ul style="list-style-type: none"> • Can receive complaints as part of outreach efforts • Receives IPA reports on complaints and comments or makes recommendations based on them. • Encourages use of ACR
Complaint and Discipline Process	Audits the complaint and discipline processes	Receives publicly disseminated summary reports of IPA audits
Critical incidents	Receives immediate notifications and may respond	Receives publicly disseminated summary reports of critical incidents
Police Policy and Training	<ul style="list-style-type: none"> • Audits policies, procedures, and training • Guides policy, procedures, and training review by the DPAC • Recommends policy, procedure or training changes with input from the DPAC 	<ul style="list-style-type: none"> • With IPA guidance, systematically reviews policies, procedures, and training • Provides input to the IPA into policy, procedures, and training changes
Reporting	Produces reports, at least annually to the City Council and City Manager	Provides input into reports to the City Council and City Manager
Investigation	May conduct independent investigations after notification and concurrence from the City Manager and City Attorney	May request an independent investigation by the IPA
Mutual Assessment	Provides an annual written	Provides an annual written

Task/Action Domain	Role of the IPA	Role of the DPAC
	assessment of the effectiveness of the DPAC to the City Council	assessment of the effectiveness of the IPA to the City Council

IPA Functioning: Independence and Support

IPA Background

Ideally, the IPA will have legal training with a focus on civil rights and law enforcement practices with some experience in investigating or litigating civil rights cases. Of equal importance, however, given the necessarily close working relationship they will have the DPAC and the community, is experience in working within communities—especially traditionally under-represented or vulnerable communities.

Prior experience with police oversight is preferred but not required. Ideally, they will live in close proximity to Davis in either Yolo, Solano or Sacramento counties or the City itself.

The IPA should be given an initial 3-year term with annual evaluations of performance.

IPA Independence

To assure true independence the IPA should not report to anyone with a direct or indirect disciplinary role vis-à-vis the police. This implies that the IPA should be hired and report to the City Council.

The City Council should designate two members to act as liaisons to the police oversight system and they should act on behalf of the City Council to hire the IPA. They may choose to include community members in an advisory manner to the hiring process. There is precedent for this approach to using community members to participate in staff interviews in an advisory role. Whether the two members are a less formal “liaison” as is done for 2x2s or commissions, or a formal subcommittee is a question to be resolved with input from the City Attorney.

The City Council can terminate the IPA contract but must do so by at least a 4/5 vote. Decisions about contract renewal at the end of a term can be by simple majority.

A second element to assure the independence of the IPA is to allow the IPA to appeal results of internal investigations to the City Manager. Further the IPA should note the number and results of such appeals in his/her annual report (in summary fashion only).

IPA Functioning

As noted, the IPA role at this point in time, is a part time, contract position of 30-40 hours per month. The IPA will receive administrative support from the City Manager’s Office. This

support will involve coordination with the DPAC, scheduling meetings, and providing support for document production and dissemination, among others. The IPA may choose to facilitate outreach and training meetings or request that the City provide an external facilitator.

The IPA will make at least monthly visits to Davis and will attend all DPAC outreach meetings. S/he will use these meetings to conduct training and policy review with the DPAC. The IPA will develop a work schedule in collaboration with the DPD and will have the option of meeting with the DPD leadership, the City Manager and/or the City Council liaisons as needed. The IPA will provide an annual verbal report to the City Council.

The IPA will work with the City Council liaisons, the City Manager and the DPD leadership to develop protocols for effective engagement between the IPA and the DPD. The City Council liaisons and the City Manager will work, initially, with the IPA and the DPAC to define protocols for that critical working relationship as well.

Formation and Composition of the Davis Citizens' Police Accountability Commission

The DPAC is the critical outreach mechanism for the Davis Police Accountability System. As such, they should be representative of the entire Davis community.

There will be seven (7) members of the DPAC (with one alternate) with at least one UC Davis student member selected by the ASUCD. All DPAC members must live within the Davis Joint Unified School District boundaries. They will be selected to two-year terms that are staggered. Terms can be renewed twice (for a maximum of 6 years). At least one and preferably two of the City Council liaison members will participate in all DPAC outreach meetings. The DPAC will not have any active police officer participation but those who have retired from law enforcement would be welcome to apply.

In following the example of the selection process for the Davis Downtown Advisory Group in 2018, any member of the public is invited to apply for a position on the DPAC. The application process and documents should invite applicants to lay out their reasons for wanting to be part of the group, relevant background and experience, and an expression of the community groups (ethnic, language, racial, sexual orientation, economic status, etc.) that they feel they can authentically represent on the DPAC.

The City Council liaisons will review all applications, offer brief interviews to each applicant, and recommend a slate of candidates to the full City Council—as is done for City Commission appointments. Selections of DPAC members will be made in a public meeting by vote of all City Council members.

The City Council liaisons will maximize the diversity of the slate of applicants they recommend.

The DPAC is unlike other City commissions in that it does not routinely advise the City Council. Rather, it provides input to the IPA. However, the DPAC is appointed by the City Council (except for the ASUCD appointee) and ultimately responsible to it. It should take any concerns about its role directly to the City Council liaisons.

Statement of Values of the IPA and DPAC

All members of the DPAC will commit to the following statement of values. The DPAC, at its inception, is invited to add critical elements to this list

1. Integrity: Commit to allowing the complaint referral and investigation process work fully; not prejudging outcomes or taking sides.
2. Respect: Treat everyone fairly and be considerate of diverse views.
3. Compassion: Commit to listen deeply to the concerns of members of the public and transmit their concerns faithfully to the IPA for action
4. Objectivity: Be equitable, fair and neutral in the evaluation of complaints and issues considered by this Office.
5. Professionalism: Be committed to the work of the CPAB; refrain from making statements which may be viewed as compromising the work of the CPAB

The IPA will commit to the following statement of values:

1. Integrity: Demonstrate the highest work ethic; be honest and accountable.
2. Independence: Perform work that is free from actual influence or the appearance of influence of any individual or group.
3. Confidentiality: Understand and appreciate the critical importance of confidentiality to the Office; demonstrate unwavering adherence to the rules of confidentiality at all times.
4. Respect: Treat everyone fairly and be considerate of diverse views.
5. Objectivity: Be equitable, fair and neutral in the evaluation of complaints and issues considered by this Office.
6. Professionalism: Be committed to the mission of the IPA position; refrain from making statements which may be viewed as compromising the independence and integrity of the IPA position and its work.

Community Outreach Meeting Elements

The work of the DPAC is built around community outreach meetings that will typically have three elements: 1) receiving of community input and questions, including misconduct complaints; 2) receiving and discussing investigation or audit reports produced by the IPA; 3) reviewing police policies, as shared by the IPA.

In receiving complaints from members of the public, the role of the DPAC is to listen, ask clarifying questions, make clear the process following reception of the complaint, and refer the complaints to the IPA. DPAC meetings are open to the public and members should avoid engaging members of the public in back and forth dialogue. As appropriate, they can ask the IPA to respond to community questions on the spot or describe the process by which community member questions will be addressed.

The community input portion of the meeting will be done without the presence of representatives of the DPD so that all participants may speak openly.

The second part of the meeting will be open to the public and public comment on any IPA reports should be permitted. This part of the meeting will provide DPAC members to better understand the work of the IPA and his/her assessment of investigations and audit results. Typically, members of the DPD would not be present for this portion of the meeting.

The third part of the meeting can be designated for review of police policy with the IPA taking the lead in describing the policy, perhaps providing insights into if/how Davis policies differ from other jurisdiction and responding to clarifying questions posed by the DPAC. DPAC members will be encouraged to discuss the policies and are encouraged to invite members of the DPD leadership team so they can engage in dialogue with them to better understand the rationale for the policies.

In addition to these three routine elements, the DPD can request opportunities to update the DPAC and the community on initiatives, implementation of the DPD strategic plan, or other issues they deem important to the community. The DPAC will accommodate these requests and schedule them in ways that will meet everyone's needs.

Evaluation

The entire Davis Police Oversight System will be evaluated using an external evaluator after the initial 2 years.

Attachments

1. Concept Paper to Lay Out Scope of Community Engagement Process
2. Final report: Stakeholder Engagement for the City of Davis

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POLICE OVERSIGHT IN DAVIS, CA

Outline of a Process for Engaging the Community on Directions to Take

Background

This document provides more detail on the purpose, people and processes of a community-based approach to developing police oversight recommendations for the City of Davis. On July 11, 2017, the Davis City Council passed the following motion to establish a community-based process to define police oversight options for its consideration and action:

City Manager's Office: Hire short-term consultant to

1. Review the current system, historical documents and recommendations from the Human Relations Commission.

2. Participate in up to five public or sponsored forums (for vulnerable groups who may not be willing to come to public forums) as content expert (Davis-based facilitators could provide structure for community dialogue at the meeting). Forums should be used to solicit community input on the goals of oversight, guiding principles and key desired processes for oversight.

3. Use own experience, public input from forums, input from the Davis Police Department, and review of extant systems to recommend 1-3 options that would seem to fit in Davis given size, history of policing and community needs.

4 Recommendations should include model contract and scope of work for ombudsman/auditor and details of the role of any entities (CAB, PAC) and how they might change from what is currently in place.

This work could be completed by December 31, 2017.

Independently solicit input from the DPD on key elements, questions, concerns about oversight that they wish to have considered highlighted in any eventual policy.

Present results of foregoing in comprehensive report to the CC for decision making on preferred model in January 2018.

Ultimate Ends of Oversight

While this paper lays out the process to be used to arrive at recommendations for police oversight in Davis, the ultimate end (goal) is to create a police accountability system that increases transparency, builds trust, and fosters policing practices and policies that create public safety for the entire community. This accountability must involve both the police as an

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agency and the behavior of individual officers. Accountability builds legitimacy—a concept that some consider the key outcome of any oversight effort.

The concept (legitimacy) holds that the police have legitimacy when they enjoy the understanding, trust, and support of the people they serve... Legitimacy takes a comprehensive view of policing, looking at individual officer conduct, police departments as organizations, and relationships with the entire community. (Walker and Archbold (2014) *The New World of Police Accountability*. pp9-10)

Legitimacy also means that officers and police leadership themselves view the process as legitimate.

Thus, the end of this process must be an oversight system that increases transparency for both the oversight process and the work of the police, builds police accountability, strives for evidence-based decision making, and provides for ongoing correction and quality improvement. The outcome will be a police department that enjoys the trust and support of the community.

While this process will help define the exact nature of the oversight system, typically oversight systems include some or all of the following:

- Accepting and referring police misconduct complaints
- Investigating police misconduct complaints
- Monitoring or auditing a police department's internal investigations and findings
- Conducting hearings and making decisions on police discipline matters
- Conducting pattern and practice reviews
- Making recommendations for improving police policies, practices, and training
- Reporting on oversight and its impact on policing
- Fostering community education and engagement about police and oversight matters (from Attard and Olson (2016) *Police Misconduct Complaint Investigations Manual* p2).

Purpose of Davis' Public Process

With the foregoing as background, we can articulate the purpose of the process called for in the motion as follows:

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To bring a diverse group of Davis stakeholders together with police oversight experts to learn more about oversight options and elements and develop a set of guiding principles for police oversight and several models or options for oversight that fit the needs of the community.

Accomplishing the following objectives will be critical to achieving this purpose:

1. Community members gain a more complete understanding of the elements of police oversight—such as citizen complaint processes, the role and functions of a police auditors, personnel review processes, data collection and analysis, critical incident investigations, public communication—and how they can fit into an oversight model/approach.

2. Community members help define key guiding principles that will form the foundation of police oversight and elements they would desire to see as part of an eventual Davis programmatic options.

3. Under-represented populations within the City also help define guiding principles and oversight elements, but also deepen the broader community's understanding of their experience of the police in Davis (which is very likely different from what the majority of citizens experience).

4. Police provide input into elements and options to assure their full understanding and engagement. Police here would include input from the Davis Police Officers Association as the bargaining unit for the sworn and unsworn members of the police department.

5. An external consultant brings together input from all public processes, review of key documents and individual and small group interviews, to create a final report and recommendations for City Council consideration and action.

Stakeholders and Participants in the Process

The following people will be involved in the community-based process to accomplish the purpose stated above.

Content Expert/Consultant—This individual will provide critical input into the process by laying out key elements of oversight and models for how they can be brought together in a comprehensive and cohesive model or models, and bring input together in a final report. Specifically, s/he will 1) help educate the public; 2) summarize key learnings from community forums; 3) review relevant historical and background documents from the City (and University where relevant); 4) conduct small group and one-on-one interviews with police leaders and officers and other city leaders to solicit their ideas/concerns about oversight; 5) author a

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comprehensive report summarizing community and police input and developing options for City Council action in the form of specific recommendations. Ideally sh/e will have personal experience in police department oversight and internal reforms that have evidence of improved transparency and legitimacy, especially with populations historically overrepresented in policing incidents.

