



City of Davis
Police Accountability Commission Meeting
Thursday, April 4, 2019
6:30 P.M.

1. Call to Order

MacBrine called the meeting to order at 6:35pm.

Members present:

Mary C. Bliss, Sean Brooks, Cecilia Escamilla-Greenwald, Dillan Horton, Abram Jones, Elaine Kahan, William Kelly, Keisha Ligget-Nichols (alternate), Judith MacBrine (Chair)

Members absent:

Jonathan Laraque-Ho

Also present:

Gloria Partida, Michael Gennaco, Kelly Stachowicz

2. Approval of Agenda

MOTION: Horton moved, with a second by Brooks, approval of the agenda. Motion passed by the following vote:

AYES: Bliss, Brooks, Escamilla-Greenwald, Horton, Jones, Kahan, Kelly, Ligget-Nichols, MacBrine

NOES:

ABSENT: Laraque-Ho

3. Brief Announcements from Staff, Commissioners, and Liaisons

None.

4. Public Comment

Michelle Kellogg, with Amber Salazar, Yolo Community Care Continuum (YCCC) – YCCC is a non-profit mental health agency. Programs have had several unsatisfactory interactions with the Davis Police Department, asking for assistance with individuals who have special needs, including potential 5150 holds. DPD refused to take someone to the hospital, and person eventually took his own life, but then DPD took a potentially suicidal individual to the Amtrak Station. Did not have success meeting with the Police Chief. Thinks complaint process just leads back to police department

Erica Ballinger, Yolo County ACLU – Picnic Day Incident investigation is incomplete and wants to know whether officers intentionally misled public. Encouraged additional investigation.

Don Sherman – Impressed by retired UC Davis Police Chief Calvin Handy.

M.E. Gladdis – Believes Calvin Handy supports use of force and was not impressed.

Lupe Torres – Requests that Commission agendaize an issue where two children were taken from their mother while they were in school, so mother was unaware. Another friend had children taken away after incident. There was not enough information for parents (Spanish-speaking) to figure out how to get their children back. Criminal justice system needs more translation services and better information about the process.

5. Consent Items

A. Approval of Minutes – March 7, 2019 meeting

MOTION: Brooks moved, with a second by Horton, approval of the minutes as amended.

AYES: Bliss, Brooks, Horton, Jones, Kahan, Kelly, MacBrine, Ligget-Nichols

NOES: None

ABSTAIN: Escamilla-Greenwald

ABSENT: Laraque-Ho

6. Regular Items

A. Police Auditor Update

Police Auditor Mike Gennaco: Has completed and submitted two reports to the City Manager. One case has been resolved. He will meet with the individual in the second case in May. Today, he met with several people, including the City Manager, councilmembers, members of the public, etc. He is working on a chart that will share public information about complaints, etc.

W Kelly – would like the completed complaint investigation mentioned at the last meeting. Stachowicz – City will redact confidential information and share.

Public Comment:

Carole Standing Elk: Asked whether ethnicity would be included in reports? Gennaco explained that, to the degree he has information that does not identify the complainant, he can share.

Commission Discussion:

Commission engaged in a discussion about how reports would be reviewed, what data would be collected and how progress would be determined.

Gennaco explained that he writes reports so they can be disclosed, although it is City Manager discretion whether to disclose them. Also, Gennaco will talk to complainants to make sure they are comfortable sharing. He also uses best practices in interviews/discussions, which includes noting observations.

MOTION: Horton moved, with a second by Escamilla-Greenwald, to request Gennaco collect demographic info on complainants. Brooks provided a friendly amendment that information would be collected only with the consent of the complainant. Friendly Amendment was accepted by mover and seconder of motion. Motion passed by the following vote:

AYES: Bliss, Brooks, Escamilla-Greenwald, Horton, Jones, Kahan, Kelly, Ligget-Nichols, MacBrine

NOES: None

ABSENT: Laraque-Ho

Commission discussed data collection – what to collect from complainants, how to collect it, and how to ensure anonymity. Suggestion made to develop a questionnaire for

optional completion by complainant. Gennaco noted that police complaint forms depress the willingness to complain, so that should be considered.

