
Personnel Complaints / Internal Investigations

305.1 PURPOSE AND SCOPE

The appropriate response to complaints of alleged police misconduct is essential to preserving the integrity of, and public confidence in, the Davis Police Department. The Police Department will investigate complaints against its personnel in a prompt, professional manner and in compliance with laws governing the investigation of law enforcement members. Such investigations will compile all pertinent facts and circumstances surrounding any allegation and render a fair and just finding for the complainant and any member(s) of the Police Department.

305.2 POLICY

The Davis Police Department has adopted this policy that provides a fair, orderly, and uniformly applied process for receiving, investigating, and resolving complaints of alleged police misconduct and/or for improper job performance. This policy is a public record and shall be provided to any person upon request (Penal Code § 832.5).

For the purposes of this policy, a member includes a volunteer and a complaint means either of the following:

- a. Any issue where the complainant perceives that a member engaged in criminal conduct, abusive or discriminatory behavior, inappropriate or discourteous conduct, is a member of a hate group, or violated any laws or rules, policies, and/or regulations of the Davis Police Department and/or the City of Davis; or
- b. Disagreement solely with the policies, procedures, or services of the Davis Police Department and not with the performance of any personnel.

For the purposes of this policy, serious misconduct includes those allegations/acts that are described in POST Regulation 1205 (Penal Code § 13510.8). Investigations regarding membership in a hate groups are governed by the California Law Enforcement Accountability Reform Act (Penal Code §§ 13680 et seq.)

This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, except as otherwise provided (Government Code § 3303).

305.3 SUPERVISORS & PROFESSIONAL STANDARDS

1. For the purposes of this policy, a supervisor includes the on-duty Watch Commander (regardless of rank), sergeants, civilian supervisors, civilian managers, and sworn administrators.
2. For the purposes of this policy, the Office of the Police Chief includes the Police Chief, the Deputy Police Chief and any other member designated by the Police Chief.

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3. For the purposes of this policy, Professional Standards includes the Professional Standards Lieutenant and any other member assigned, including temporarily assigned, to Professional Standards by the Police Chief.

305.4 NO RETALIATION

No member shall, in any manner, dissuade or impede any person or member from filing a complaint or reporting allegations of misconduct, nor shall any member retaliate, threaten, or harass any person or member who has alleged or reported misconduct. Any interference or allegation of retaliatory action by a member shall be immediately reported to the Office of the Police Chief. Interference and/or retaliation are grounds for discipline.

305.5 SOURCE & ACCEPTANCE OF PERSONNEL COMPLAINTS

1. Complaints may be submitted in a variety of ways, including:

- a. By filling out a complaint form and submitting it either in person or by mail to the Davis Police Department located at 2600 Fifth St. Davis, CA 95618.
- b. By filling out a complaint form and submitting it either in person or by mail to the City Manager's Office located at City Hall, 23 Russell Blvd. Davis, CA 95616.
- c. By speaking directly to a Davis Police Department supervisor either in person or by telephone (530) 747-5400.
- d. By sending an email to the Davis Police Department at policeadmin@cityofdavis.org or the city manager's office at CMOWeb@cityofdavis.org.
- e. By directly contacting the Independent Police Auditor by email at policeauditor@cityofdavis.org.
- f. By filling out an online complaint form with the Commission on Peace Officers Standards and Training (POST) at <https://post.ca.gov/public-complaints>.

2. Complaint forms are located at the front counter of the Davis Police Department, the City Manager's Office, with the Independent Police Auditor, or online at www.davispd.org. Complaint forms in languages other than English may also be provided, as determined necessary or practicable. Complaint forms in Russian and Spanish may be found on the Department's webpage.