Community Facilitators/Scribes—These individuals will work closely with the Consultant to design, facilitate, and capture participant input from all public and sponsored forums. These Davis-based facilitators will explain the purpose and processes for each public forum, assure that participants can accomplish the purposes of the forums, and assure that all attendees be given an opportunity to fully participate.

Other Content Experts—These individuals may be invited for one or more discreet events such as panel discussions to provide a richer context and understanding of best practices, challenges, and experiences with police oversight from other communities.

“Conveners”—These are community groups or individuals who may host sponsored forums for underrepresented groups within the city or others (e.g. UC Davis and DJUSD students, international visitors, migrant workers, students who have had encounters with the police, etc.) with specific interests or needs vis-a-vis policing and police oversight.

Community Members—These are all those who choose to participate in various activities—discussions, forums—to educate themselves and/or provide input into guiding principles and elements of police oversight. They are self-selected and will come with an interest in engaging the conversation and learning more.

Under-Represented Community Members—These community members have a different experience with policing in Davis than other residents but may have fears or concerns about expressing their opinions in general public sessions. They most likely will be able to provide important insights into policing and what they need in terms of safer and more accessible citizens’ complaint processes and general police oversight

Police Administration/Leadership—These people will be critical to the success of any oversight program and their “insider” view will be critical. They have led a process with the entire force that led to police oversight as one goal of the police strategic plan and have, thus, made a commitment to helping define a system for the city. They will be critical to

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implementing recommendations concerning policy and procedural changes arising from oversight activities.

Police Officers—Officers will always be a focus of oversight given that individual officer behavior is one key aspect of any system. Their acceptance of and cooperation with an oversight system will be critical and their perspectives on oversight will help shape recommendations. They have legally-define rights that will have an impact on choices made about personnel review activities in particular.

Other Key City Staff—Since the police serve under the leadership of the City Manager, any oversight process will engage city leaders. Their engagement and full understanding of what is being proposed to the City Council will be critical, as will their questions about practical operationalization of recommendations.

Process

The foregoing has suggested some of the elements of the process and they include, but are not necessarily limited to, the following elements:

1 - Panel Discussions—These discussions will lay out key concepts and have experts discuss, in more detail than may be permitted in community forums, specific details of police oversight. They would be designed primarily as input for other discussions and include questions/answers with participants. They would not be designed to solicit community input per se but rather to help community members better understand the legal landscape of policing and police oversight in California. They will provide an opportunity to expand and diversify the voices providing input about police oversight.

2 - Community Forums—They will provide more limited input into the definition and elements of police oversight and solicit community input on guiding principles for Davis' oversight process and suggest key elements that should be part of it. These forums form the backbone of the process sought by the City Council and follow a more recent tradition of actively seeking input on key community decisions before the City Council. They are a primary way for the broader community to speak into the decision making around police oversight. They will involve large and small group discussions and allow for the capturing of agreements and disagreements that surface in the discussions.

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3 - Sponsored Forums—These meetings will enable under-represented groups of individuals who may not be willing or able to come to the Community Forums. These forums could be organized by any group in the City and will follow a format similar to Community Forums but also enable people to discuss their experience with policing in Davis.

4 - Document Review—The Consultant will undertake this part of the process to review critical historical documents related to policing and police oversight in Davis, including, where deemed relevant, documents relating to policing and oversight on the UCD campus and any resource-sharing agreements between Davis Police Department and other law enforcement entities including but not limited to the University police. The review will include City Council actions from 2006, Human Relations Commission actions and recommendations and other relevant documents that will provide a deeper understanding of policing and police oversight in Davis.

5 - Individual/Small Group Interviews—The Consultant will organize these with specific stakeholders such as the DPD leadership, officers, other DPD staff, City leaders, City Attorney and others s/he deems critical to helping provide a fuller understanding of the opportunities and constraints to any particular model or elements of police oversight.

6 - Final Report and Presentation to the City Council—The foregoing will culminate in a comprehensive report and presentation to the City Council with clear options and recommended next steps and actions in developing police oversight.

STAKEHOLDER ENGAGEMENT
ON POLICE OVERSIGHT
FOR THE
CITY OF DAVIS, CALIFORNIA

April 10, 2018

Presented by:

Kathryn Olson
Change Integration Consulting, LLC



Barbara Attard
Accountability Associates



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EXECUTIVE SUMMARY

STAKEHOLDER ENGAGEMENT ON POLICE OVERSIGHT

The City of Davis retained Kathryn Olson and Barbara Attard to meet with community stakeholders and make recommendations for the City to consider in making changes to oversight of the Davis Police Department (DPD). The stakeholder engagement was guided by the values of enhancing police and oversight accountability, transparency, and legitimacy. Significant aspects of the project include:

- ❖ Approximately 250 stakeholders met with the Consultants over 11 days between October 2017 and February 2018, and others submitted written comments, sharing experiences with the DPD and making suggestions for police oversight.
- ❖ Historical documents and media articles were reviewed, and research was conducted on oversight programs in other jurisdictions. Information on comparable oversight is presented in Section IV of this report and in Appendix 3.

The Consultants recommend that Davis build on and expand existing oversight and add more community voice to the process:

- ❖ Retain and rebrand the Independent Auditor (IPA) position, using the strengths of the current program and emphasizing rigorous auditing, reporting, and outreach.
- ❖ Create a Davis Police Accountability Board to work with the IPA to continue the significant dialogue that occurred during this engagement and to facilitate community input moving forward.

Additional recommendations for the City and DPD to consider include:

- ❖ Use the restorative process underway to create Community Engagement Circles.
- ❖ Enhance transparency with coordinated critical incident communications plans.
- ❖ Evaluate the planned level of police show of force in some arrest situations.
- ❖ Consider using the DPD Community Advisory Board to implement SenseMaker.

The Consultants appreciate having the opportunity to have engaged with the community of Davis and participate in the important initiative of improving oversight of the DPD by bringing stakeholders together to ensure a safe, trusting community for all.

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STAKEHOLDER ENGAGEMENT ON POLICE OVERSIGHT FOR THE CITY OF DAVIS, CALIFORNIA

INTRODUCTION

The City of Davis contracted with Kathryn Olson, Change Integration Consulting, LLC, and Barbara Attard, Accountability Associates (“Olson and Attard” or “the Consultants”), to meet with community members and other stakeholders to gather input on policing and to prepare a report on police oversight options for its consideration and action. The City desired a community-based process to involve stakeholders in assessing the current approach to police oversight and developing ideas to enhance the oversight system.

Two events provided the impetus for a review of the City’s system of police oversight. In early spring of 2017, Bob Aaronson, who had served as the Davis Police Ombudsman/Independent Police Auditor (IPA) for over ten years, indicated he would not renew his contract with the City.¹ Also, on April 22, 2017, during the annual Picnic Day celebration sponsored by the University of California, Davis, undercover officers on patrol from the Davis Police Department (“DPD”) were involved in an incident that garnered a great deal of media attention and concern by some that stronger police oversight was needed. In response, the Davis City Council asked staff to report back regarding oversight models and replacement of the departing Auditor.²

A Staff Report from the City Manager’s Office and Davis Police Chief Darren Pytel outlined oversight approaches that had been used in Davis, reviewed DPD’s Strategic Plan that “focused on oversight, transparency, accountability, diversity, and reducing conflict,” and summarized typical police oversight models.³ A public process to define the police oversight model most appropriate was recommended and, per a City Council motion on July 11, 2017, the Consultants were asked to:

¹ Mr. Aaronson’s contract expired as of June 30, 2017.

² Minutes of the Davis City Council, Meeting of April 25, 2017; City Council Staff Report, “Police Oversight,” (July 11, 2017).

³ City Council Staff Report, “Police Oversight,” (July 11, 2017).

- Review the current system, historical documents and recommendations from the Human Relations Commission.
- Participate in public and sponsored forums to solicit community input on the goals of oversight, guiding principles, and key desired processes for oversight.
- Use their own experience, public input from forums, input from the Davis Police Department, and review of extant systems to recommend one to three options for oversight in Davis given its size, history of policing, and community needs.⁴

In gathering stakeholder input and considering recommendations for improving oversight of the DPD, the Consultants were guided by the values of enhancing police accountability, transparency and legitimacy. More specific goals and objectives of the engagement process were developed in an early round of discussions with Mayor Davis and a sampling of stakeholders, including community members and service providers, members of the City Manager's staff, DPD Chief Pytel, and members of the Human Relations Committee.⁵ They helped the Consultants begin to understand the historical context in which policing and oversight concerns were now being brought to the forefront, and provided ideas about how to structure the project to maximize input from all stakeholders.

It is important to emphasize two points. First, though the Picnic Day incident contributed to an interest in reviewing police oversight in Davis, the Consultants have not assessed that event or the investigation conducted outside the DPD. Michael Gennaco, Davis Acting IPA, is reviewing the incident and investigation through a separate process. Nonetheless, some observations or recommendations in this report may overlap with those addressed by Mr. Gennaco.

It is also important to recognize that regardless of the motivation behind the current review of DPD oversight, it is common for an oversight system to periodically be evaluated as conditions in a jurisdiction change and oversight needs evolve. The City of Davis, its elected leaders and staff, Chief Pytel and DPD commanders and officers, the excellent facilitators at the large group meetings, and all of the many community members and organizational representatives who engaged in this oversight review should be commended for their participation and shared interest in enhancing police/community accountability and trust.

⁴ While the City Council's motion also included direction that the Consultants propose oversight model contract and scope of work details, they were advised not be concerned with drafting these documents, as the City Attorney would handle the task. The Consultants are available to assist with such implementation steps, following conclusion of the stakeholder engagement project.

⁵ These discussions largely took place during a series of meetings in Davis on October 12, 2017.

I. OVERSIGHT PROJECT APPROACH

To accomplish the goals and objectives outlined above, the project was divided into three primary phases.

Phase 1 focused on information gathering from a variety of sources and educating the Davis community about alternatives for police oversight. As the Consultants solicited broad input about policing experiences and ideas for enhancing accountability, they also shared their experiences with the strengths and weaknesses of various approaches.

The Consultants conducted a series of meetings with approximately 250 stakeholders representing a range of perspectives, with the goal of eliciting broad and deep input on issues of policing and oversight in Davis. They also worked with the City to create a website link, where information concerning the Consultants and the project was available and anyone could submit written comments. A mailing address was provided for those wanting to submit hard copy comments. Finally, numerous historical and other informative documents were reviewed, to help put into context the City's interest in re-examining police oversight.

The Consultants met with stakeholders individually and in small and large groups, including:⁶

- **Community Members** - Two public meetings were held on December 7, 2017 and February 3, 2018, with a total of approximately 120 people attending. These meetings were led by facilitators from the Yolo Conflict Resolution Center. The goal was to include all who chose to participate to learn about police accountability and provide input into guiding principles and elements of police oversight.

⁶ The meetings included over 20 small group and "sponsored forum" meetings held October 12, 2017, December 6-8, 2017, January 28, 2018 and January 31 - February 3, 2018, two large community meetings, as well as several one on one meetings. Sponsored forums and other small and one on one meetings involved: community groups and other stakeholders such as, representatives from the ACLU, People Power, the Davis Phoenix Coalition, Justice for Picnic Day 5, and Blacks for Effective Community Action; affinity groups and organizations representing them such as, African and African-Americans, Latinos/Latinas, Muslims, Native Americans, community members who are low income, homeless, disabled, people with mental illness/National Alliance on Mental Illness; and, city and other groups, including University of California, Davis students, DPD officers, the Police Chief and command staff, Community Advisory Board, Davis Police Officers Association and counsel, Chamber of Commerce, the City Manager and staff, the City Personnel Attorney, and the Human Relations Commission.

- **Under-Represented Community Members** - A meeting was held on December 6, 2017, with community and organizational representatives who expressed interest in helping the Consultants organize small forums for stakeholders who wanted to discuss their experiences with policing in Davis, but had fears or concerns about expressing their opinions in general public sessions. Between January 28 and February 3, 2018, nine small forums were held that allowed specific affinity groups to provide input.
- **Police Administration/Leadership** - In addition to meeting with Chief Pytel individually, the Consultants met with him and his command staff together. These meetings were held to gain insights of department leaders and command staff regarding their interactions with the IPA, views on oversight, and perspectives on DPD/community interactions.
- **Police Officers** - The Consultants were given a tour of DPD's facilities by three officers, attended a roll call meeting at change of shift that included a training session, and each spent several hours on a late night ride along to learn more about law enforcement challenges in Davis, to gain each officer's views on police/community issues, and to offer information about oversight. They also met with representatives of the Police Officers Association and POA counsel.
- **City Staff and Other Organizations**- Meetings were held with a variety of other individuals and groups, such as the City Manager, the Human Relations Commission, and the Chamber of Commerce, to obtain their perspectives, provide information, and answer questions.

As part of this first information gathering phase, the Consultants met with the former Independent Police Auditor to learn more about his experience in providing oversight in Davis, which is discussed below. They also sought input from the Acting IPA, as to his perspectives on policing and oversight issues in Davis after his relatively short tenure.