B. Davis Police Department Complaint and Inquiry Process

Gennaco described complaint process for the Davis Police Department. One problem is the requirement to fill out a form before a complaint can be filed. This is not a best practice. One best practice is to encourage complaint process to make sure department receives all complaints. Need to find balance. Also, if a complaint is less of a personnel complaint, such as response time, it might not get into the system.

The fact that a Police Department does not have many complaints does not necessarily mean that everything is okay. Sometimes when complaints increase, that means good things can be happening with the complaint process.

Questions that one would look at when reviewing a complaint process include:

- *Is department willing to take and follow up on anonymous complaints?*
- *Is department willing to accept third party complaints?*
- *How are “old” complaints treated? Are they accepted?*
- *How is intake handled? Is commentary made to the complainant?*
- *Are internally generated complaints considered?*
- *If use of force takes place, agency is supposed to determine whether it falls into the department’s existing policy, regardless of whether there is a complaint lodged.*

Commission questioned whether they could take complaints, since the authorizing resolution doesn’t expressly state it. Questions included:

- *Is there minimum level of information needed to be able to investigate complaint?*
- *There are existing beliefs about DPD. Is there consideration at point of intake about cultural norms of certain groups?*
- *Is the Auditor looking at Davis Police Department’s policies? (Yes, as well as actual practices to ensure alignment.)*
- *How is the Commission supposed to take in complaints?*

Mayor pro tem Partida – The group will receive complaints one way or another. Would be wise to have a procedure in place.

Public Comment:

Connor Gorman – Commission should take complaints. Third party complaints should be accepted. Complaint chart – all arrows go into the police department. Will it go anywhere else if Police determine they haven’t done anything wrong?

Michelle Kellogg – YCCC tried to approach Police Department. We were immediately shut down.

Annmarie Soika – What does the Davis Police Department do (regarding the Auditor’s earlier comments?)

Lupita Torres – Complaint process is not very clear. People don’t know how. Need to do outreach.

ME Gladdis – Where find information about difference between categories 1, 2, 3?

Commissioner Discussion:

Ligget-Nichols – What is done to ensure people feel comfortable to give complaint?

Horton – At what point does public comment cross over into a complaint? Group needs to come to determination as to when those comments are a complaint.

MOTION: Bliss moved, with a second by Escamilla-Greenwald, that the Commission request the City Council amend the Commission’s authorizing resolution to include receiving and referring complaints. Motion failed by the following vote:

AYES – Bliss, Escamilla-Greenwald

NOES – Brooks, Horton, Jones, Kahan, Kelly, Ligget-Nichols, MacBrine

ABSENT: Laraque-Ho

Stachowicz – Commission will hear complaints from people. It is the Commission’s responsibility to help those people figure out the next steps. It is not the Commission’s responsibility to investigate a complaint.

Horton - Role is to hand over complaints to auditor or other once we determine it is appropriate. Determination is what the process should be for the commission.

Escamilla-Greenwald – Commissioners have a role in helping with complaints and setting them in motion.

W Kelly – would prefer to wait to amend the (authorizing resolution) one time. Chart is causing confusion. There are other options not included in the chart. (ie the Auditor can do his own investigation, etc.) Would suggest making a better chart.

MOTION:

Horton moved to refer specific situations brought to the commission to the auditor.

Motion died for lack of a second.

Process subcommittee will look at the issue and report back.

C. SB 1421 (Peace Officers: Release of Records)

Gennaco shared background about SB 1421 and explained that it allowed for release of some police personnel records: on-duty sexual misconduct, officer involved shootings or great bodily injury, or sustained allegations involving integrity or (dis)honesty. There are currently court cases about whether law is retroactive, with the courts thus far leaning primarily that it is retroactive. Other questions include whether public can be charged for records and some jurisdictions are charging. Another question that has not been answered is what findings of integrity/honesty really mean. Is “reckless” behavior considered dishonest?

Gennaco explained that , in the case of the Picnic Day incident, there was no use of force, and there was no finding of dishonesty against any officer of the department. The finding against the department was that the press release policy wasn’t followed.

