

STAFF REPORT

DATE: October 19, 2021

TO: City Council

FROM: Council Subcommittee (Gloria Partida, Will Arnold)
Mike Webb, City Manager

SUBJECT: Update on Structure of City Organization Related to Reimagining Public Safety

Recommendation

- 1) Receive update from the City Council Subcommittee; and
- 2) Direct the City Manager to form a new department of Social Services and Housing and begin recruitment of a department Director; and
- 3) Authorize the City Manager to undertake necessary budget adjustments and position descriptions to implement the new department; and
- 4) Direct the City Manager to provide regular updates to the City Council on the progress of department formation.

Fiscal Impact

Where possible and practical, the subcommittee and staff attempted to shift existing resources to the proposed new department without incurring net new costs. However, in order to appropriately staff a department that will be taking on new responsibilities and playing a greater role in provision and coordination of a variety of social services, there will be net new, recurring costs. The net new recurring cost of the department is estimated to be \$434,000 for the first year. Of this, approximately \$380,000 is estimated to cover the total compensation costs related to new or restructured positions. The remaining \$61,000 covers operational costs. In addition to these costs, the department will require a vehicle with a one-time cost of approximately \$26,000. (The annual maintenance and operations costs are included in the recurring costs above.) The budget will be rounded out by shifting existing resources (positions, their associated operational costs, and associated grants and revenues) to the department. There are no net costs to the City for these shifts.

As part of the FY21-23 budget process, Council reserved \$790,000 in funds to come from the city's American Rescue Plan Act allocation for costs associated with organizational changes for reimagining public safety. These dollars are proposed to be utilized over the remainder of the FY21-23 budget to offset the costs of the department, specifically two new positions and one restructured position. Other resources, including funds used for professional services and grants used to provide direct service provision (primarily assisting individuals who are homeless) would also move from the existing

budget to the new department. As these amounts vary, they are not included in the costs of the department in this report.

The proposed new department would have seven full time positions. Of these positions, two are net new and one upgrades an existing position. Between the previous shifting of positions during the fiscal year 2021-23 budget adoption and the proposed shifting of two additional positions, the proposed new department would include a total of four positions previously assigned to the police department.

Current Title/ Department	Proposed Title in New Department	Net New Cost?
N/A	Department Director	Yes
N/A	Affordable Housing Manager	Yes
Police Services Specialist Supervisor/ CMO (formerly PD)	Homeless Services Manager	Yes, for portion of position
Police Services Specialist/ CMO (formerly PD)	Homeless Outreach Coordinator	No
Police Services Specialist/ PD	Homeless Outreach Coordinator	No
Fiscal Analyst/ PD	Data Analyst	No
Management Analyst/ CMO	Management Analyst	No

No additional budget allocation is needed at this time to initiate the formation of the department. Staff expects that adjustments for future fiscal years will be brought forward as part of the FY23-25 budget process, including revenue/expenditure strategies to ensure long term funding sustainability.

Council Goal(s)

Goal: Ensure a safe, healthy, equitable community. Specifically, these actions address Objective 3: Continue efforts to reimagine public safety.

C. Determine what City services currently assigned to the police department should be assigned to other City departments.

D. Consider creation of new positions as outlined in the recommendations approved by the City Council in April 2021.

In addition, in July 2021 the City Council approved a short list of Focus Items. One of those items was Reimagining Public Safety Progress Checklist to track and provide regular reports on implementation of the City Council direction from the April 6 2021 Council meeting.

Commission Input

Three commissions – Social Services, Police Accountability, and Human Relations – provided the original report and recommendations for reimagining public safety to the City Council in December 2020. The recommendations of the three commissions were based on a tri-part subcommittee that met over several months in 2020 and looked at law enforcement and public safety in Davis.

Background and Analysis

In December 2020, the City Council received a [report \(link\)](#) from a subcommittee of three commissions, with nine recommendations regarding public safety in Davis. Subsequently on April 6, 2021, the City Council received a [follow up report \(link\)](#) from city staff, providing a list of recommendations in response to the commissions' report. Among the recommendations, the Council supported funding a new management level position; expanding services and coordination with the County on housing and homelessness and youth diversion programs; shifting homeless services from the police department; and utilizing data and outcomes to inform future policy and organizational directions.