The Consultants reviewed eight submissions made through the City of Davis website link and communicated directly through email, phone calls, and meetings with a number of other stakeholders.

The Consultants also reviewed historical documents, a sampling of media reports on policing and oversight in Davis, and other materials provided by various stakeholders or directly accessed. A complete list of documents provided by stakeholders or accessed by the

Consultants is attached in Appendix 2. The following provides examples of the types of documents and other materials reviewed:

- City of Davis and Davis Police Department (DPD) websites for posted information such as: descriptions for Independent Police Auditor and Human Relations Commission; DPD Policy Manual (e.g., for policies on complaint processing and Alternative Conflict Resolution procedures)
- Human Relations Commission Report, “Civilian Oversight to Strengthen and Improve the Davis Police Department,” prepared by the Subcommittee for Civilian Review Board (February 2, 2006)
- City Council Staff Reports
- DPD Strategic Plan: 2017 - 2019
- Various Media Articles

Again, this is not a complete list, but intended to give an example of types of materials reviewed.

Phase 2 involved collating and analyzing all background information and stakeholder input gathered during Phase 1, and writing this report with findings and recommendations for reforming Davis’ civilian oversight system. During Phase 2, the Consultants also identified other jurisdictions with police oversight, mostly within California, which are of similar size and/or with the significant presence of a college, or offer unique approaches to oversight that may be useful for the Davis experience.

Phase 3 entails an initial presentation of the Consultants’ report and recommendations to the Davis City Council on April 10, with a follow up meeting on May 1, 2018. The two meetings are intended to provide an opportunity for City Council and other stakeholders to ask questions concerning the Consultants’ findings and recommendations and to consider next steps for police oversight in Davis.

II. HISTORY OF OVERSIGHT IN DAVIS AND CURRENT MODEL

A. Police Oversight in Davis - 2005/2006

Members of the Davis community have raised concerns about local policing at other times in the City's history. For example, in early 2006, the Human Relations Commission ("HRC") recommended to City Council that the City create a Citizen Review Board to investigate complaints of police misconduct.⁷ The Commission's recommendation was based on an HRC subcommittee report titled, "Civilian Oversight to Strengthen and Improve the Davis Police Department" (HRC Report), along with a two-page proposal.⁸ The Commission forwarded the report and proposal, with modifications, to City Council on February 2, 2006.

The HRC Report opened with praise and appreciation for the work of the DPD and recognition that most officers are exemplary and do their jobs properly. The HRC Report also detailed twelve misconduct complaints involving DPD officers over three years, and raised issues such as the loss of confidence in the DPD complaint process,⁹ concerns about the Gang Task Force at Davis High School, and concerns of racially disparate treatment. After summarizing research on police oversight approaches, it was recommended that Davis establish oversight along the lines of the Berkeley model, with authority to investigate complaints against the DPD.

City staff recommended against the Berkeley approach listing several reasons, citing costs, legal constraints, and questionable ability to meet objectives for fair and effective oversight.¹⁰ Initially, to address the concerns that had been raised, the City Manager's Office proposed a 12-

⁷ A timeline of events surrounding HRC's recommendation for a Citizen Review Board can be found in the City Council Staff Report, "Human Relations Commission's Recommendation to Create Citizen Review Board," (February 14, 2006).

⁸ The HRC Report was prepared by the Subcommittee for Civilian Review Board: Cecilia Escamilla-Greenwald, William Calhoun, Hamza El-Nakhal, Chithra Lakshmanan, and Diane Carlson with assistance from Jann Murray-Garcia, and is an attachment to the City Council Staff Report, "Human Relations Commission's Recommendation to Create Citizen Review Board," (February 14, 2006).

⁹ Anecdotal problems with the DPD complaint process noted in the HRC Report included: difficulty filing complaints, failure of DPD to provide a written record of the complaint, harassment of complainants, difficulty obtaining police reports, and lack of trust in the complaint system.

¹⁰ The City Manager noted that over the three previous years, DPD had 160,000 calls for service and 72 citizen complaints, three which were sustained (two for rudeness and one for improper disposal of a found knife). City Council Staff Report, "Report on Ongoing Changes to the Police Department," (January 10, 2006).

member Citizen Advisory Board to the Chief of Police¹¹ and a three-person Police Advisory Committee to the City Manager.¹²

- The Police Advisory Committee (PAC) was to review fully adjudicated complaint investigations for thoroughness and trends, “paying special attention to investigations where the ombudsman noted issues of concern.” The three PAC members were to be appointed by the City Manager and leaders in the justice system representing a cross section of interests, and were to be paid a stipend. The PAC (and CAB) were to dialogue with the City Manager about issues such as policies and procedures, use of force, and community outreach.
- The Citizen Advisory Board (CAB) was composed of 12 people representing a cross-section of the community based on factors such as race, religion, gender, and representation (e.g. business community). CAB members were volunteers selected by the DPD Chief with City Manager approval. CAB was to meet on a monthly basis and “opens and sustains ongoing dialogue with key members of the community on issues of mutual concern.”

Ultimately, City Council directed staff to also develop a position concept for a Police Ombudsman.¹³ Staff had researched and reported on oversight programs in place elsewhere, including Santa Cruz, Boise, Sacramento, San Jose, and Portland, OR. The report recommended an approach similar to that in Santa Cruz, with the advantage that the Ombudsman position could be moved forward quickly and was flexible, cost effective, independent, and not subject to collective bargaining negotiations.¹⁴ The Ombudsman position adopted by City Council in May 2006 was in addition to the CAB and PAC functions described above.

¹¹ The idea for a CAB was recommended earlier as part of a 2001 performance and management audit of DPD (“Arroyo Report”), and was included as a goal in DPD’s 2005 - 2008 Strategic Plan. City Council Staff Report, “Establishment of an Ombudsman/Auditor Function,” (May 2, 2006).

¹² The City Manager pointed to plans for DPD training, an annual report, and national accreditation as other steps being taken in response to the issues that had been raised. City Council Staff Report, “Report on Ongoing Changes to the Police Department,” (January 10, 2006).

¹³ Initially, the City looked towards creating an Ombudsman who would handle complaints involving all City departments, though staff ultimately recommended a separate Police Ombudsman office, noting that police complaints can be difficult to assess, complex, involve legal issues, and require handling by someone treating citizens and police fairly.

¹⁴ The City Manager’s office noted two downsides with the proposed Police Ombudsman approach. First, the Ombudsman would be hired by contract and not a full-time employee, and thus, not always accessible by the community. However, the plan was that the Ombudsman would hold regular office hours when in Davis. Second, the role was not structured to allow for much public outreach, though staff recognized outreach as an important function and planned to use existing staff and to create a communications plan. City Council Staff Report, “Establishment of an Ombudsman/Auditor Function,” (May 2, 2006).

- The Police Ombudsman was to review DPD investigations of citizen complaints to determine if they were complete, thorough, objective, and fair; make recommendations on police policies, procedures, and training relevant to investigations under review or as requested by the City Council, City Manager, or Police Chief; take citizen complaints about the DPD, investigate complaints as directed; recommend PAC review for cases warranting more review/investigation; prepare reports for the City Manager for transmittal to City Council; and be accessible to the public, helping to answer questions and guide individuals through the complaint process.¹⁵ The estimated budget for the Ombudsman was \$60,000/year.

As this three-part police oversight system moved forward, in June 2006, City Council voted to put the HRC on hiatus for two months and asked members to resign, citing a fractured community, a failure on the part of HRC to work with each other or the council, and an abandoned mission statement. The City Council later re-authorized the HRC with a revised mission.¹⁶ Some community members continued to express resentment about City Council's 2006 actions towards the HRC during this stakeholder engagement process, twelve years later.

B. Police Oversight in Davis 2006 - Present

The Police Ombudsman was eventually renamed the Independent Police Auditor, with duties evolving to include review of all DPD use of force investigations, along with citizen complaints.

The three-person PAC operated from approximately 2006 - 2010, when it was disbanded for budgeting reasons. The primary role of the PAC was to review and evaluate adjudicated citizen complaints against DPD employees and make DPD policy, procedure, and training recommendations. While the PAC was functioning in a more traditional police oversight role, its mission overlapped that of the Ombudsman/IPA, with the IPA ultimately assuming full responsibility for the PAC's duties.¹⁷

¹⁵ This description of the Police Ombudsman's role was taken from an undated document called, "City of Davis Police Ombudsman Scope of Services," that appears to conform to the duties outlined in the Staff Report dated May 2, 2006, "Establishment of an Ombudsman/Auditor Function."

¹⁶ City Council Resolution No. 07-125.

¹⁷ While it can be useful to have two oversight bodies performing essentially the same function, from the standpoint of the additional perspective brought to the issues at hand, redundancy can be costly and can result in turf battles that ultimately distract from the work of the oversight system.

The CAB has evolved from 12 to 16 members, to increase and diversify representation.¹⁸ CAB members are appointed by the Police Chief and meet with him on a monthly basis to provide input regarding constituent concerns and take information back to the community, serving to enhance police/community dialogue and facilitate police transparency.¹⁹ Though called an “Advisory” Board, CAB members informed the Consultants that they do not see themselves as advisors to the Chief, but rather as liaisons between the Police Department and Davis community.

The Staff Report recommending a community engagement on police oversight included the Personnel Board and Alternative Conflict Resolution Program (ACR) in the description of the current police oversight structure in Davis.²⁰ The City Personnel Board is described in the Staff Report as having authority to hear appeals of disciplinary action submitted by any city employee, including police officers. The Consultants’ recommendations on police oversight should not impact the authority of this quasi-judicial body.

The ACR program involves a confidential mediation process based on restorative circle processes and non-violent communication. It is a pilot program sponsored through the Police Department that allows complainants and officers “to safely explore, understand, and/or mutually resolve the issues...with the objective of healing the conflict.”²¹ The program grew out of facilitated dialogues on the topic of racial profiling that were held between community members, selected by the HRC, and the Police Department. Mediation of the sort offered through the ACR program is a common element of oversight programs that directly handle police complaints, though it is not typically considered an oversight structure in and of itself.

¹⁸ Initially the CAB had 12 members, but 4 more were added to increase and diversify representation. City Council Staff Report, “Police Oversight,” (July 11, 2017).

¹⁹ Community Advisory Board description posted on DPD website: <http://cityofdavis.org/city-hall/police-department/administration/community-advisory-board>

²⁰ City Council Staff Report, “Police Oversight,” (July 11, 2017).

²¹ <http://cityofdavis.org/city-hall/police-department/alternative-conflict-resolution-acr-pilot-program>

III. THEMES IN STAKEHOLDER TESTIMONY

Community engagement was important for several reasons - to gather information and provide insights into policing and community issues, as well as to inspire confidence in the process and outcome, and thereby contribute to the transparency and the legitimacy of the police accountability program. The Consultants reviewed the testimony and statements of all who participated in stakeholder meetings, as well as those who submitted comments on the City of Davis website link and via email, and mined them for themes to analyze and report.

Well attended meetings and other input provided a wide variety of perspectives about policing in Davis. The testimony revealed deep divisions and a lack of trust amongst some in the community regarding the issues of policing and various social issues. Even those who had not been personally impacted called for the need for a safe space for people to come together and the development of a procedural justice model for policing and community interaction.

Based on reports dating back to 2001 and 2006, and testimony provided, concerns have been raised about disparate policing and the need for robust oversight for many years. Although many of the stories told were regarding incidents from the past, other statements indicated that some of the problems are ongoing.

Many stakeholders testified that there are issues of profiling by DPD, and that crime or other problems in their communities have not been taken seriously by the police. Concerns were raised that some members of the community were afraid to speak out, based on immigration status or fear of retaliation.

Other community members asserted that the problems have been overblown, that it is a vocal minority that continues to raise issues that are no longer problems, and that DPD is doing a good job in spite of the rancor and disharmony in the community.

A. Current Issues

Community members raised concerns about profiling of segments of the community based on: race or ethnicity, income or other status, gender, homelessness, mental health issues, disabilities, and language barriers. Disparate treatment was a recurring theme: issues were raised about enforcement actions with students of color and stops of people of color in their front yards or while driving.

Some issues were raised regarding police presence in Davis schools, specifically regarding students' backpacks being searched without consent or notification to parents, concerns about arrests at schools, and gang profiling.²² These incidents appear to have involved school security rather than DPD, though the Police Chief indicated he spoke with students to help explain one situation and updated school security on gang affiliation indicators.

There were mixed statements regarding police response to hate crimes. Community members praised the DPD handling of an incident at the Davis Islamic Center, and stated that threats of ongoing harassment received swift, supportive and reassuring response. However, concerns were raised by UCD students and staff that some calls for police assistance about women fearing hate violence were not taken seriously. As with issues raised concerning police presence in the high school, there was some confusion as to whether UCDCPD or DPD was involved in various events.