3. Language barriers can sometimes inhibit or even prohibit individuals with limited English proficiency, or those with certain disabilities, from gaining meaningful access to, or an understanding of important rights, obligations and services provided under this policy. Therefore, the Department will take all reasonable steps to ensure timely and equal access to all individuals, regardless of national origin, primary language, or their disability (Title VI of the Civil Rights Act of 1964, § 601, 42 United States Code 2000d, 28 CFR 35.160). The Department will not discriminate or deny any individual access to services, rights, or programs based upon a person's disabilities or inability to communicate—in English or at all. Language and disability services shall be provided pursuant to Policy. The Language Policy also has a language identifier chart that can be used to help determine what language a complaining party or other person speaks.

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4. Filing out a complaint form is not a requirement for making any type of complaint under this policy. All complaints, from any source, in any language or method of communication, whether in writing or verbally received, no matter how received by the Davis Police Department, will be reviewed and processed in accordance with this policy.
5. Anonymous complaints will be investigated to the extent possible, recognizing the inherent limitations of investigating such complaints.
6. A complainant is not required to speak to a police supervisor prior to filing a written complaint. However, complaining parties should generally be referred to a supervisor who can potentially resolve the complaint, provide a written complaint form, and/or offer assistance to the complainant if necessary.
7. Supervisor Responsibility
 - a. A request made to any Department member to speak to a Department supervisor about possible member related misconduct or the possible mishandling of an incident or call for service shall be initially interpreted as a complaint under this policy. Such requests to speak to a supervisor will be accepted and the Watch Commander or an appropriate Unit supervisor shall be summoned, if one is available. This type of request takes precedence over routine supervisory duties or lower priority calls for service.
 1. If a supervisor is unable to respond to a field request to speak with a member's supervisor, the Department member shall, if feasible, provide a business card with their name and their supervisor's name to the person requesting to speak to a supervisor.
 2. If a supervisor is not immediately available to speak to the person, the name and phone number of the person shall be provided to an appropriate Unit supervisor, as soon as one is available. The supervisor should attempt to contact the complainant prior to the end-of-watch, or at the very least, ensure the on-coming supervisor contacts the complainant during the on-coming watch.
 - b. The initial responding supervisor should assess the initial complaint (verbal and/or written) and interview the complainant, if they are immediately present and willing to speak to the supervisor. This will provide an initial forum for a person to resolve what may not actually be a complaint about a Department member, but an inquiry or objection to a policy or procedure, a law, or the handling of an incident they witnessed or were involved.
 - c. With consent, or as otherwise allowed by State and federal law, a supervisor should record the contact or take notes to ensure the statement can be later recalled and documented if the matter is formally investigated. In call cases, the recording or notes should be promptly forwarded to the Office of the Police Chief.
 - d. A supervisor receiving a complaint is not responsible for conducting any further investigation unless there are exigent circumstances requiring an immediate response. In that instance, the receiving supervisor shall notify the Office of the Police Chief as soon as possible for further

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direction. If the Deputy Chief is unavailable, the Police Chief or Professional Standards Lieutenant, in that order, shall be contacted.

8. Any member of the Department may personally accept a completed complaint form. A member personally receiving a complaint form shall, if feasible, provide the complainant with a copy of their complaint as required by Penal Code § 832.7(b). The member receiving the form shall document on the complaint form that a copy was provided to the complainant. The contents of the form will be held in strict confidence and the member shall not disclose the contents to anyone other than the Office of the Police Chief.

9. All written complaints received by the Police Department, by whatever means and in whatever form, shall be immediately forwarded to the Office of the Police Chief. The Office of the Police Chief will send the complainant a written acknowledgment of receiving the complaint and assign to a supervisor for investigation within one business day of receiving the complaint. If the complainant has not already received a copy of their complaint, a copy will accompany the written acknowledgment.

305.5.1 INDEPENDENT POLICE AUDITOR

The Independent Police Auditor may perform any duty under their contract without impediment from any member of the Police Department. Any member of the public may directly contact the Independent Police Auditor to file a complaint or to discuss the performance of any Department member or the operations of the Davis Police Department. The Independent Police Auditor may meet with complainants and assist them in determining how to proceed with their complaint. To this end, the Police Auditor may attempt to resolve complaints in any proper manner in conformance with this policy and within law. Professional Standards may facilitate any meeting between the Police Auditor and any Department member. Formal Complaints received by the Independent Police Auditor will be turned over to the Office of the Police Chief for processing and investigation. The Office of the Police Chief will be responsible for generating any reports or memoranda concerning involvement of the Police Auditor in resolving any complaint.