In addition to providing direction to begin to implement the staff recommendations, the Council appointed two Council subcommittees:

1. Subcommittee to evaluate the Crisis Now model and a possible partnership with Yolo County. This subcommittee completed its work on September 7, 2021, when the Council voted to allocate \$1.17 million to partner with Yolo County on the Crisis Now effort.
2. Subcommittee to determine whether and which City services currently assigned to the police department should be assigned to other City departments. Mayor Gloria Partida and Councilmember Will Arnold comprise this subcommittee and this report provides their feedback to the full Council.

Staff, working with the subcommittee over several meetings, evaluated the core functional areas of the police department, trying with each functional area to get at the root of each core responsibility. The primary focus was on “what are we trying to solve for?” The key conclusions were that changes made should go beyond optics, lead to real improvement for all citizens in service provision in areas of community need, provide safety and ensure they make operational sense, and stay within legal boundaries.

The police department's core functions include a spectrum of activities aimed at keeping people and property safe by enforcing the law. The police department receives all emergency 911 calls and dispatches first responders (police, fire, and after hours

emergencies for other departments); provides first-line emergency response to crimes in progress, accidents and tactical situations; maintains legal records; conducts investigations of crimes and traffic collisions occurring in the city; processes evidence; undertakes certain code enforcement and graffiti abatement; does parking enforcement; and works to analyze and prevent crime.

Homeless Services. Building off public sentiment that the police department was not the best equipped to address needs of unsheltered individuals and the initial changes in June to move existing homeless services staff out of the police department, staff and the subcommittee looked at the services provided and needed under the homeless services umbrella. Homeless Services is part of a broader continuum that includes shelter, mental health services, social services, and affordable housing. Over the past several years, cities across California have taken greater roles in addressing issues related to homelessness, and Davis is no exception. All indications are that this role will continue to expand. The City began to invest in greater City staff resources with the funding of a homeless outreach position first in 2017 and then another position in 2019 specifically to address homeless outreach.

With an enhanced role comes more varied activities, multiple funding streams and a need to coordinate. While these myriad services could be in any number of departments, the proposal is to take both existing and new positions and consolidate them into a new department. This will allow the City to maximize efforts to address the needs of unsheltered individuals using employees who are not only subject matter experts but also will be ideally positioned to coordinate with county social service programs, affordable housing programs, and other services hosted by community-based organizations and other jurisdictions. Providing this type of structure removes most of the day to day provision of services to unsheltered individuals from the police department into a department that can maximize its efforts with this population. It also positions the City to manage the multitude of grants and programs, while supplementing but not replicating services provided by other organizations, such as Yolo County. This structure will also assist the City in creating, strengthening and ultimately expanding a more formal navigator force.

Affordable Housing. While the police department is not actively engaged in affordable housing issues outside of homelessness, the continuum of services for the unhoused also begs for the re-introduction of a City Affordable Housing Manager (a position formally funded until 2016) to oversee the myriad functional responsibilities and policy development for affordable housing needs in Davis. Currently, this function is not given full attention and is currently accomplished, and only partially so, via multiple staff spanning two departments (city manager's office and community development with contract assistance from Yolo County Housing) resulting in inefficiencies and challenges with prioritization of limited staff resources. The proposed new department recognizes that affordable and safe housing is one of the key factors for an individual to achieve stability. And while not directly related to public safety, the recent adoption of the Housing Element will require a dedicated point on staff to oversee implementation of the various programs and policies contained or proposed therein.

Taken together, consolidating services to address homelessness and affordable housing should benefit the city's ability to coordinate community health and social services in closer coordination with Yolo County, UC Davis, Davis Joint Unified School District and the many community-based organizations that Davis is fortunate to have. Currently such programs and partnerships do not have a consistent point of contact or consistent City representation. One additional benefit of this proposed department is the inclusion of an early intervention and prevention focus, allowing staff to work with the aforementioned partners, and city departments such as Parks and Community Services, and others.