A significant number of those testifying raised issues about DPD customer service. Examples of service complaints included community members who felt that they were treated condescendingly and not taken seriously when attempting to report incidents, dismissiveness to calls from residents of low income housing, failure to respond to calls regarding homeless people who needed police and mental health assistance, and reports of victims' statements being dismissed and not pursued. The issue of members of the community being unable to obtain, or having long delays when requesting police reports, was raised several times.

Many called for better coordination between the Davis Police Department and the University of California Davis Police Department – to issue warning alerts about crimes in progress and crimes pending action, to refer complaints between departments, and to coordinate responses to incidents.

Some community members stated that DPD officers are not supported for the challenging job that they do. From their perspective, officers are reluctant to take enforcement action to deal with some issues, and people supportive of DPD are afraid to speak out for fear there will be backlash and accusations made that they are uncaring about social issues.

Several residents reported overly aggressive tactics by DPD, e.g., bringing the SWAT team in to make arrests in circumstances in which they would have had compliance without such a show of force.

²² These issues were shared with the City Manager's Office and they reported the concerns to the school district. The Davis Joint Unified School District policy, "Staff Investigation Procedures re: Student Incidents" was provided to the Consultants.

The complaint process was the subject of many who provided testimony, with concerns raised about the police policing themselves, complaints not being taken seriously, lack of transparency, no appeal to findings, complainants treated disrespectfully, and a lack of trust in the process.

Many raised issues about the Picnic Day incident – the lack of transparency around the investigations, the failure to release the unprotected portions of the McGregor Scott report, and insistence on release to the public after the Interim Police Auditor conducts his audit.

B. Moving Forward

Many of those who testified stated that the country is becoming more adversarial generally, involving issues broader than just those between the police and community. There was interest in increased dialogue between community members and the police about issues, to develop a better understanding of perspectives, and cultivate compassion on both sides. Some called for DPD to expand community outreach, community policing, attend community meetings, and receive cultural diversity and procedural justice training.²³

In developing oversight, community members called for a balanced approach allowing for divergent opinions, reducing confrontation, and calling for members of DPD to support and accept oversight. Oversight should embrace restorative processes and peacekeeping.

There was also insistence on the development of a strong accountability system that would provide a safe space for complaints to be filed, ensure that complaint investigations would be fair and independent, create safeguards against retaliation, provide systemic transparency through public reporting of complaint data at least annually, and use of social media as a source of outreach and information sharing. Community members also called for creating a mechanism to evaluate the success of the oversight program.

²³ The fact that many in the community were not aware that procedural justice training is a goal in the DPD Strategic Plan speaks to the need for devising new ways to share the plan and implementation progress with the community.

IV. OVERSIGHT MODELS IN OTHER JURISDICTIONS

The evaluation of oversight in Davis is occurring through a process of stakeholders working together to define the “model” that will best fit the community. Most oversight agencies are “hybrids” of functions and authorities, and no two models or approaches are identical, although they may have the same name, such as “commission” or “police auditor.” Regardless of what an oversight entity is called, there can be great variation in the range of oversight functions performed and in each of the structure/authority factors detailed below.

To assist the City of Davis in assessing how to enhance police oversight of the DPD, eleven oversight models were selected to provide a sampling of different approaches, within and outside of California. The oversight entities included are located in jurisdictions with a significant college presence (Berkeley, Claremont, Palo Alto, Santa Cruz, Corvallis, CA; and Eugene, OR, and Knoxville, TN), and/or are of the same approximate size as Davis (Corvallis, Claremont, National City, Santa Cruz), while others are included because of proximity (Sacramento) or because they provide examples of innovative work worthy of consideration (Sonoma County). A chart summarizing the major characteristics of each of the eleven oversight entities included in this study is attached as Appendix 3.

Study of Oversight Agencies

CA Jurisdictions

- Anaheim
- Berkeley
- Claremont
- National City
- Palo Alto
- Sacramento
- Santa Cruz
- Sonoma County

Outside CA

- Corvallis, OR
- Eugene, OR
- Knoxville, TN

A. Complaint Investigation Related Functions

Oversight entities serve a wide range of roles in the complaint process, from accepting and referring complaints for internal affairs investigations, to investigating complaints and making findings, to monitoring or auditing in real time or after an investigation is completed, to handling appeals of misconduct findings, as well as a combination of these functions.

Of the eight oversight bodies in California jurisdictions included in this report, most have oversight focused on monitoring or auditing a police department’s internal affairs investigations and findings, e.g., oversight agencies in Anaheim, Claremont, National City, Palo Alto, Sacramento, Santa Cruz, and Sonoma County. In contrast, the Berkeley PRC has primary

authority to investigate complaints filed with the PRC office and holds hearings to determine findings to recommend to the Berkeley Police Department and the City Manager.

Berkeley, National City, and Corvallis, OR, hear appeals or have a system whereby complainants can request an appeal of an investigation or a rehearing.

As discussed above, whether primarily tasked with investigating complaints or monitoring investigations conducted by internal affairs, some entities focus on certain types of allegations, such as misuse of force or racial discrimination, and there can be an overlay, providing for checks and balances. For example, the Independent Police Auditor in Santa Cruz monitors investigations, but also can sit in on witness interviews, provide feedback on internal affairs investigations in progress, request further investigation, or conduct a separate investigation. The oversight agencies in National City and Knoxville also have authority to investigate if an internal affairs investigation is insufficient. The Sacramento Office of Public Safety Accountability can conduct investigations with City Council authorization.

Most, though not all, of the oversight entities reviewed issue regular reports and post information on their websites about misconduct complaint trends, policy recommendations, controversial local police incidents, or other topics related to oversight and policing.²⁴ All oversight bodies included in this report work to educate the community about policing matters and encourage engagement through public meetings and other outreach efforts.

B. Extent the Oversight Entity Reviews Departmental Policy

Every oversight entity reviewed herein has authority to make recommendations about police department policies and practices. Some jurisdictions define the parameters to guide such recommendations. In some jurisdictions the policy development process is collaborative, e.g., the Anaheim External Auditor works with the Police Review Board to make recommendations on police department practices, procedures, training, equipment, and potential reforms. In Sonoma County, the Independent Office of Law Enforcement Review and Outreach (IOLERO) and the Community Advisory Board (CAB) both make recommendations for Sheriff's Office policies; IOLERO either adopts the CAB recommendations or explains disagreements before forwarding the recommendations to the Board of Supervisors and the Sheriff's Office.

²⁴ Due to legal confidentiality constraints, oversight agencies in California do not identify the subject officers in their reports.

C. Oversight Selection and Reporting Lines

Individuals involved in oversight are selected or appointed in a variety of ways. For example, the Independent Police Auditor in Santa Cruz is hired by the City Manager. The Director of Sonoma County's IOLERO is selected by the Board of Supervisors, and the IOLERO Director appoints members of the Community Advisory Board. In recent revisions to the oversight process, the Sacramento Director of Public Safety Accountability (OPSA) is appointed by the Mayor and City Council, as are members of the Sacramento Community Police Review Commission (SCPRC). In Berkeley, the Mayor and City Council appoint the nine members of the Police Review Commission (PRC), while the City Manager hires the PRC Officer (with some input from the Commissioners), who then hires other staff.

Contract independent police auditors provide oversight in three of the eight California cities in this review: Anaheim, Palo Alto and Santa Cruz. In several jurisdictions, the individual selected as the police auditor had been retained to audit a single incident, such as a controversial shooting, but later contracted with the municipality to provide on-going auditing services of a wider scope. The auditors in these jurisdictions may bring in additional staff to assist as needed.

As with other aspects of oversight authority and structure, there are a variety of approaches in reporting relationships. In several jurisdictions included in this report, the oversight bodies report to the City Manager and the City Council (Claremont, Santa Cruz, Corvallis, OR), and some report only to the City Council (Palo Alto, Eugene, OR, and Knoxville, TN). In Anaheim, the auditor reports to the City Manager. In Berkeley, the Police Review Commission (PRC) officer reports to the City Manager, as well as the PRC. The PRC Commissioners, Mayor and City Council appointees, report directly to the Mayor and Council.

D. Estimated Annual Cost of Oversight

Most oversight boards or commissions in California are comprised of volunteer members, i.e., Anaheim, Berkeley, Claremont, National City, and Sacramento (although some jurisdictions may provide a small stipend and budget support for training). Typically, jurisdictions with volunteer oversight commissions or boards share administrative staff with other governmental offices or have paid staff or contract employees to coordinate activities, conduct investigations, handle administrative tasks, and ensure compliance with public meeting and confidentiality requirements, or may share administrative staff with other governmental offices.

Below are estimated costs for the sample of oversight models included in this report (note that these estimates do not necessarily include the costs of benefits, where they are offered, and may include unspecified operational costs aside from personnel):

- Anaheim: Police Review Board and External Auditor – Approximately \$100,000 External Auditor (Additional part time assistant through City Manager)
- Berkeley: Police Review Commission – \$740,000 (PRC Officer and 2 staff)
- Claremont: Police Commission – No line budget
- Corvallis, OR: Community Police Review Board – No line budget (Staff support provided by City Manager)
- Eugene, OR: Eugene Police Auditor, Civilian Review Board, Police Commission, \$580,000 (For Police Auditor’s office)
- Knoxville, TN: Knoxville Police Advisory and Review Committee, approximately \$100,000, within Community Relations Budget (Executive Director and part time assistant from Community Relations Department)
- National City: Community and Police Relations Committee (Staff support provided by City Manager)
- Palo Alto: Independent Police Auditor – Not to exceed \$26,000
- Sacramento: Office of Public Safety Accountability – \$624,603
- Santa Cruz: Independent Police Auditor – \$56,000
- Sonoma Co.: Independent Office of Law Enforcement Review and Outreach and Community Advisory Council – \$596,000 (Director and Administrative Coordinator)

E. Access and Reporting Parameters

Municipalities have developed oversight programs with a broad range of authorities in response to the needs of stakeholders or to answer a specific concern or issue. Of particular interest in this context is whether oversight agencies have access to personnel information and complaint files, and the extent to which they can issue public reports.

As delineated in the attached chart of oversight agencies, Appendix 3, many oversight programs have some authority to access police complaint investigation files, which are considered personnel files in California. Investigative agencies may have access to confidential information relevant to the investigations they conduct, but may not be able to review investigations of internal complaints conducted by Internal Affairs (IA), as is the case with the Berkeley PRC. In Berkeley, complainants are involved in complaint hearings, but do not have access to confidential complaint information regarding officer misconduct, and cannot be present during

testimony or questioning of officers. Under the Davis IPA model that has been in place for a number of years, the IPA has had access to and audited both citizen and internally filed complaints.

In assessing discipline for a particular case or in conducting a broader review of discipline systems, early intervention data, or other audits, some oversight authorities may have access to officers' full personnel records. The Anaheim External Auditor, the Palo Alto Independent Police Auditor, and the Santa Cruz Independent Police Auditor have access to personnel files if needed. This information can be important for those reviewing complaints in evaluating whether an issue is an ongoing problem or a unique event.

Regardless of the level of access an oversight entity has to police officer personnel information, including complaints, confidentiality provisions under California Penal Code Section 832.7 impact what information can be released publicly. Oversight bodies and law enforcement agencies in California may report aggregate data regarding complaints other systemic information. With regard to misconduct investigations, while oversight agencies can provide narratives and outcomes of specific complaints, as well as publicly critique internal investigations, they are restricted in providing information such as the identities of the officers involved. Again, most oversight agencies issue reports on their activities, including summaries of misconduct complaints they have investigated or reviewed, while respecting Penal Code Section 832.7 confidentiality requirements.

V. FACTORS GUIDING DEVELOPMENT OF POLICE OVERSIGHT

While there are always unique concerns associated with reviewing oversight programs for a particular jurisdiction, there are common issues that the governing body and other stakeholders should consider in weighing alternative approaches. A full discussion of the factors below can be found in Appendix 1.

A. What Functions or Authorities Should Oversight Encompass?

Most oversight organizations are multifaceted and work to improve policing and police-community relations in a variety of ways. Some jurisdictions use a single oversight model, while others have two or more programs focused on different functions and serving as a checks and balances for the overall system. Some typical oversight authorities include:

- Accepting and referring police misconduct complaints
- Investigating police misconduct complaints
- Monitoring or auditing a police department's internal investigations and findings
- Conducting reviews of patterns of misconduct
- Rolling out to and reviewing critical incidents
- Conducting hearings and making decisions on police discipline matters
- Making recommendations for improving police policy, practices, and training
- Reporting on oversight and its impact on policing
- Fostering community education and engagement about policing and oversight
- Facilitating alternative dispute resolution or community reconciliation

The current Davis IPA approach focuses on accepting and referring misconduct complaints, auditing DPD's internal investigations and findings, and making recommendations for improving police policy and practices.

B. What Components Contribute to Successful Oversight?

Oversight practitioners have identified the attributes listed below as important to making oversight credible and effective, as they enhance accountability, transparency, and legitimacy of a particular oversight program.