305.5.2 DUTY TO REPORT MISCONDUCT

When a member who is not a supervisor becomes aware of, by any source, including from third-parties or personal observation, what they perceive to be misconduct by another Department member they shall, as soon as feasible, and no later than by the end of the member's current shift, or if off-duty within 24-hours, notify their supervisor or in the absence of their supervisor their Division Commander or the Office of the Police Chief.

Serious misconduct, including but not limited to those listed below, shall be reported immediately:

- a. Dishonesty.
- b. Abuse of power.
- c. Any act which may constitute the commission of a misdemeanor or felony crime whether committed on or off duty.
- d. Sexual assault.

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- e. Improper use of force or failure to intervene during an improper use of force.
- f. Member(s) under the influence of intoxicants while on-duty.
- g. Any discrimination, bias, oppression, and/or harassment against any person through any means including but not limited to verbal statements, writings, online posts, recordings, actions and/or gestures, involving prejudice or discrimination against a person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.
- h. Participation or membership in a hate group (Penal Code §§ 13680 et seq.).

305.5.3 MISCONDUCT – RESPONSIBILITIES.

Members with knowledge of, or who are made aware of, alleged acts of improper conduct or incidents where improper conduct may occur have an affirmative duty to stop or prevent improper conduct if there is a realistic opportunity to intervene. Intervention may include immediately reporting the information to a supervisor who may take appropriate action

305.6 INITIATION OF INTERNAL INVESTIGATION

1. Any Watch Commander or supervisor may request an internal investigation when there is cause to believe that a member has engaged in conduct that is in violation of City or Department Rules and Regulations or in violation of a criminal or civil statutes.

When choosing whether to initiate an internal investigation, the Watch Commander or supervisor should consider whether the conduct warrants a formal investigation or can be handled through immediate counseling or training, or through the imposition of minor discipline such as documented counseling or written reprimand by the member's supervisor or Division Commander.

Serious misconduct, or misconduct that may warrant major discipline as specified under the Personnel Rules & Regulations of the City of Davis, or that may lead to suspension or revocation of a certificate issued by the Commission on Peace Officers Standards & Training, shall be formally investigated. Serious allegations, including but not limited to those listed below, shall be immediately reported to a Division Commander or the Office of the Police Chief.

- a. Dishonesty.
- b. Abuse of power.
- c. Any act which may constitute the commission of a misdemeanor or felony crime whether committed on or off duty.
- d. Sexual assault.
- e. Improper use of force or failure to intervene during an improper use of force.
- f. Member(s) under the influence of intoxicants while on-duty.
- g. Any discrimination, bias, oppression, and/or harassment against any person through any means including but not limited to verbal statements, writings, online posts, recordings, actions and/or gestures, involving prejudice or discrimination against a person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability,

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medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

h. Participation or membership in a hate group (Penal Code §§ 13680 et seq.).

2. A Watch Commander or supervisor requesting an internal investigation shall notify their Division Commander who shall notify the Office of the Police Chief. The Office of the Police Chief may reject the request, recommend an alternate disposition, or assign the matter to be investigated pursuant to this policy.

3. No investigation shall be undertaken against any officer solely because the officer has been placed on a prosecutor's Brady list or the name of the officer may otherwise be subject to disclosure pursuant to Brady v. Maryland. However, an investigation may be based on the underlying acts or omissions for which the officer has been placed on a Brady list or may otherwise be subject to disclosure pursuant to Brady v. Maryland (Government Code § 3305.5).