Public Comment:

Erica Ballinger, Yolo ACLU – Believes Picnic Day investigation was not complete. Would encourage possible reopening of the case, specifically whether the press releases were misleading and whether it rises to the level of dishonesty of specific officers.

Connor Gorman – Picnic Day police statement was dishonest and believes there was active engagement to put out dishonest statement. Reopen the case.

Luanne Villanova – It's lying, not dishonesty.

Don Sherman – Police Auditor and Police Accountability Commission created to assure public that City takes Picnic Day incident very seriously. There is a lot of evidence public has not been allowed to see. Public generally dissatisfied.

Annemarie Soyka – Group will have to decide priorities. Don't look backwards.

ME Gladdis – Wants Commission to look into all injustices.

Commission discussed what a second investigation could and could not do. Gennaco explained that the City Council could authorize additional investigation by Auditor, which would necessitate interviews of people involved. However, there is no requirement to sit for interviews, either by former Davis police officers or by individuals involved in incident. With regard to outcome, yes, the information was inaccurate, but intent is not clear. Was it reckless or negligence or careless? If any of the latter, the information would not result in disclosable information. There are challenges to a subsequent investigation.

Mayor pro tem Partida – In an emergency situation, lots of information circulates, and sometimes it is inaccurate. It is bothersome that people involved are not the ones asking for a re-investigation. Use this tool to look at other incidents these same police officers were involved with and root out bad actors.

Brooks – Is there anything from Picnic Day investigation that is public? Gennaco explained that none of the original Orrick investigation was made public. Gennaco then reviewed the investigation critically with the intent that what he wrote could be made public. Police Chief did apologize for the inaccurate information.

MacBrine – What do the participants want? Is it restorative to bring the community back together, or is it punitive? Would a restorative conversation be more productive?

W Kelly – Logic behind the Public Records Act request is that this is the portion of the investigation that deals between the Police Department and the public. Police are supposed to be the trained professionals who can distinguish (fact). There was a public campaign to portray a certain narrative that meant five people had to face criminal charges. Apology was inadequate. First step to building trust is explaining what happened.

MacBrine – Restorative process did take place, but Will is saying that the public trust between the police department and the community is still broken.

Gennaco – One result of the incident is a change to the process to release public information. If there is a major city event, people outside of the Police Department must review and approve public information..

Horton – What would restorative process look like?

MacBrine – Select members of the public and the police department would come together in a circle process to help people understand the harm they have done.

Public Comment, continued:

Mason – Recently denied ride-along because of non-existent criminal history. Worked it out.

Kristen – Report isn't transparent. Transparency is important.

ME Gladdis – Who from District Attorney determined to charge?

Connor Gorman – Supports restorative justice, not punitive, but there are power differences, with police having more power. Harm was done to the five and to the public.

Escamilla-Greenwald – The five were just minding their own business and their lives were drastically changed. Everything from their records should be removed.

MOTION: Kelly moved, with a second by Horton, to modify the original proposal to form a subcommittee to lay out recommendation(s) (no restorative justice), reach out to the five people affected, and return to the Commission to report out. Motion passed by the following vote:

AYES: Bliss, Brooks, Escamilla-Greenwald, Horton, Jones, Kahan, Kelly, Ligget-Nichols

NOES: MacBrine

ABSENT: Laraque-Ho

Subcommittee will be W Kelly and Ligget-Nichols.

D. Subcommittee Reports (Outreach, City/UCD Police Relations, Traffic Stop Data, Police Procedures) – All Subcommittee reports were held over to the next meeting.

7. Future Agenda Items

- *Kelly and Nichols-Liggett are Subcommittee on Picnic Day. They will report back at the next meeting.*
- *Examine procedures around wellness checks and also procedures for 5150/mental health issues callouts. (Numbers of calls, procedures, training, etc.)*
- *Examine whether city can have standard above state standard for releasing records.*

8. Adjourn

Jones moved, with a second by Brooks, to adjourn the meeting. Motion passed unanimously. Meeting adjourned at 9:35pm