- **Independence** – The community and police officers subject to oversight must trust that the oversight agency and its leadership are fair and unbiased.
- **Support of Government Officials** – On-going political support is necessary to ensure that an oversight program can focus on its mandate.
- **Access to the Law Enforcement Agency and Government Officials** – Regular meetings with police command staff and government representatives keeps communication lines open and helps build mutual understanding and respect for each other’s role.
- **Ample Authority** – It is imperative that the authority necessary to accomplish the mission be provided to the oversight program.
- **Reviewing Police Policies, Training, and Other Systemic Issues** – Regardless of oversight’s other functions, authority to review organizational policies and procedures allows for broad oversight impact.
- **Adequate Funding** – Without the funding required to support the oversight mandate, an oversight program will not be able to fill its mission.
- **Core Qualifications for Effective Oversight** – The National Association for Civilian Oversight of Law Enforcement (NACOLE) has developed a set of core competencies that can be adapted for oversight position job descriptions and/or used for training purposes.²⁵
- **Training for Boards and Commissions** – NACOLE also provides an overview of basic training recommended especially for Boards and Commissions.²⁶
- **Community/Stakeholder Support and Outreach** – Regular outreach to all stakeholders is vital to building trusting and respectful relationships.
- **Transparency** – Routine reporting on oversight efforts ensures that stakeholders understand the role of oversight and positive impacts made on policing.
- **Ethical Standards** – NACOLE has adopted a Code of Ethics that guide the work of

²⁵ See, <https://d3n8a8pro7vhmx.cloudfront.net/nacole/pages/61/attachments/original/1454352545/Core-Competencies-for-Civilian-Oversight-Practitioners-20110114.pdf?1454352545>

²⁶ See, https://www.nacole.org/recommended_training_for_board_and_commission_members

oversight practitioners. See Appendix 1.

This report points to a number of components that are lacking in the current Davis approach to oversight. Specific questions related to implementing these factors are raised in Section VI below, in relation to implementation of the two-pronged oversight program recommended for the City of Davis.

C. Evaluating Oversight Functions Most Appropriate for Davis?

In meetings with stakeholders during this engagement, the Consultants reviewed the functions of different approaches to oversight and factors contributing to oversight success, as outlined above. As they considered oversight approaches suggested by the stakeholders, the Consultants were guided by direction from the City Council to make recommendations for oversight that fit Davis' size, history of policing, and community needs.²⁷

Some community members suggested an oversight model that provides for a civilian body to investigate and make findings on police misconduct complaints, with public hearings in some instances. It is important to note that changes in case law in California have required oversight agencies to close public hearings that could identify involved officers, undermining the goal of transparency of the programs. While civilian-led investigations are used in some jurisdictions, they generally are much larger than Davis, with comparably larger police departments that generate more complaints. Conducting investigations is more expensive than monitoring those handled internally by a police department. Though some community members question whether DPD can police itself by conducting its own complaint investigations, it is relevant that the former IPA found the majority of DPD investigations to be thorough, fair and timely. Both he and DPD representatives noted that his suggestions for improvement were generally well received. Given all of these factors, an external civilian investigative body does not seem to fit Davis' oversight needs.

A few individuals sought oversight authority in Davis that would address issues they would like to see changed in the Peace Officer Bill of Rights. While the Consultants appreciate that some officer protections in state legislation frustrate efforts to enhance police accountability, they focused their recommendations on local oversight strategies.

Many stakeholders identified the need for robust auditing of DPD practices. Examples of concerns to be addressed through audits include, perceived issues of profiling by DPD, being

²⁷ City Council Motion, July 11, 2017.

dissuaded from pursuing a misconduct complaint, failure of DPD to respond to calls for assistance from some segments of the community, or lengthy delays after requesting copies of DPD reports. Systemic monitoring of complaint intake, investigations, findings, and discipline, as recommended for the IPA going forward, can address issues that were raised regarding the complaint process.

As reported in the discussion on stakeholder themes, community members also called for involvement in the oversight process, and the opportunity to engage in restorative approaches to building trust with the police. Bearing in mind that recommended options should fit Davis' size, history of policing, and community needs, the Consultants recommend that the IPA continue to monitor complaint investigations and conduct more systematic audits, and that a board be created to involve more stakeholders in shaping oversight priorities and recommendations. It is also recommended that restorative practices be encouraged through the complaint mediation process and the establishment of Community Engagement Circles. These recommendations are explained in detail below.

VI. RECOMMENDED DUAL OVERSIGHT STRUCTURE FOR DAVIS: INDEPENDENT POLICE AUDITOR (IPA) AND DAVIS POLICE ACCOUNTABILITY BOARD (DPAB)

As noted in the 2015 President’s Task Force on 21st Century Policing, to strengthen trust in policing, “Every community should define the appropriate form and structure of civilian oversight to meet the needs of that community.”²⁸ The comprehensive, inclusive community outreach approach to this engagement has informed the Consultants’ recommendations for an oversight program in Davis.

After hearing from a wide spectrum of stakeholders, considering other oversight programs, and at the direction of the City Council, the Consultants recommend a two-part police oversight program for Davis. First, the Consultants recommend clarifying expectations of the Davis Independent Police Auditor position in place and expanding IPA authority in all aspects of the position – to include increased review of the complaint process, expanded audit authority, community outreach, and reporting. And second, Davis should incorporate a community representative body that is involved with shaping priorities for the IPA, collaborating with the IPA on policy review and recommendations, and working with the IPA in developing and conducting robust community outreach – this entity is referred to as the Davis Police Accountability Board (DPAB), for purposes of this report.

Issues often raised in stakeholder meetings included the lack of confidence in the police misconduct complaint process, concerns that certain populations were unfairly targeted by DPD for enforcement actions, and the need for more transparency about both the Police Department and oversight efforts.²⁹ The recommended oversight system will have the responsibility of continuing to monitor complaint processing, conducting robust auditing of DPD, and fostering improved communication with all stakeholders. Ultimately, accountability, transparency, and legitimacy of both policing and oversight in Davis should be enhanced through this two-pronged approach.

²⁸ President’s Task Force on 21st Century Policing, 2015. *Final Report of the President’s Task Force on 21st Century Policing*. Washington D.C.: Office of Community Oriented Policing Services; Recommendation 2.8.

²⁹ In 2017 DPD received two complaints from members of the community, a reduction of complaints from earlier years.

A. Independent Police Auditor (IPA)

IPA oversight as practiced in Davis for over a decade has focused on assisting community members with the complaint process, reviewing and improving DPD internal investigations, and advising the Police Department on policies and training. There was positive feedback about the work of the IPA, including from the Police Department, where the IPA's input was viewed as improving the quality of complaint investigations. However, though the City Council and City Manager could request reports from the IPA, it was not done on any regular basis, and the IPA was not required to document his work and regularly share highlights with the community.

The lack of routine documentation and public reporting on activities by the Davis IPA cut against factors important to successful oversight, including transparency, independence, and trust in the process. Thus, the recommended authority for the rebranded IPA builds on the strengths of the existing program, and includes rigorous auditing, reporting, and outreach. The following is a summary of the recommended IPA structure:

1. *Review of DPD Misconduct Complaints*

- Receive notice of all complaints, classification and assigned investigator.
- Receive real time updates on investigations for monitoring and to coordinate interviews.
- At the discretion of the IPA, attend interviews of complainants, civilian witnesses, and sworn officers, asking questions directly (civilians) or through the lead investigator (sworn officers).
- Have full access to completed investigation files, including: report, analysis, proposed findings, and any proposed discipline.
- Provide a written evaluation as to whether an investigation is complete, thorough, and objective; an explanation if more investigation or a change in finding is recommended; and documentation of any recommendations on policy, procedures, or training growing out of a complaint investigation.
- Work with the DPD and DPAB to promote ACR/mediation as a complaint resolution option.

2. *Limited Investigation Authority*

- In cases in which the IPA deems an investigation insufficient or the DPD does not open an investigation, and recommendations for additional investigation

are not heeded, after written notification to the City Manager, the IPA may conduct additional or an independent investigation.

3. *Auditing of DPD Misconduct Complaint and Discipline Process*

- The IPA will have access to the DPD complaint database and regularly assess issues such as the nature of complaints, how complaints are classified, and whether investigation timelines are met.
- The IPA will have access to DPD personnel and discipline records and will assess the discipline system for fairness and appropriate levels of discipline.

4. *Notice of Death, Serious Injury, or Other Critical Incidents*

- The IPA will receive immediate notification of all death and serious injury or other critical incidents, with authority to respond to the scene.

5. *Audits of DPD Policies, Procedures, and Training*

- The following subjects were frequently raised as concerns and are potential audit subject matters. Collaborating with the DPAB, the IPA should prioritize and audit DPD policies, procedures, or training related to these topics or other matters that may be identified and take precedence for auditing purposes:
 - Progress on meeting DPD Strategic Plan goals - in particular, goals with regards to training on procedural justice, the Guardian mindset, implicit/unconscious bias, and de-escalation
 - Progress on DPD compliance with CA Racial and Identity Profiling Act of 2015 (RIPA) requirements
 - DPD stop data, using DPD data reported under RIPA and other appropriate sources
 - DPD enforcement actions with regards to the homeless
 - Compliance with the Surveillance Technology Ordinance
 - Individual use of force investigations, including Taser usage, and use of force aggregate data
 - Body camera usage by officers and review by supervisors, Professional Standards, etc.³⁰

³⁰ This list of potential audit topics is not intended to be exhaustive; all Police Department practices should be open to scrutiny by the IPA, including but not limited to: recruitment, background investigations, hiring, training, promotional processes, community policing initiatives, equipment, performance evaluations, etc.

6. *Policy, Procedure, or Training Recommendations*

- Work with the DPAB to review new or changes to DPD policies.
- In conjunction with the DPAB, the IPA may make written recommendations for improvements to DPD policy, procedure, or training regarding any matter, with recommendations to the Police Chief (with an opportunity to respond), and then submitted to the City Manager and City Council.

7. *IPA Reports*

- Publish written reports in conjunction with the DPAB, at least on an annual basis, to include information about: misconduct complaint investigations and trends; recommendations concerning improvements to DPD policy, procedures, or training; results of audits; and joint projects with the DPAB, including outreach.

8. *Outreach*

- Working with DPAB, the IPA should develop an outreach plan with the goals to both educate the community about the work of oversight in Davis and to hear from the community about current policing concerns. The initial outreach plan should take into consideration the variety of stakeholder groups that participated in the community engagement process.

9. *Collaboration with DPAB*

- Collaborate with the DPAB on setting expectations for the IPA, developing an outreach plan and conducting outreach, reviewing and developing recommendations for improvements to DPD policy, and prioritizing audit topics.
- Provide feedback to City Council on DPAB activities and effectiveness.

➤ **Other issues to consider in developing the scope of work for the IPA include:**

- Will the authority of the IPA require a full time or part time professional position?
- What specific training and experiential background is essential for the IPA?
- To whom should the IPA report - the City Manager, City Council, or a combination of the two?

- What support staff is necessary for the IPA?
- What is the appropriate term length for the IPA?
- What protocols should be established for effective interfacing between the IPA and the DPAB, and between IPA/DPAB and the DPD?

B. Davis Police Accountability Board (DPAB)

There has been community interest in expanding public participation in Davis police oversight for over a decade. Formalizing a process to build on the dialogue that occurred during this project by providing a community perspective and a means for input on policing moving forward can increase confidence in the oversight program and policing.³¹ The involvement of the DPAB is intended to increase the likelihood of success of oversight in Davis by adding transparency, involvement and support of community members, and independence, through a checks and balance of responsibilities with the IPA.

In recommending the establishment of a separate Police Accountability Board, the Consultants considered the pros and cons of using the HRC or CAB to serve the function of community representation in oversight. They appreciate that the HRC has played a role in advocating for oversight at different points over the years and some believe there is overlap in the HRC's current mission and objectives underlying police oversight.³² Similarly, while the CAB is not involved in complaint review or auditing activities, it has long played a role in representing the community to give the Police Chief input on specific issues throughout the years. The CAB also serves as a liaison between DPD and various parts of the community, a useful and meaningful function.³³

Advantages of setting up a new Board to handle police oversight matters, as opposed to expanding the HRC or CAB mission, include:

- Providing City Council with maximum design flexibility.
- Creating an opportunity for City Council to direct the member selection process.

³¹ As previously discussed, some stakeholder suggestions for community involvement actually require legislative action at the state level, such as changes to the Peace Officers Bill of Rights, or could not be implemented because of court decisions about public disclosure of police personnel matters.

³² While some current HRC members appeared interested in taking on an expanded role, everyone agreed that clarifying the HRC role with regard to complaints about DPD was essential. If a new Police Accountability Board is developed, it should be made clear that any police complaint coming to the HRC should be directly referred to the IPA, DPAB, or DPD (with notice to the IPA and DPAB).

³³ Assuming City Council adopts the recommendation to establish a Police Accountability Board, it may be that the work of the CAB will be subsumed through that body. However, at least in the short run, it is recommended that the CAB continue to provide input as requested by the Police Chief, and facilitate communication between DPD and community members, as discussed below in Section VIII.