Code Enforcement. Similar to homelessness services, code enforcement can exist (and has been) in many different departments over the years. Currently the fire department, police department, community development and public works all respond to code enforcement calls in their respective areas of subject matter expertise. For the police department, non-sworn personnel assist with those cases involving abandoned property associated with homeless camps, as well as graffiti investigation and abatement, abandoned vehicles and bicycles, noise, animals, and nuisance property-related nuisances. Public works deals with cases involving solid waste, storm water, sewer, and water connections. Community Development takes lead on zoning and building code and associated building safety issues, while the fire marshal deals with fire code and related health and safety violations.

Certain legal challenges are present in shifting certain code enforcement functions from the police department to other departments. For example, graffiti crimes, abandoned bikes, vehicles, noise, animals and criminal actions would still be handled in the police department because of how State and local laws are written and because of criminal justice access, such as DMV and criminal records.

What could prove valuable, and is recommended, is the integration of an oversight role for ALL city code enforcement policies and operations across all departments to coordinate a uniform approach, consistency in response (both in on-site and written enforcement actions that aren't criminal), and a consistent and "approachable" (e.g. non-intimidating) appearance to the program that is centered around gaining compliance, not seeking punishment. The proposed department will provide this coordinating role, led by the department director.

Mental Health and Crisis Intervention. One of the original recommendations from the commission subcommittee report was to work with County partners to build an integrated "Crisis Now" –type model for behavioral health emergencies. In September, the City Council unanimously supported the request to join Yolo County in a Crisis Now model and dedicated \$1.17 million to the effort. With pursuit of Crisis Now there will be a need for City leadership to assist with program implementation with Yolo County. Charging the new department with this responsibility will ensure that City resources are coordinated and maximized and that feedback loops of program analysis, and evaluation of effectiveness are integrated. A critical component of successful mental

health and crisis intervention is ensuring the community is well-educated and informed about the existence of programs and resources to maximize the saturation of the programs and community buy-in. To accomplish this, as suggested in recommendation 8 from the commission subcommittee report, will require the coordination of volunteers to serve as community navigators.

Early Intervention and Prevention. As with mental health and crisis intervention, there are many existing and potential community partners involved in early intervention and prevention activities for youth, seniors, and vulnerable populations. Having a central location with the City government to assist with coordination among these various community navigator providers will improve the city's positioning for community health and safety. Furthermore, evaluation of community needs and working with partners to expand programs will be critical to their effectiveness and to ensure programs are making a meaningful impact. While all departments across the City organization interact and coordinate at some level with jurisdictional partners and local groups, the proposed department will newly consolidate the responsibility to coordinate among the myriad community-based organizations and public sector entities that provide the spectrum of community health and safety services, particularly to more vulnerable populations. Having the ability to navigate among this network in an organized fashion will also position the City well to manage any future health crisis events, as we have learned over the past year and a half during the COVID-19 pandemic.

Data Analysis. A unique feature of this organizational structure is the use of a data analyst to dig into information related to community health and safety. The information that this position is anticipated to review cuts across the City's housing, homelessness, social services, police and fire department functions, all of which will benefit from centralized data analysis to inform data-supported policy directions. Regular public reporting of critical statistics and program metrics is crucial to gauging program success, ensuring transparency, and identifying opportunities for policy refinement and possible program expansions over time. Reporting directly to the new department director, the data analyst will also serve in a capacity to provide budget administration oversight for the new department as well as the police and fire departments.

Staff and the subcommittee believe that the development of this new department provides a structure that will benefit the community's most vulnerable residents and, when combined with other program like Crisis Now, will reduce the likelihood that law enforcement would need to interact with them. This in turn, allows the police department to focus on dispatching, responding to emergencies, addressing crimes and completing investigations.

Parking and Traffic Enforcement. After careful review, it is not recommended to move parking enforcement or traffic enforcement from the police department. Both present legal and logistical challenges to moving them from the police department. Due to legal logistics, parking enforcement does not seem to be a better fit in any other department

at this time and also faces both practical and legal challenges. Although parking enforcement officers are not sworn officers, do not wear police uniforms or drive patrol cars, and are unarmed, they do and are needed to perform other functions within the police department. Additional information and analysis on the legal issues related to parking enforcement has been prepared in consultation with the City Attorney and can be found in Attachment 3. Parking enforcement may be subject to further review for future options.