4. Generally, internal investigations will be initiated because of tort claims and lawsuits.

305.6.1 INITIATION OF CRIMINAL INVESTIGATION

1. Whenever a Watch Commander or supervisor becomes aware of any allegation of criminal misconduct by a member who is either on or off duty, the Watch Commander or supervisor shall immediately notify either in person or by phone the Office of the Police Chief. In their absence, the Professional Standards Lieutenant, the Investigations Lieutenant or the Patrol Commander, in that order, shall be notified of the allegation. In order to maintain the integrity of any resulting investigation, the Watch Commander or supervisor shall keep the information strictly confidential and shall not share the information with others, including their regular chain-of-command.

2. If there are exigent circumstances requiring an immediate police response or investigation of the criminal acts, or alleged criminal acts, the Watch Commander or an available sworn police administrator shall be responsible for conducting the preliminary criminal investigation. In the absence of exigent circumstances, the Office of the Police Chief shall direct any criminal investigation and/or any internal investigation of criminal misconduct by a member. Non-supervisors and non-sworn personnel shall not conduct criminal investigations on a member without express permission of the Police Chief.

3. The Office of the Police Chief may request the Yolo County District Attorney's Office or another law enforcement agency conduct any criminal investigation against a member.

4. Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation conducted pursuant to this policy. Any separate administrative investigation may parallel a criminal investigation.

5. A member accused of criminal conduct shall be advised of their constitutional rights (Government Code § 3303(h)). The member should not be administratively ordered to provide any information in the criminal investigation.

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6. The Davis Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

305.6.2 AVAILABILITY OF WRITTEN PROCEDURES

The Department shall make available to the public a written description of the investigation procedures for complaints (Penal Code § 832.5).

305.6.3 HATE COMPLAINTS AGAINST PEACE OFFICERS

Internal complaints or complaints from the public shall be accepted and investigated in accordance with this policy where it is alleged that an officer has in the previous seven years, and since 18 years of age, engaged in membership in a hate group, participated in a hate group activity, or advocated any public expression of hate (Penal Code § 13682).

305.7 COMPLAINT PROCESSING

All personnel complaints, in any form, shall be immediately forwarded to the Office of the Police Chief for review and processing. The Office of the Police Chief shall classify the complaint as a personnel complaint, a complaint about Department policy or procedure, or a complaint without merit. All complaints will be numbered and recorded in the complaint database.

305.7.1 CLASSIFICATION OF COMPLAINTS AND INTERNAL INVESTIGATIONS

1. Category I Formal Investigations

a. Category I investigations involve allegations of a serious nature, which will be formally investigated and could result in major discipline under the Personnel Rules & Regulations of the City of Davis. The Office of the Police Chief may classify any investigation, regardless of the nature of the allegations, as a Category I investigation.

b. Professional Standards is generally responsible for investigating all Category I investigations. However, at the direction of the Office of the Police Chief, an investigation can be assigned to any supervisor or manager to investigate. The assigned investigator shall have had no direct involvement in the incident being investigated. In rare instances, the Police Chief and City Attorney may order an investigation to be conducted by an outside independent person.

c. Examples of category I complaints include, but are not limited to, allegations of serious misconduct.

2. Category II Investigation

a. Category II investigations involve allegations of a minor nature that, if found to be true, would likely result in counseling, training or minor discipline.

b. If Professional Standards is not assigned to complete the investigation, the complaint will generally be assigned to the Division Commander overseeing the members(s) being investigated. Generally, only one investigator will be assigned even if multiple Department

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members from several divisions are involved. The assigned investigator shall have had no direct involvement in the incident being investigated.

c. Some examples of minor complaints include those where the allegations are:

1. Improper procedure.
2. Poor or inadequate service.
3. Rude conduct.
4. Use of improper language.
5. Discourteous operation of a Department vehicle.

3. Complaints Regarding Department Policy & Procedure

a. Complaints regarding policy & procedure shall be assigned a complaint number and be forwarded to an appropriate Division Commander for review.

b. The Division Commander shall review the complaint, conduct any needed investigation or follow-up and, when appropriate, make recommendations to the Police Chief regarding any changes to Department policy or procedure that need to be made.

c. If during the course of investigating this type of complaint, conduct is discovered that could be the basis of a personnel complaint, the Division Commander shall report this conduct to the Office of the Police Chief, which should be logged, tracked, and investigated separately from the original complaint.