- Providing an opportunity to seek members with specific backgrounds relevant to the work of the DPAB.
- Allowing all members to start together for orientation and training purposes.
- Involving more Davis community members in civic engagement.
- Supporting HRC in its primary focus on promoting mutual respect, understanding and tolerance among all persons, a function of high importance to the Davis community.
- Allowing the CAB to respond to the Chief's request for input and share information about departmental activities with the community.

In setting up the DPAB, it is useful for the City Council to consider advantages of an entity structured differently than that of a City Commission. For example, some of the work of the DPAB may occur outside the typical monthly meeting format, such as when it engages in outreach with the IPA. If there was a high profile police incident, the DPAB could be mobilized to allow for more immediate assistance in addressing community concerns or helping to facilitate communication from the community back to the City and DPD.

While City Council will make the final decision on whether to establish a new Police Accountability Board or reformat the HRC or CAB, recommendations for DPAB authority include:

1. *Provide annual written input to the City Manager on the effectiveness of the IPA.*
2. *Coordinate with the IPA to identify and prioritize topics for IPA auditing.*
3. *Collaborate with the IPA on recommendations for improvement to DPD policy, procedure, and training.*
4. *Work with the IPA to review new or changes to DPD policies.*
5. *When time permits, respond to DPD requests for input on matters outside IPA/DPAB priorities, such as commenting on new programs.*
6. *Work with the IPA to develop and execute an annual outreach plan.*
7. *Hold regular meetings and provide notice and an opportunity for community input.*

8. *Coordinate with the IPA for regular reporting to the City Manager and City Council.*
 9. *Work with the IPA and DPD to promote ACR/mediation as a complaint resolution option.*
- **Other issues to consider in developing the scope of work for the DPAB include:**
- How many members should comprise the DPAB and how should members be selected? By appointment of the City Council, City Manager, or a combination?
 - What is the appropriate term length for each Board member?
 - How can diversity be assured in developing the selection process? Along with seeking member diversity in terms of race, ethnicity, gender, age, sexual orientation, and religion, should the DPAB include members or organizational representatives bringing different experiences and broad perspectives on law enforcement (e.g., low income, immigrant communities, faith-based, students, criminal prosecution/defense or other legal background, business community or different sections of the City)?
 - What experiential background is essential for Board members individually and collectively? For example, should some members have previous involvement with policing or oversight issues, as an advocate or practitioner? What are the pros and cons of having a representative of the DPD involved, as a voting or nonvoting member?
 - What training should DPAB receive regarding DPD policy, procedures and training?
 - How will DPAB be staffed?
 - What protocols should be established for effective interfacing between the DPAB and the IPA, and between DPAB/IPA and DPD?

In recommending the two-pronged IPA and DPAB approach to oversight, the Consultants recognize the unique contributions each model provides; i.e., the IPA will bring a measure of expertise to the oversight process, while the DPAB helps to ensure that community values are incorporated. The various authorities recommended for each oversight entity share the goal of maximizing the combined positive impact of the IPA and DPAB on police accountability. Finally, the Consultants built in an expectation of collaboration and checks and balances between the

IPA and DPAB, to foster accountability and transparency in the oversight system itself, and to build trust and support from the community, DPD, and government stakeholders.

The National Association for Civilian Oversight of Law Enforcement (NACOLE) is the organization of oversight practitioners that has worked to establish standards and training for the field. It is recommended that the City of Davis utilize the NACOLE website and resources, many of which are cited throughout this report, and encourage those involved in oversight to take advantage of the many training programs that NACOLE offers.

VII. RECOMMENDATIONS FOR THE OF CITY DAVIS

There are some issues that came up in this engagement that we recommend that the City take the lead strategizing in moving forward.

A. Community Engagement Circles

As previously discussed, DPD's complaint mediation program, ACR, resulted from a series of community/police discussions on racial profiling. All participants in the original dialogues and those working to promote the ACR program should be lauded for their efforts.

Since community members expressed strong interest to include a restorative process in the oversight system moving forward, the Consultants recommend that the City expand on the work done previously and during this community engagement process. Coordinating with the IPA, DPAB, and Police Department, Davis should consider which current issues are suitable for a restorative approach. For example, one issue that affects many members of the community and seems to be creating tensions involves how Davis handles homeless issues, to include: DPD response; impacts on businesses, customers, and the general Davis community; frustrations of advocacy groups that work to establish the rights of the homeless people; and, the City Council, pressured from all sides to take a position. Bringing together these various interest groups to better understand each other's position and jointly work on resolution could be very constructive for the City.

The City is encouraged to contact Sonoma County's Independent Office of Law Enforcement Review and Outreach (IOLERO) for ideas about how IOLERO used community engagement circles to reach out to the County's undocumented immigrant community to help build trust with the Sheriff's Office. The fact that Chief Pytel and others from DPD and some Davis community members have successfully worked with restorative circle processes provides a solid base on which to expand the program in Davis.

B. Coordinated Critical Incident Communication Plan

The Consultants heard a great deal of confusion from community members about the plan to investigate and review the Picnic Day incident. Some mistakenly were under the impression that the full investigative report would be released and there was frustration not knowing how long the entire administrative process would take to complete.

It is recommended that the City and DPD develop a clear communication plan for critical incidents, with a goal to maximize transparency. Critical incidents can be complicated, with overlapping criminal and administrative investigations and a desire to protect the integrity of evidence collection and analysis, along with respecting the constitutional rights of officers and civilians involved. However, even if evidence still is being collected and analyzed, it is vital that the City inform the community as to what information is available and can be publicly released,

with the caveat that new information will inform the process as time passes. It is helpful to provide the anticipated time frame for any criminal or administrative investigation involved, and to regularly provide updates, even if the message is that no new information is available.

C. Review of Oversight Effectiveness and Authority

Along with developing metrics to measure the impact of police oversight, it is strongly recommended that there be a process to review oversight effectiveness and authority on a regular basis, at least every three years. Stakeholders should anticipate that community and policing needs change over time and that oversight can and should evolve in response.

VIII. RECOMMENDATIONS FOR THE DAVIS POLICE DEPARTMENT

A. Community Advisory Board (CAB)

Regardless of whether the CAB continues to function in its current configuration or is folded into the DPAB, the CAB could provide immediate assistance with the Department's development of SenseMaker, a program to help measure the impact of changes in policy, training, or other programs. The tool could prove useful in understanding the impact of changes in police oversight itself, along with tracking the impact of other anticipated changes. A number of stakeholders stressed the need for an evidence based approach to policing and oversight, and SenseMaker might provide valuable information on that front. The Police Chief could proceed with putting SenseMaker into action with the assistance of the CAB in the short run, while City Council considers the broader oversight structure and implementation steps are taken.

B. Logging All Police Misconduct Complaints

While there is reference to a complaint database in the DPD Policy Manual, it was not clear from discussions with stakeholders that all complaints are logged, regardless of merit. It is to be expected that many complaints are resolved at the time they are raised, though these matters still should be recorded. Because some stakeholders shared experiences of being dissuaded from pursuing a complaint, documenting all allegations assures both community members and DPD that any and all concerns are fully addressed. Logging all issues also will allow for full audits by the IPA.

C. Evaluation of Special Weapons and Tactics (SWAT) Incident Response

Several community members raised concerns that DPD displayed an excessive show of force when executing a search or arrest warrant. It is recommended that DPD consider whether some SWAT or other critical incident responses have involved more threat or show of force than necessary (i.e., more officers than needed, drawing or pointing of weapons unnecessarily, done publicly when could have been private, etc.), considering the severity of the crime and whether there is information or reason to believe the suspect is armed, will resist, is a flight risk, or presents other immediate risks to officers and bystanders.

D. DPD Communications with the Community

DPD regularly posts information through its website and social media, and provides updates through community outreach. However, some community members did not understand how to access Department information. It is recommended that DPD evaluate how it is using social media and other communication tools to determine if there are ways to more effectively reach out to the diverse communities in Davis. For example, it could be useful to set up a clearly marked “transparency portal” on the DPD website to list and link information that is of particular interest to stakeholders who participated in this engagement, such as the Davis Joint Unified School District policy on student investigations, UCD PD and DPD joint law enforcement efforts, DPD Strategic Plan updates, and the like. It also may be useful to engage the CAB or communication/marketing expertise available through the Chamber of Commerce to leverage DPD resources.

CONCLUSION

The City of Davis is to be commended for its commitment to investing in a stakeholder engagement process to consider ways to improve its police oversight program. Individuals representing many diverse communities in Davis, along with service providers, police officers, government leaders, business owners, and others came forward to weigh in on ways to build police-community trust.

The Consultants appreciate the opportunity to be involved with this community-wide effort, and were impressed with the high level of participation, considered testimony, and passion for the issues. The two-pronged oversight approach recommended is designed to build on the auditor program that has been in place and empower committed community members to participate in oversight and move the process forward.

“Trust between law enforcement agencies and the people they protect and serve is essential in a democracy. It is key to the stability of our communities, the integrity of our criminal justice system, and the safe and effective delivery of policing services.”³⁴

As the City evaluates the recommendations herein, there is an opportunity to build on considerable interest from stakeholders, motivated to ensure a safe, trusting community for all.

³⁴President’s Task Force on 21st Century Policing, 2015. *Final Report of the President’s Task Force on 21st Century Policing*. Washington D.C.: Office of Community Oriented Policing Services; p.5.

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APPENDIX

1. CIVILIAN OVERSIGHT OVERVIEW, COMPONENTS OF EFFECTIVE OVERSIGHT, NACOLE CODE OF ETHICS
2. WRITTEN MATERIALS RELATED TO POLICING AND OVERSIGHT IN DAVIS FROM COMMUNITY STAKEHOLDERS AND THE CITY OF DAVIS
3. CHART OF OVERSIGHT AGENCIES IN AND OUTSIDE CALIFORNIA

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APPENDIX 1

1. CIVILIAN OVERSIGHT OVERVIEW

Civilian oversight of law enforcement in the United States is an evolving governmental function designed to provide the community with a means to influence police practices and help ensure that law enforcement is conducted in a manner that is constitutional, effective, and responsive to the standards, values, and needs of those served. Oversight may be established in response to recurring law enforcement issues, or developed proactively to enhance police-community relations.

Oversight has become an integral part of municipal administrations in most large cities in the U.S., with some smaller cities, counties, and states also developing mechanisms for community members to weigh in on police matters. The National Association for Civilian Oversight of Law Enforcement (NACOLE) lists and provides links to approximately 135 oversight agencies throughout the U.S., along with detailed profiles of a sample group of those organizations on its resource page.¹

Civilian oversight organizations in the U.S. include a variety of different structures or models, such as commissions, boards, inspector generals, auditors, monitors, and investigative agencies. Whether an oversight body is labeled a “commission,” “board,” “auditor,” or any other term, it could have authority to function in any or all of these different capacities:

- Accepting and referring police misconduct complaints
- Investigating police misconduct complaints
- Monitoring or auditing a police department’s internal investigations and findings
- Conducting reviews of patterns of misconduct
- Rolling out to critical incidents
- Conducting hearings and making decisions on police discipline matters
- Making recommendations for improving police policy, practices, and training
- Reporting on oversight and its impact on policing
- Fostering community education and engagement about policing and oversight
- Facilitating alternative dispute resolution or community reconciliation

Most oversight organizations are multifaceted and work to improve policing and police-community relations in a variety of different ways. As communities learn more about policing

¹ See, <http://nacole.org/resources/police-oversight-jurisdiction-usa>.

CIVILIAN OVERSIGHT OVERVIEW, COMPONENTS, AND CODE OF ETHICS

and oversight, and needs change, the authority of an agency may evolve, leading to the creation of new oversight powers to complement or replace the work of the existing organization.²

2. COMPONENTS OF SUCCESSFUL OVERSIGHT

If Davis adopts civilian oversight, regardless of the particular model or functions involved, consideration should be given to factors important to success. Oversight practitioners have identified the attributes listed below as important in helping to make oversight credible and effective.³

Independence—The oversight body must be independent from special interest groups, police, and elected and other government officials. The community, as well as the police officers under oversight scrutiny, must trust that the oversight agency and its leadership are fair and unbiased. To the extent that the oversight entity has a reporting relationship within the government structure, efforts should be made to address potential conflicts of interest or disagreements that can arise.

Support of Government Officials—Without the political will to support civilian oversight, both at the outset and in the long term, the agency will be focused on its continuing existence, rather than working to meet its mandate.

Access to the Law Enforcement Agency and Government Officials—It is important for the integration of the oversight agency into the government structure that oversight practitioners have access to officials, as well as the law enforcement agency involved. . Regular meetings between oversight, government representatives, and police executives ensure that everyone understands and supports each other’s role in fostering police accountability.

Ample Authority—It is imperative that oversight organizations have the authority to meet the expectations of the communities they serve. For example, agencies with investigative authority must have the ability, via subpoena power or otherwise, to interview all witnesses, including officers, and have access to all documents and other evidence required for thorough investigations. Similarly, those charged with auditing or monitoring law enforcement policies and procedures must have access to complaint databases to allow real-time monitoring, early intervention system data, information related to claims, policy manuals, directives, tactical guidelines, training protocols, and the like.