Currently, state law makes traffic enforcement illegal for non-sworn officers. Aside from organizational structure, traffic enforcement, specifically “stops,” will be reviewed in further detail once the Race and Identity Profiling Act (RIPA) data analysis is complete. (This analysis is a separate Council direction from the April 6 discussion.) Again, the memo provided in Attachment 3 provides an analysis on the legal issues related to traffic enforcement.

Recommendation

New Department. The overarching recommendation for this report is the creation of a new department to focus on social services, housing and homelessness. In addition, the department would have staff to analyze data relevant to community health and safety, which includes data from the police and fire departments. The new department would include seven full time employees: a director, a management analyst, a data analyst, a homeless services manager, two homeless outreach coordinators, and an affordable housing manager. The director will need to have key skills of understanding the interplay of the various functional areas, be self-motivated, have strong leadership and partnership building skills, community outreach and engagement skills, and be a leader in shaping the department and its evolution over time. It is the opinion of the subcommittee and staff that the city’s public safety needs would be more fully served with the creation of this department. When taken in partnership with the fire and police departments, the system will result in a more comprehensive city of Davis community health and safety network.

The organizational chart shown in Attachment 1 shows the proposed structure. The department will include the following core functional areas:

- Early Intervention and Prevention
- Mental Health and Crisis Intervention
- Affordable Housing
- Homeless Services
- Code Enforcement Oversight and Coordination
- Data Analysis
- Administration

Underlying each functional area will be the expectation of coordination of efforts with jurisdictional partners, community-based organizations and other service providers, of which there are many who serve Davis. A partial listing of these organizations is included as Attachment 2 and shows a sampling of the myriad organizations that, if

more fully integrated and coordinated, can become even more effective in their missions. This expectation of collaboration with partner groups will allow this department to have considerable impact, even though the department is small in size. It is also expected that the department's reach will grow organically as programs and support needs evolve over time, while being mindful not to duplicate services rendered by other jurisdictional partners, such as Yolo County.

Conclusion

In conclusion, staff and the subcommittee recommend the City Council direct the City Manager to take the next steps for the immediate formation and implementation of this new department, including recruitment of a director, completion of necessary budget adjustments, the addition of two positions to the position allocation list, position descriptions, and meet and confer with any affected bargaining units on impacts. It is anticipated that the recruitment of a department director could be initiated by mid-November, with onboarding by no later than March.

This new department will be in its infancy and will organize and leverage relationships to address complex issues currently involving a multitude of agencies and organizations. The department will undoubtedly evolve over time to best fit the needs of the community and City services. While this is only one piece of the efforts related to reimagining public safety, its importance cannot be understated.

Attachments

1. Organization Chart
2. Partial List of Community Organizations and Jurisdictional Bodies
3. Memo re: Parking and Traffic Enforcement

Davis City Council

City Manager

Social Services Commission



The City of Davis Community Health & Safety Network

Director

Management Analyst

Data Analyst

Early Intervention & Prevention Coordination

Mental Health & Crisis Intervention Coordination

Affordable Housing Services

Homeless Services

Code Enforcement Coordination

Coordinate with Parks & Community Services

Coordination with Local Agency Partners & Orgs

Mentors & Navigators (Volunteers)

Coordinate with Yolo County Crisis Now & PD Embedded Clinician

Navigators (YC Contract services/ volunteers)

Affordable Housing Manager

Comm Dev Dept Coordination

Rental Resources staff position? (possible future expansion)

Homeless Services Manager

Coordination with Local Agency Partners & Orgs

Coordination Across PD, Fire, CDD, PW

Outreach Coordinators (2)

Homeless Services Navigators (Volunteers)

Legend:

- City Departments
- People/Positions
- Local Agency & Partner Orgs
- Category of Services/Coordination