4. Frivolous Complaints or those "Without Merit"

a. A complaint that is determined to be frivolous or without merit may be closed at intake.

b. A complaint that is frivolous, or without merit, means the allegations are totally and completely without merit or for the sole purpose of harassing an opposing party, or the complaint is completely lacking information that describes an actual allegation that would constitute misconduct, even if the information were true.

c. Professional Standards should document on the complaint why it was determined to be without merit and closed.

5. Alternative Resolutions

a. Withdrawn Complaints

1. Formal complaints may be "Withdrawn" at any time or handled as informal complaints at the request the complainant.

2. When this procedure is used, the formal written complaint shall be kept in the complaint file and shall have the notation "Withdrawn" placed in the findings section.

3. A memorandum will be attached giving a summary of the withdrawal request. If possible, the complainant should sign the request.

4. The Department retains the ability to investigate regardless of whether the complaining party agrees to cooperate in investigating the allegation or not.

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b. Informal Complaint or Inquiry (Category III)

1. In those cases where a) the initial receiving supervisor receives an inquiry or complaint directly from a complaining party, or b) when a complainant notifies on the complaint form they would like to speak to a supervisor before making a formal complaint, and that after speaking to the complainant in these instances, it is determined that the complainant will be satisfied with having the supervisor relay any feedback or concern directly to a Department member, without a formal investigation, a complaint may be classified as an "informal complaint." An informal complaint will be documented subject to the provisions of this policy; however, an informal complaint will not result in discipline.

2. As a general rule, allegations of serious misconduct or that a member participated or is a member of a hate group will be formally investigated pursuant to this policy. A supervisor will request an internal investigation if the alleged conduct is serious, may result in major discipline or is criminal in nature, regardless of whether the complaining party agrees to cooperate in investigating the allegation or not.

3. A supervisor should, absent extenuating circumstances or in those cases where the allegations made are such that there is no reasonable basis for believing that any misconduct occurred, conduct a performance review of the matter.

4. A performance review, for the purposes of this policy, is defined as an informal examination of the incident complained about, with an emphasis on the manner in which the member performed their job tasks and how that manner may have contributed to the allegation of misconduct. The review should cover any audio/video of the incident, CAD information, reports written and any other sources or information relating to the matter.

5. A supervisor may counsel any Department member regarding any informal complaint. For the purposes of this policy, personnel counseling is defined as a process in which command or supervisory staff meets with a Department member in a non-punitive setting to discuss performance. Counseling sessions employ techniques designed to reinforce good performance, improve poor performance, and when appropriate, correct behaviors that precipitate or contribute to complaints and/or allegations of misconduct. The counseling defined in this policy is intended to be a positive tool to help members in reaching a higher level of effectiveness. Supervisors are encouraged to use counseling sessions to help improve communication with Department members. A member may bring a representative with them to a scheduled counseling session. If documented counseling is appropriate, it will be documented in the member's performance file as part of the performance review.

6. A supervisor may provide or recommend training to a member. Training is a non-punitive tool used to make members more efficient/effective by providing instruction and practice. Training can be either in-house or outside training, specific to the needs of the member and the Department. Training should be documented in a member's

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performance or personnel file, as appropriate, in order to have a regular record of any training received.

7. Documentation shall be in the form of a memorandum that contains a short summary of the incident and what actions, if any, were taken. The memorandum shall contain the complainant's name, address, phone number, and any other identifying information that may be needed. A supervisor shall, prior to placing any memorandum created pursuant to this policy, provide a copy to the member's Division Commander for review. A copy shall also be provided to the member, who should initial the document before it is placed in any file. Should the member refuse to initial the document, the supervisor shall make a notation on the document that the member had an opportunity to review it and they refused to initial it. A member may respond in writing within 30 days to any document which is placed in any file.

8. A copy of the performance review may be maintained in the member's performance file and may be used pursuant to the provisions of PP 1.03-C, Personnel Files or for preparing an annual evaluation.