² Attard, Barbara and Kathryn Olson. *Overview of Civilian Oversight of Law Enforcement in the United States*; nacole.org/wp-content/uploads/Oversight-in-the-United-States-Attard-and-Olson-2013.pdf (2013).

³ See FN 3, Attard and Olson.

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CIVILIAN OVERSIGHT OVERVIEW, COMPONENTS, AND CODE OF ETHICS

Reviewing Police Policies, Training and Other Systemic Issues—Policy review is widely seen as one of the most important aspects of an oversight program in that it can effect broad organizational change in the law enforcement agency. Reviewing a police agency’s policies and training, and making recommendations for improvements are functions that can be associated with any oversight approach and can make substantial and lasting contributions to improve policing. Procedures should be in place to track the police department’s timely response to any recommendations made.

Adequate Funding—Oversight programs must have adequate funding and spending authority to complete the work outlined in the enabling legislation and to be effective in their efforts. Oversight agencies must have funding and authority to hire staff at a level that allows for timely, thorough, and meaningful work, whether involving investigations, reviews, audits or other functions. Funding and spending authority should provide for hiring legal counsel, if necessary, subject matter experts, and staff training.

Core Qualifications for Effective Oversight— In support of its training program for oversight professionals, NACOLE has developed a set of core competencies that are central to effective oversight.⁴

Training for Boards and Commissions—The NACOLE website also lists recommended training specifically for members of boards and commissions. The training falls into six basic subjects: 1) an orientation to oversight; 2) local history that led or is relevant to the establishment of oversight; 3) legal considerations related to public meetings, confidential requirements, peace officers’ personnel actions, relevant case law, and local expectations of oversight; 4) information about the local law enforcement agency, e.g., history, patrol practices and procedures, general orders, procedures regarding search and seizure, booking, traffic stops, use of force, and other relevant topics; 5) agency procedures to include: intake, investigations, hearings, meetings, case review, communications, and policy recommendations; 6) ride-alongs.⁵

Community/Stakeholder Support and Outreach—Informing the community, police officers, police associations, and other stakeholders about the existence and authority of the oversight agency is vital to building trust and maintaining support. Outreach efforts should include explanation of ways that the agency works to ensure effective, impartial, and timely oversight.

Transparency—Regular reporting about the work of the oversight entity provides transparency and accountability to all stakeholders. Because aspects of the work of oversight may be

⁴ See, www.nacole.org/wp-content/uploads/Core-Competencies-for-Civilian-Oversight-Practitioners-20110114.pdf The NACOLE website also provides guidelines that are useful in considering qualification standards for hiring and training oversight personnel.

⁵ See, www.nacole.org/recommended_training_for_board_and_commission_members

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CIVILIAN OVERSIGHT OVERVIEW, COMPONENTS, AND CODE OF ETHICS

confidential, reporting aggregate information or summaries of activities in ways that do not compromise confidentiality increases confidence in the oversight agency.

Ethical Standards—NACOLE has adopted a Code of Ethics to guide the practice of civilian oversight in promoting public trust, integrity, and transparency.

3. NACOLE CODE OF ETHICS^{TM6}

Preamble

Civilian oversight practitioners have a unique role as public servants overseeing law enforcement agencies. The community, government, and law enforcement have entrusted them to conduct their work in a professional, fair and impartial manner. They earn this trust through a firm commitment to the public good, the mission of their agency, and to the ethical and professional standards described herein.

The standards in the Code are intended to be of general application. It is recognized, however, that the practice of civilian oversight varies among jurisdictions and agencies, and additional standards may be necessary. The spirit of these ethical and professional standards should guide the civilian oversight practitioner in adapting to individual circumstances, and in promoting public trust, integrity and transparency.

Personal Integrity

Demonstrate the highest standards of personal integrity, commitment, truthfulness, and fortitude in order to inspire trust among your stakeholders, and to set an example for others. Avoid conflicts of interest. Conduct yourself in a fair and impartial manner and recuse yourself or personnel within your agency when significant conflict of interest arises. Do not accept gifts, gratuities or favors that could compromise your impartiality and independence.

Independent and Thorough Oversight

Conduct investigations, audits, evaluations and reviews with diligence, an open and questioning mind, integrity, objectivity and fairness, in a timely manner. Rigorously test the accuracy and reliability of information from all sources. Present the facts and findings without regard to personal beliefs or concern for personal, professional or political consequences.

⁶ From the NACOLE website, updated version adopted by the Board of Directors on August 12, 2015. The NACOLE website also lists agencies who have adopted the Code of Ethics. https://www.nacole.org/nacole_code_of_ethics

APPENDIX 1

CIVILIAN OVERSIGHT OVERVIEW, COMPONENTS, AND CODE OF ETHICS

Transparency and Confidentiality

Conduct oversight activities openly and transparently providing regular reports and analysis of your activities, and explanations of your procedures and practices to as wide an audience as possible. Maintain the confidentiality of information that cannot be disclosed and protect the security of confidential records.

Respectful and Unbiased Treatment

Treat all individuals with dignity and respect, and without preference or discrimination including, but not limited to: age, ethnicity, citizenship, color, culture, race, disability, gender, gender identity, gender expression, housing status, marriage, mental health, nationality, religion, sexual orientation, socioeconomic status, or political beliefs, and all other protected classes.

Outreach and Relationships with Stakeholders

Disseminate information and conduct outreach activity in the communities that you serve. Pursue open, candid, and non-defensive dialog with your stakeholders. Educate and learn from the community.

Agency Self-examination and Commitment to Policy Review

Seek continuous improvement in the effectiveness of your oversight agency, the law enforcement agency it works with, and their relations with the communities they serve. Gauge your effectiveness through evaluation and analysis of your work product. Emphasize policy review aimed at substantive organizational reforms that advance law enforcement accountability and performance.

Professional Excellence

Seek professional development to ensure competence. Acquire the necessary knowledge and understanding of the policies, procedures, and practices of the law enforcement agency you oversee. Keep informed of current legal, professional and social issues that affect the community, the law enforcement agency, and your oversight agency.

Primary Obligation to the Community

At all times, place your obligation to the community, duty to uphold the law and to the goals and objectives of your agency above your personal self-interest.

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APPENDIX 2

WRITTEN MATERIALS RELATED TO POLICING AND OVERSIGHT IN DAVIS FROM COMMUNITY STAKEHOLDERS AND THE CITY OF DAVIS

FROM COMMUNITY STAKEHOLDERS

1. "A Look at Civilian Oversight of Police," by David Greenwald, *The Davis Vanguard*, June 1, 2017
2. "An Alternative to the Madness of Proving Police Injustice," *The Atlantic*, Vann R. Newkirk II, June 29, 2016
3. "Being Black in Davis is Not a Picnic," *The Davis Vanguard*, Bryn Buchanan, August 5, 2017
4. "City Council Reviews Police Oversight, Future Tax Measures," *The Davis Enterprise*, Felicia Alvarez, July 9, 2017
5. "City Staff Should be Transparent About Police Oversight," by William Kelly, *The Davis Vanguard*, October 4, 2017
6. "Commentary: City Comes Full Circle as Council Once Again Considers Stronger Police Oversight Policies," *The Davis Vanguard*, July 11, 2017
7. "Commentary: Council Presents a Vastly Different Approach on Police Oversight than in 2006" *The Davis Vanguard*, by David Greenwald, July 13, 2017
8. "Council Asks Staff to Come Back with an ACLU-Modeled Surveillance Ordinance," by David Greenwald, *The Davis Vanguard*, September 20, 2017
9. "Council to Look at Police Oversight System in July," *The Davis Vanguard* (date?)
10. Davis People Power Meeting with Outgoing Police Auditor, June 8, 2017
11. "Davis Residents Open Up about Experiences with Police in First Police Oversight Meeting," *The Davis Vanguard*, December 8, 2017
12. "Do we Care about the Picnic Day 5?," *The Davis Enterprise*, William Kelly, August 20, 2017
13. "Drug war overkill: A pot bust against legal growers in Yolo County seems to go too far", *LA Times*, By Robin Abcarian, January 6, 2017

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WRITTEN MATERIALS RELATED TO OVERSIGHT AND POLICING

14. Email summarizing Yolo County DA's policies and procedures on releasing the Yolo County District Attorney's Staff Policies and Procedures Manual. (Email dated 11/20/17)
15. "From the Community to the Classroom: A Youth-Directed Documentary About How Young People Led Their Community Closer Toward Educational Equity", a 70 minute film by Clifford Garibay, Ryan Gonzales, and Daniel Tkach, produced by Jann Murray-Garcia, <https://www.youtube.com/watch?v=ARx77Di9SXC>
16. "It's Harder to Be Just," *The Davis Enterprise*, Jann Murray-Garcia, May 27, 2008
17. "Just Us in Davis: Caution Urged as In-House Suspensions Return," *The Davis Enterprise*, Jann Murray-Garcia, October 25, 2009
18. "Just Us in Davis: Celebrate youth equity Leadership," by Jann Murray-Garcia, *The Davis Enterprise*, May 11, 2014
19. "Just Us in Davis: Correcting a False Equivalency in the Picnic Day 5 Case," *The Davis Enterprise*, September 13, 2017
20. "Just Us in Davis: Intent vs. outcome in a GATE'd community," by Jann Murray-Garcia, *The Davis Enterprise*, August 29, 2010
21. "Just Us in Davis: Two Planets: The Stark Contrasts in Davis Justice," *The Davis Enterprise*, Jann Murray-Garcia, July 30, 2017
22. "Just Us in Davis: We Should Seize this Opportunity for Lots of Learning on Both Sides," *The Davis Enterprise*, Jann Murray-Garcia, September 10-2017
23. "Restorative Policing," 2002
24. "Picnic Day Incident: Attorney Describes a Race-Based Attack by Men Who Turned Out to Be Police," by David Greenwald, *The Davis Vanguard*, April 28, 2017
25. "Picnic Day melee prompts Davis Police Inquiry and Release of Dashcam Video," By Ed Fletcher, *Sacramento Bee*, May 10, 2017, Updated May 11, 2017
26. "Police Oversight in Davis," submitted by Representatives of the UCD External Affairs Commission, February 5, 2018, (A digest of UC Davis student's concerns about DPD and oversight)
27. "Police Oversight Just Makes Sense," by Davis People Power, *The Davis Enterprise*, September 15, 2017 (Katelynn Bishop, Linda Bresnick, Skylar Downes, Betsy Elzufon, Nancy Erickson, Caitlin French, Teresa Geimer, Connor Gorman, Chris Hawkes, Jen Higley-Chapman, Dillan Horton, Roy

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Kaplan, William Kelly, Heidi Meier, Jann Murray-Garcia, Christopher Myers, Jeff Newbury, Nora Oldwin, Stephanie Parreira, Scott Ragsdale, Arvind Reddy, Al Rojas, Desiree Rojas, Janet Saunders and Carole Standing Elk)

28. "Tenets of Effective Police Oversight," recited at many stakeholder meetings, attributed to Black Lives Matter.
29. Tenth Anniversary Equity Reunion, 2004 – 2014; Expectations of Student Performance at Davis High School: Are They Different by the Race/Ethnicity of the Student?" (August 30, 2014; PowerPoint)
30. "Two Very Different Ways to Punish Killer Cops," *The Nation*, Alex S. Vitale, 2015
31. "Witness Speaks Out About Davis Picnic Day Arrests," By Rowena Shaddox, Fox 40TV, Posted 11:01, April 26, 2017

FROM THE CITY OF DAVIS

(These documents are available on the City of Davis website)

1. "Civilian Oversight to Strengthen and Improve the Davis Police Department," Human Relations Commission (Subcommittee for Civilian Review Board: Cecilia Escamilla-Greenwald, William Calhoun, Hamza El-Nakhal, Chithra Lakshmanan, Diane Carlson, with assistance from Jann Murray-Garcia, M.D., M.P.H.); February 2, 2006
2. City Council Staff Report, "Establishment of an Ombudsman/Auditor Function," May 2, 2006
3. City Council Staff Report, "Human Relations Commission's Recommendation to Create Citizen Review Board," February 14, 2006
4. City Council Staff Report, "Police Oversight," July 11, 2017
5. City Council Staff Report, "Report on Ongoing Changes to the Police Department," January 10, 2006
6. Davis Joint Unified School District policy, "Staff Investigation Procedures re: Student Incidents"
7. Davis Police Department Strategic Plan, 2017 – 2019
8. "Police Oversight in Davis, CA – Outline of a Process for Engaging the Community on Directions to Take (Draft for Comment and Correction)," Mayor Robb Davis, 2017

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APPENDIX 3
ANALYSIS OF POLICE OVERSIGHT MODELS
FOR THE CITY OF DAVIS
OVERSIGHT AGENCIES IN AND OUTSIDE CALIFORNIA

Oversight Agency	How Members are Selected	Role in Citizen Complaint Process	Extent Reviews Police Department Policy	To Whom Oversight Entity Reports	Estimated Annual Cost of Oversight	Additional Aspects of Model
Anaheim, CA 366,265 pop 250 sworn	PRB: 7 members chosen by lottery - 6 from each of districts and 1 at large.	PRB: Access to OIS scenes; briefed on critical incidents; approve Auditor recommendations and review other policies; receives complaints and refers to CM, PD, Auditor.	PRB: Audits existing police policies; considers and approves Auditor recommendations; offers findings on PD responses to Auditor recommendations.	PRB and External Auditor managed under CM authority.	PRB: Small training budget.	External Auditor has access to personnel and IA files; PRB does not have access.
Police Review Board (PRB) Est. 2014 (Public Safety Board), revised and renamed 2018	External Auditor hired by CM.	.	External Auditor: .		CM staff provide support.	PRB works with External Auditor and CM to issue annual reports.
External Auditor		External Auditor: Responds to OIS and in-custody deaths; advises investigations of lethal force or in-custody death; reviews bias-based complaints, sergeant or higher investigations; advises PRB.	External Auditor: Makes policy recommendations and advises on police practices.		External Auditor: approximately \$100,000 (budget increased as role working with PRB expanded).	
Office of Independent Review (OIR)						

The population of Davis is approximately 68,111 (estimates to 75,000 with influx of UC Davis students and staff); Davis Police Department is authorized at approximately 68 FTE officers.