10-19-21 City Council Meeting

Community Based Organizations and Jurisdictional Partners

*(Partial list of organizations relevant to proposed
Department of Housing and Social Services)*

Jurisdictional Partners

- Davis Joint Unified School District
- Los Rios Community College District
- UC Davis
- Yolo County
- Yolo County Housing Authority
- Yolo County Office of Education

Community Based Organizations

- Citizens Who Care
- CommuniCare Health Centers
- Community Housing Opportunities Corporation
- Davis Community Meals and Housing
- Davis Homelessness Alliance
- Davis Phoenix Coalition
- Davis Opportunity Village
- Elderly Nutrition/Meals on Wheels
- Empower Yolo
- Faith-based Organizations
- First 5 Yolo
- Fourth and Hope
- Grace In Action
- HEART of Davis
- Hope at Davis
- Individual affordable housing properties
- Make it Happen Yolo County
- Mutual Housing California
- NAMI-Yolo
- Pine Tree Gardens
- Service Organizations (Kiwanis, Oddfellows, Rotary, Soroptimists, etc.)
- Short Term Emergency Aid Committee
- Suicide Prevention and Crisis Services of Yolo
- Yolo Adult Health Center
- Yolo Community Care Continuum
- Yolo Community Foundation
- Yolo Conflict Resolution Center
- Yolo County CASA
- Yolo County Homeless and Poverty Action Coalition
- Yolo County Library – Mary Stephens Branch
- Yolo Crisis Nursery
- Yolo Food Bank

- Yolo Hospice
- Yolo Interfaith Immigration Network

Legal Parameters for Traffic and Parking Enforcement

**This memo was prepared by staff in consultation with the City Attorney*

Traffic Enforcement

Although there has been some desire to shift traffic enforcement duties to unarmed, non-sworn (non-peace officer) personnel away from the Police Department, California law governs how traffic laws are enforced and assigns the responsibility to peace officers, which is well-defined in State law.

The California Penal Code defines and grants authority to peace officers. The laws are comprehensive and complicated; however the following is a general breakdown of the relevant statutes.

- Penal Code § 830 specifies that “[a]ny person who comes within the provisions of this chapter [of the Penal Code] and who otherwise meets all standards imposed by law on a peace officer is a peace officer, and notwithstanding any other provision of law, no person other than those designated in this chapter [of the Penal Code] is a peace officer.”
- The authority of municipal peace officers is found in Penal Code § 830.1, which specifies:

“(a) Any sheriff, undersheriff, or deputy sheriff, employed in that capacity, of a county, any chief of police of a city or chief, director, or chief executive officer of a consolidated municipal public safety agency that performs police functions, any police officer, employed in that capacity and appointed by the chief of police or chief, director, or chief executive of a public safety agency, of a city, any chief of police, or police officer of a district, including police officers of the San Diego Unified Port District Harbor Police, authorized by statute to maintain a police department, any marshal or deputy marshal of a superior court or county, any port warden or port police officer of the Harbor Department of the City of Los Angeles, or any inspector or investigator employed in that capacity in the office of a district attorney, is a peace officer. The authority of these peace officers extends to any place in the state, as follows:

“(1) As to any public offense committed or which there is probable cause to believe has been committed within the political subdivision that employs the peace officer or in which the peace officer serves.

“(2) Where the peace officer has the prior consent of the chief of police or chief, director, or chief executive officer of a consolidated municipal public

safety agency, or person authorized by him or her to give consent, if the place is within a city, or of the sheriff, or person authorized by him or her to give consent, if the place is within a county.

“(3) As to any public offense committed or which there is probable cause to believe has been committed in the peace officer’s presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of the offense.”

- The Government Code further restricts who can be the director or chief executive officer of a consolidated municipal public safety agency that performs any police functions. Government Code § 38630 specifies the following:

“(a) The police department of a city is under the control of the chief of police.