9. The original memorandum shall be forwarded, through the chain-of-command, to Professional Standards who will be responsible for filing and maintaining the document in the appropriate internal file for the required statutory period. A performance review and any documentation of such is a non-punitive action (see Government Code § 3303).

c. The Alternative Conflict Resolution Program (mediation) is an option for resolving complaints or conflict involving members of the Davis Police Department.

1. Participation shall be voluntary on the part of all involved parties. There shall be no consequences for a member electing to not participate.

2. Complaints referred to and accepted for mediation shall preclude formal corrective action being taken against a member.

3. Professional Standards will be responsible for documenting the mediation and properly filing all paperwork associated with the original complaint.

[See attachment: ACR Program.pdf](#)

305.8 ADMINISTRATIVE INVESTIGATIONS

1. Members who are interviewed or interrogated shall not provide misleading, untruthful, inaccurate, or partially misleading, untruthful, or inaccurate information to any supervisor or investigator, nor shall any member fail to disclose any pertinent facts or information within their knowledge to any supervisor or investigator.

2. The investigator shall, subject to consent or pursuant to law, record all interrogations or interviews conducted as part of an investigation. The member may also record the interview. If the member has been previously interviewed, a copy of that recorded interview shall, unless waived, be provided to the member prior to any subsequent interview.

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3. Most complaints should be resolved within 60 days, absent extenuating circumstances. The Office of the Police Chief may extend the deadline for good cause, but the good cause shall be specified in writing as part of the investigation.

305.8.1 SUPERVISOR RESPONSIBILITIES

1. The Office of the Police Chief will assign cases to supervisors or investigators to complete investigations. All assignments will be documented on the Internal Investigation Face Sheet.

2. Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation (Government Code § 3304).

In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d), Government Code § 3508.1 and/or Penal Code § 13682.

3. The assigned investigator is responsible for conducting an investigation into the incident. When a supervisor is investigating a complaint in which unusual circumstances exist, or where points of policy and procedure clarification are necessary, they shall consult with Professional Standards or the Office of the Police Chief to maintain consistency in the investigative process. For Category II investigations, if new or additional facts become known to the investigator which would likely move the investigation to a Category I investigation, the investigator should temporarily stop the investigation and immediately notify the Office of the Police Chief. The investigation may be re-assigned to Professional Standards at the direction of the Office of the Police Chief.

4. The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate, and at least every 21 days until the investigation is submitted to the Office of the Police Chief.

305.8.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Investigations of sworn officers shall be in compliance with section 3300 et seq. of the Government Code, commonly known as the Peace Officer's Bill of Rights (POBR), which specifies that when any public safety officer is under investigation and subjected to interrogation by their commanding officer, or any other member of the employing public safety department, that could lead to punitive action, the interrogation shall be conducted under the following conditions. For the purpose of POBR, punitive action means any action that may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment.

Investigations of all other personnel shall be in compliance with all applicable statutory and case law and in compliance with the City Personnel Rules.

- a. Upon the filing of a formal written statement of charges, or whenever an interrogation focuses on matters that are likely to result in punitive action against any public safety officer, that officer, at their request, shall have the right to be represented by a representative of their

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choice who may be present at all times during the interrogation. The representative shall not be a person subject to the same investigation. The representative shall not be required to disclose, nor be subject to any punitive action for refusing to disclose, any information received from the officer under investigation for noncriminal matters. This section shall not apply to any interrogation of a public safety officer in the normal course of duty, counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other public safety officer, nor shall this section apply to an investigation concerned solely and directly with alleged criminal activities (Government Code § 3303).

b. Interviews of an accused member shall be conducted during reasonable hours and preferably when the member is on-duty. If the member is off-duty, they shall be compensated.

c. Unless waived by the member, interviews of an accused member shall be at the Davis Police Department or other reasonable and appropriate place.

d. No more than two interviewers should ask questions of an accused member.

e. Prior to any interview, a member shall be informed of the nature of the investigation, the name, rank and command of the officer in charge of the investigation, the interviewing officers and all other persons to be present during the interview.