Abbreviations Used: PC= Police Chief, CC=City Council, CM=City Manager

APPENDIX 3: ANALYSIS OF OVERSIGHT MODELS CHART

Oversight Agency	How Members are Selected	Role in Citizen Complaint Process	Extent Reviews Police Department Policy	To Whom Oversight Entity Reports	Estimated Annual Cost of Oversight	Additional Aspects of Model
Berkeley, CA 121,240 pop 170 sworn	PRC: 9 members appointed by Mayor and CC.	PRC receives and investigates complaints. Hearing before sub-committee of PRC, or case can be closed with PRC approval. PRC findings are recommendations to CM.	Commission recommends to CC improvements to PD policies, procedures, and training.	PRC reports to Mayor and CC. PRC Officer reports to CM and PRC.	\$740,000 Staff of 3, PRC Officer, administrative staff, and investigator	Does not have access to personnel or internal IA files, but has access to other confidential documents and information related to PRC investigations of complaints. Conducts outreach. Publishes annual reports. Originally PRC reports and hearings were public, but now must be confidential due to case law.
Police Review Commission (PRC) Est. 1974 Katherine Lee, PRC Officer	PRC Officer hired by CM with possible PRC input. PRC staff hired by PRC Officer.	Any party to the complaint can petition PRC for a rehearing.				
Claremont, CA 35,000 pop 38 sworn	Commission: 7 members appointed by CC, with goal to ensure diversity in membership; Police Review Ad Hoc Committee (PRAH): 3 Commissioners rotate.	PRAH reviews all external complaint investigations for thoroughness. Makes recommendations to Police Commission, PC, CC, and CM. Does not hear appeals.	Reviews policies, procedures, and practices; makes recommendations to set PD goals; reviews recruitment and training to promote retention of qualified, diverse personnel.	CC, CM, & PC.	No line budget. Part time Admin. Asst.	No access to personnel files PRAH has full access to external complaint files. Publishes detailed meeting minutes. Established to facilitate dialogue on PD issues. Meets every other month.
Police Commission Est. 2000						

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APPENDIX 3: ANALYSIS OF OVERSIGHT MODELS CHART

Oversight Agency	How Members are Selected	Role in Citizen Complaint Process	Extent Reviews Police Department Policy	To Whom Oversight Entity Reports	Estimated Annual Cost of Oversight	Additional Aspects of Model
Eugene, OR 156,000 pop 190 officers	Police Auditor: appointed by CC. CRB: 7 members appointed by CC; 3-year terms; monitor Police Auditor activities; Auditor staffs CRB.	Auditor receives and classifies complaints; monitors IA investigations; participates in interviews; audits and reviews completed investigations. Recommends findings (no formal discipline recommendations).	Makes policy recommendations.	Police Auditor and CRB report to CC.	Police Auditor: Approximately \$580,000 (2018 budget)	Access to IA files (unclear as to all personnel files). Does outreach. Auditor and CRB issue public reports. Can compel production of non-criminal investigation docs. Critical incident roll out.
Civilian Review Board (CRB)	Police Commission: 12 citizens who advise CC, PC and CM (no review of complaints).	Consults with CM on complaints against PC; monitors criminal complaints but does not participate. Auditor identifies "Community Impact Case;" CRB hears case, makes finding recommendation to PC.				Concurrent access to IAPro and Blue Team. Jurisdiction: sworn and non-sworn. Publishes weekly complaint summary. Mediation at discretion of Auditor; paid mediators.
Police Commission Est. 2006						

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APPENDIX 3: ANALYSIS OF OVERSIGHT MODELS CHART

Oversight Agency	How Members are Selected	Role in Citizen Complaint Process	Extent Reviews Police Department Policy	To Whom Oversight Entity Reports	Estimated Annual Cost of Oversight	Additional Aspects of Model
Knoxville, TN 186,239 pop 384 sworn	7 members appointed by the Mayor and confirmed by Council for three year terms. Cannot be a current employee of government body except education.	Takes complaints, reviews IA investigations, can investigate, hear cases, make findings to the Mayor and the PC.	Makes policy recommendation to the PC.	PARC makes findings to the Mayor and the PC.	Approx. \$100,000/yr	Has access to IA investigation, supporting documentation, and public records, not exempt records.
Knoxville Police Advisory and Review Committee (PARC) Est. 1998 Rev. 2001	Executive Director hires Executive Director.	Executive Director reviews complaints and makes recommendations to PARC regarding completeness or need for more investigation.			Full time Executive Director and part time executive assistant budgeted through Community Relations	Has access to all audio video evidence. Writes annual report to Executive Director for inclusion in his annual report to the PC, Mayor and CC.

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APPENDIX 3: ANALYSIS OF OVERSIGHT MODELS CHART

Oversight Agency	How Members are Selected	Role in Citizen Complaint Process	Extent Reviews Police Department Policy	To Whom Oversight Entity Reports	Estimated Annual Cost of Oversight	Additional Aspects of Model
<p>National City, CA 61,000 pop 92 sworn</p> <p>Community and Police Relations Commission (CPRC)</p>	<p>8 members appointed by Mayor approved by CC.</p> <p>7 voting members, 5 must be residents of National City, two non-voting members, one member of NC Police Officer's Assn. and one a member of a human rights organization</p>	<p>According to operating procedures, receives complaints, reviews completed IA investigations, can investigate if IA investigation insufficient.</p> <p>Arrange hearings of appeals.</p>	<p>Recommends changes to police policies and procedures.</p>	<p>Reports on complaint resolution activities. Tracks and issues statistical and other reports on the disposition of complaints to the public, the CM and the CC, and monitors and report on activity and performance.</p>	<p>CM may appoint staff to assist the commission and other personnel necessary to carry out the provisions of procedures in keeping within the adopted budget for the commission. Section 6.02</p>	<p>In consultation with the CM, the CPRC may retain a consultant to guide the independence of the commission.</p> <p>Conducts outreach.</p> <p>Mediation/Alternative Complaint Resolution through outside service</p>

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APPENDIX 3: ANALYSIS OF OVERSIGHT MODELS CHART

Oversight Agency	How Members are Selected	Role in Citizen Complaint Process	Extent Reviews Police Department Policy	To Whom Oversight Entity Reports	Estimated Annual Cost of Oversight	Additional Aspects of Model
Palo Alto, CA 67,000 pop 169 officers Independent Police Auditor (IPA) Est. 2006 Office of Independent Review (OIR)	IPA selected by CM, approved by CC.	Reviews citizen and internal IA investigations; assess for objectivity, thoroughness and appropriateness of disposition; can receive complaints but refer to IA. Recommendations to PC re: further investigation, process, and disposition.	Makes policy recommendations. Reports reviewed by PC (for fact check), City Attorney, CM, and then on CC agenda.	IPA meets with CC twice/year.	Not to exceed \$26,000 Reviews 10 – 20 cases/year. Formally meets with CM and PC annually to discuss issues.	Full access to personnel and IA files, along with other records. Conducts outreach. Issues reports 2 times/year. Does special audits and reports, as needed.

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Oversight Agency	How Members are Selected	Role in Citizen Complaint Process	Extent Reviews Police Department Policy	To Whom Oversight Entity Reports	Estimated Annual Cost of Oversight	Additional Aspects of Model
<p>Sacramento, CA 470,000 pop 708 sworn</p> <p>Office of Public Safety Accountability (OPSA) Est. 1999 Revised 2017 Francine Tournor, Director</p> <p>Sacramento Community Police Review Commission (SCPRC) Est. 2015</p>	<p>OPSA: Director, professional staff appointed by and reports to the Mayor and City Council.</p> <p>SCPRC: CC appoints 11 members.</p> <p>Also staffs Community Racial Profiling Commission.</p>	<p>OPSA tracks and monitors high profile/serious complaints, reviews completed IA investigations; refers to CM if deficient.</p> <p>May conduct investigations if prescribed by CC resolution.</p> <p>Does not hear appeals.</p>	<p>Examines and critiques the SPD's efforts to work within communities of color.</p> <p>OPSA recommends improvements to policies, procedures, training.</p>	<p>OPSA reports to Mayor and CC.</p>	<p>OPSA: \$624, 603</p> <p>SCPRC has no additional budget; staffed by OPSA Director.</p>	<p>No access to personnel files; access to IA files</p> <p>Conducts outreach.</p> <p>Issues annual reports.</p> <p>Oversees police and fire.</p> <p>Responds to critical incidents involving police or fire personnel.</p>

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APPENDIX 3: ANALYSIS OF OVERSIGHT MODELS CHART

Oversight Agency	How Members are Selected	Role in Citizen Complaint Process	Extent Reviews Police Department Policy	To Whom Oversight Entity Reports	Estimated Annual Cost of Oversight	Additional Aspects of Model
<p>Santa Cruz, CA 63,000 pop 94 officers</p> <p>Independent Police Auditor (IPA) Est. 2003</p> <p>Bob Aaronson, Independent Police Auditor</p>	<p>IPA selected by CM.</p>	<p>Reviews all internal and external IA investigations to evaluate quality and thoroughness; can sit in on interviews; can review and provide feedback as investigation is in progress; can request, through the CM, further investigation or conduct investigation himself.</p> <p>Does not hear appeals.</p>	<p>Reviews and makes recommendations regarding PD policies and practices, both informally and through reports on selected issues.</p>	<p>By contract, reports jointly to CM and CC.</p> <p>Meets with Public Safety Committee (PSC); provides a confidential audit report of every IA investigation reviewed. PSC provides oversight of IPA.</p>	<p>IPA approx. \$56,000</p> <p>2 days/month at SCPD and monthly ride-along with officers.</p> <p>Available 24/7 to respond to calls and emails from SCPD and citizens concerning IA matters.</p>	<p>Full access to personnel and IA files and all other documents and staff.</p> <p>Does outreach.</p> <p>Does not issue regular reports.</p> <p>Is able to coach individuals at all levels of organization.</p> <p>Does not roll out to critical incidents or review in-custody deaths, other than in context of IA investigation.</p>

The population of Davis is approximately 68,111 (estimates to 75,000 with influx of UC Davis students and staff); Davis Police Department is authorized at approximately 68 FTE officers.

Abbreviations Used: PC= Police Chief, CC=City Council, CM=City Manager

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<p>Sonoma County, CA 485,000 pop 400 sworn</p> <p>Independent Office of Law Enforcement Review and Outreach (IOLERO) Est. 2015</p> <p>Jerry Threat, IOLERO Director</p> <p>Community Advisory Council (CAC)</p>	<p>IOLERO Director: Selected by County Board of Supervisors.</p> <p>CAC: 11 members appointed by IOLERO Director; serve 1-year terms.</p>	<p>IOLERO: Accept and refer complaints; review investigations for thoroughness, fairness, and timeliness; develop mediation; make recommendations to improve policies and procedures; conduct outreach and education; analyze complaints and enforcement actions for trends; annual reports.</p> <p>CAC: Assist IOLERO by acting as a bridge to the community; hold public meetings; make policy recommendations.</p>	<p>IOLERO Director and CAC each can make policy recommendations, though also coordinate and collaborate.</p>	<p>IOLERO Director: Reports to County Board of Supervisors.</p> <p>CAC: Reports to IOLERO Director.</p>	<p>Approximately \$596,000 (about \$401,000 for salary and benefits for IOLERO Director and Administrative Coordinator and remainder for services and supplies).</p>	<p>Sponsors professionally facilitated Community Engagement Circles to improve relationships and build trust between law enforcement and communities served.</p> <p>CAC monthly meetings provide food and child care, supporting CAC member and community member participation.</p>

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