“(b) In municipalities which provide for police and other emergency services through a consolidated public safety agency which includes traditional law enforcement, fire protection, and other emergency services, the chief, director, or chief executive officer of such an agency shall control the agency. The chief, director, or chief executive officer of a consolidated public safety agency is a peace officer, and shall meet all of the same requirements imposed by law, regulation, or POST guidelines and recommendations as a chief of police, and he or she shall have all of the same rights, responsibilities, and privileges as does a chief of police. No one who fails to meet all of the above requirements of a chief of police and peace officer shall be appointed to the position of chief, director, or chief executive officer of a consolidated municipal public safety agency.”

- Public safety personnel, or local safety members, are further defined as all local police officers, local sheriffs, firefighters, safety officers, county peace officers, and school safety members (see Government Code §§ 20420, *et. seq.*)

There are no other provisions in the Penal Code or State law that would allow a city to appoint peace officers to conduct traffic enforcement duties.¹ (Penal Code §§ 830, *et. seq.*).

Furthermore, the required hiring standards and training standards for peace officers is uniform across the State (see Penal Code § 832; Government Code § 1029; Government Code § 1031; 11 CCR 1950 *et seq.*) Furthermore, even though some communities have expressed a desire in the past year to shift duties from sworn officers, the State legislature has not done so and, in fact, has further restricted who can

¹ An agency can appoint Reserve Peace Officers in the same manner as regular officers. Training specifications vary; however a reserve peace officer assigned to traffic duties has to meet the same hiring and training standards as a regular peace officer. (See Penal Code § 830.6 and 832.6.)

be a peace officer and has created a comprehensive scheme for professional licensing of peace officers along with decertification procedures.²

The Penal Code also specifies who can make an arrest (see below for explanation that a person ticketed for a Vehicle Code violation is arrested under California law). Penal Code § 836 specifies: “(a) A peace officer may arrest a person in obedience to a warrant, or, pursuant to the authority granted to him or her by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, without a warrant, may arrest a person whenever any of the following circumstances occur:

“(1) The officer has probable cause to believe that the person to be arrested has committed a public offense in the officer’s presence.

“(2) The person arrested has committed a felony, although not in the officer’s presence.

“(3) The officer has probable cause to believe that the person to be arrested has committed a felony, whether or not a felony, in fact, has been committed.”

The Penal Code does allow non-peace officers to make arrests (see Penal Code § 837); however a non-peace officer has to turn over an arrested person to a magistrate or peace officer (see Penal Code § 847 (a)). The peace officer or magistrate would then issue a citation or proceed in another legal manner authorized by State law.

The California Vehicle Code governs traffic regulations for the State. Vehicle Code § 21 specifies the following:

“(a) Except as otherwise expressly provided, the provisions of this code are applicable and uniform throughout the state and in all counties and municipalities therein, and a local authority shall not enact or enforce any ordinance or resolution on the matters covered by this code, including ordinances or resolutions that establish regulations or procedures for, or assess a fine, penalty, assessment, or fee for a violation of, matters covered by this code, unless expressly authorized by this code.”

California courts have consistently held that a local authority may not enact an ordinance on matters covered by the Vehicle Code, unless expressly authorized, because the Legislature has declared an intent to preempt the field of vehicular traffic control (see *People v. Stone* (1987) 190 Cal.App.3d Supp. 1, 11-12).

The Vehicle Code specifies in great detail how peace officers, as defined in the Penal Code, are to enforce the Code and carry out its provisions. In nearly all cases

² See SB 2, Bradford, an act to amend Section 52.1 of the Civil Code, to amend Section 1029 of the Government Code, and to amend Sections 832.7, 13503, 13506, 13510, 13510.1, and 13512 of, to amend the heading of Article 2 (commencing with Section 13510) of Chapter 1 of Title 4 of Part 4 of, and to add Sections 13509.5, 13509.6, 13510.8, 13510.85, and 13510.9 to, the Penal Code, relating to public employment.

enforcement is delegated to peace officers and non-sworn peace officers would not be able to carry out the duties.

The following are just some of the duties delegated only to peace officers, and which would operatively prohibit non-peace officers from enforcing the Vehicle Code.

- Only peace officers can use a red light and siren to stop vehicles to enforce the vehicle code and can give lawful orders when enforcing the Code.³
- A person only has to present their driver's license to a peace officer when stopped.⁴

³ Vehicle Code § 30 It is declared as a matter of legislative policy that red lights and sirens on vehicles should be restricted to authorized emergency vehicles engaged in police, fire and lifesaving services; and that other types of vehicles which are engaged in activities which create special hazards upon the highways should be equipped with flashing amber warning lamps.

Vehicle Code § 165 An authorized emergency vehicle is:

(b) Any publicly owned vehicle operated by the following persons, agencies, or organizations:

(1) Any federal, state, or local agency, department, or district employing peace officers as that term is defined in Chapter 4.5 (commencing with Section 830) of Part 2 of Title 3 of the Penal Code, for use by those officers in the performance of their duties.

Vehicle Code § 2800 (a) It is unlawful to willfully fail or refuse to comply with a lawful order, signal, or direction of a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, when that peace officer is in uniform and is performing duties pursuant to any of the provisions of this code, or to refuse to submit to a lawful inspection pursuant to this code.

Vehicle Code § 2800.1 (a) Any person who, while operating a motor vehicle and with the intent to evade, willfully flees or otherwise attempts to elude a pursuing peace officer's motor vehicle, is guilty of a misdemeanor punishable by imprisonment in a county jail for not more than one year if all of the following conditions exist:

- (1) The peace officer's motor vehicle is exhibiting at least one lighted red lamp visible from the front and the person either sees or reasonably should have seen the lamp.
- (2) The peace officer's motor vehicle is sounding a siren as may be reasonably necessary.
- (3) The peace officer's motor vehicle is distinctively marked.
- (4) The peace officer's motor vehicle is operated by a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, and that peace officer is wearing a distinctive uniform.

(b) Any person who, while operating a motor vehicle and with the intent to evade, willfully flees or otherwise attempts to elude a pursuing peace officer's bicycle, is guilty of a misdemeanor punishable by imprisonment in a county jail for not more than one year if the following conditions exist:

- (1) The peace officer's bicycle is distinctively marked.
- (2) The peace officer's bicycle is operated by a peace officer, as defined in paragraph (4) of subdivision (a), and that peace officer is wearing a distinctive uniform.
- (3) The peace officer gives a verbal command to stop.
- (4) The peace officer sounds a horn that produces a sound of at least 115 decibels.
- (5) The peace officer gives a hand signal commanding the person to stop.
- (6) The person is aware or reasonably should have been aware of the verbal command, horn, and hand signal, but refuses to comply with the command to stop.

⁴ Vehicle Code § 12951 (b) The driver of a motor vehicle shall present his or her license for examination upon demand of a peace officer enforcing the provisions of this code.

- A person has to produce evidence of financial responsibility (insurance) to a peace officer. A peace officer must issue citations or approve the issuance of a citation in the case of traffic collision being investigated by non-sworn personnel.⁵
- Only a peace officer may make an arrest and issue a notice to appear for a traffic violation (See Vehicle Code §§ 40300, *et. seq.*; Vehicle Code §§ 40500, *et. seq.*). A person is “arrested” when they commit a Vehicle Code Violation, including infraction violations (See Vehicle Code §§ 40300 and 40500).

In addition to, or in lieu of officers conducting traffic stops, there have likewise been calls to have officers send letters (or tickets) to offenders for violations of the Vehicle Code. The Vehicle Code doesn't allow for that, except in a few specifically identified circumstances.

- A person must generally provide a written promise to appear for a traffic violation. Vehicle Code § 40500 specifies the arresting officer must prepare and issue the notice to appear. Vehicle Code § 40504 specifies that a person must secure release by written promise to appear. A person who refuses to sign a written promise to appear is required to be taken into custody (See Vehicle Code § 40302 (b)).

⁵ Vehicle Code § 16028 (a) Upon the demand of a peace officer pursuant to subdivision (b) or upon the demand of a peace officer or traffic collision investigator pursuant to subdivision (c), every person who drives a motor vehicle upon a highway shall provide evidence of financial responsibility for the vehicle that is in effect at the time the demand is made. The evidence of financial responsibility may be provided using a mobile electronic device. However, a peace officer shall not stop a vehicle for the sole purpose of determining whether the vehicle is being driven in violation of this subdivision.

(b) If a notice to appear is issued for any alleged violation of this code, except a violation specified in Chapter 9 (commencing with Section 22500) of Division 11 or any local ordinance adopted pursuant to that chapter, the cited driver shall furnish written evidence of financial responsibility or may provide electronic verification of evidence of financial responsibility using a mobile electronic device upon request of the peace officer issuing the citation. The peace officer shall request and write the driver's evidence of financial responsibility on the notice to appear, except when the peace officer is unable to write the driver's evidence of financial responsibility on the notice to appear due to an emergency that requires his or her presence elsewhere. If the cited driver fails to provide evidence of financial responsibility at the time the notice to appear is issued, the peace officer may issue the driver a notice to appear for violation of subdivision (a). The notice to appear for violation of subdivision (a) shall be written on the same citation form as the original violation.

(c) If a peace officer, or a regularly employed and salaried employee of a city or county who has been trained as a traffic collision investigator, is summoned to the scene of an accident described in Section 16000, the driver of a motor vehicle that is in any manner involved in the accident shall furnish written evidence of financial responsibility or may provide electronic verification of evidence of financial responsibility using a mobile electronic device upon the request of the peace officer or traffic collision investigator. If the driver fails to provide evidence of financial responsibility when requested, the peace officer may issue the driver a notice to appear for violation of subdivision (a). A traffic collision investigator may cause a notice to appear to be issued for a violation of subdivision (a), upon review of that citation by a peace officer.

- There is no requirement a person appear in court unless they violate a written promise to appear (See Vehicle Code § 40508).
- For a notice to correct violation – issued for mechanical and registration violations - a person is also required to be issued and sign a notice to correct citation (See Vehicle Code § 40610). There is no legal mechanism to send a notice of violation or correction to a person and require them to fix the violation in another way.
- State law does allow a citation to be mailed to an offender by a peace officer following a traffic collision in specified circumstances. However, the issuance of a citation is not deemed an arrest and there are special procedures and limitations for issuance (see Vehicle Code §§ 40600 et. seq.).
- State law allows a notice to appear to be mailed to a violator as part of a red light camera program. However courts have recently held there is no penalty for failure to appear absent a written promise to appear.

There is no other authority in the Vehicle Code to make arrests or issue citations. In addition, the above statutory analysis does not cover the legal requirements that only peace officers and others permitted by statute can detain a person or the complexity of 4th Amendment requirements when doing a traffic stop. The issues are legally complex and require significant peace officer training.

Parking Enforcement

The Vehicle Code has special provisions governing parking citations and the issuance/prosecution of offenses. Parking violations are civil violations rather than criminal violations (See Vehicle Code § 40200). Parking tickets can be issued by peace officers or other persons authorized to enforce parking regulations (See Vehicle Code § 40202).

There are cities that separate general parking enforcement duties to agencies other than police departments. However, it is very much the norm for cities the size of Davis to have parking enforcement by a unit within the police department. There are several practical considerations for doing this, including:

- The towing of vehicles is handled by peace officers or those working in police departments. Davis parking enforcement officers are able to tow vehicles when attached to the police department.
- Parking enforcement officers are also trained in traffic control and other ancillary police duties that non-sworn personnel can do. Moving them from the police department would mean that the duties they perform in support of the police department would be reassigned to other, mostly sworn, staff.
- Parking enforcement officers are part of a broader Police Services Specialist job classification where they have the ability to be assigned other tasks and to move from position to position in the job classification. Many employees wish to remain

in the parking assignment only as long as they have to and immediately move to other positions when they become available. Job mobility is a critical component to job satisfaction.

- Parking enforcement officers would not have access to DMV or police information systems if not attached to the police department. They routinely run plates to determine whether registration is expired or not. Having this function performed by non-sworn employees separate from the police department would mean registration violations would be turned over to sworn peace officers.

There are also significant safety issues to consider. Parking officers have been assaulted in the performance of their duty. Their very close working relationship with sworn staff, and their ability to immediately call officers on the same radio channel, are important safety components.