f. All interviews shall be for a reasonable period and the member's personal needs should be accommodated.

g. No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.

h. Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.

i. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Lybarger* advisement. Administrative investigators should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).

j. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor unless otherwise specified by law.

k. In order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.

l. No member may be requested or compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

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305.8.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

The investigator is responsible for:

- I. Introduction/Background - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint or allegation of misconduct.
- II. Synopsis - Provide a brief summary of the facts giving rise to the investigation.
- III. Investigation/Evidence - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section. Evidence may include:
 - i. CAD Information
 - ii. Radio Information
 - iii. In-Car Camera/BWC information
 - iv. Statements of complaining parties
 - v. Statements of witnesses, including Department members
 - vi. Statements of personnel subject to the investigation
- IV. Exhibits - Exhibits (e.g., recordings, photos, documents, transcripts) should be attached to the report.

Any evidence, recordings, photographs, or original documents not attached to the investigation shall be placed in evidence and recorded using the complaint number.

305.8.4 ADMINISTRATIVE FINDINGS

After an investigation has been completed, the report shall be forwarded to the Office of the Police Chief. The Office of the Police Chief is responsible for reviewing the completed report, providing the analysis of evidence and making the final finding. Alternatively, the Police Chief may make any findings pursuant to this policy.

1. A Chief will render one of the following findings:
 - a. Unfounded –The investigation clearly established that the allegation is not true (Penal Code § 13012).
 - b. Not Sustained –The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation in the complaint (Penal Code § 13012).
 - c. Sustained –The investigation disclosed sufficient evidence to prove the truth of allegation in the complaint by the preponderance of evidence (Penal Code § 13012).
 - d. Exonerated –The investigation clearly established that the actions of the personnel that formed the basis of the complaint are not a violation of law or agency policy (Penal Code § 13012).

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- e. Frivolous –Means totally and completely without merit or for the sole purpose of harassing an opposing party (Penal Code § 832.5 & Code of Civil Procedure § 128.5(b)(2)).
- f. Alternative Conflict Resolution –The complaint is resolved in accordance with the ACR Program. Resolved complaints are not reportable as complaints pursuant to Penal Code § 13012.
- g. Withdrawn –The investigation is withdrawn at the request of the complaining party. Withdrawn complaints are not reportable as complaints pursuant to Penal Code § 13012.

2. Written Findings

Members who are the subject of an investigation will receive written notification of the administrative finding within 30 days of the finding being made. If the investigation results in a sustained finding, the member shall receive a copy of the investigation prior to formal corrective action being imposed, except those portions deemed to be confidential. A record shall be kept when any person receives a copy of an investigation. That record shall be kept with the original investigation.

305.8.5 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation (Government Code § 3304).

In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d) or Government Code § 3508.1.

305.8.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate, and at least every 21 days until the investigation is submitted to the Office of the Police Chief.

305.9 ADMINISTRATIVE LEAVE

Whenever the Police Chief determines that it is in the best interest of the City to not have a member at the work place, either prior to or during, any investigation or the disciplinary process, said member may be placed on paid administrative leave subject to such reasonable conditions as may be determined by the Police Chief given the circumstances of the situation.

305.9 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

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Lockers and storage spaces may only be administratively searched in the member's presence, with the member's consent, with a valid search warrant or where the member has been given reasonable notice that the search will take place (Government Code § 3309).

305.9.1 DISCLOSURE OF FINANCIAL INFORMATION

An employee may be compelled to disclose personal financial information under the following circumstances (Government Code § 3308):

- (a) Pursuant to a state law or proper legal process
- (b) Information exists that tends to indicate a conflict of interest with official duties
- (c) If the employee is assigned to or being considered for a special assignment with a potential for bribes or other improper inducements

305.11 GROUNDS FOR DISCIPLINE/TRAINING

1. Pursuant to the Personnel Rules & Regulations of the City of Davis, discipline may be taken against a member for "good cause." Good cause is defined as any facts which, based upon relevant circumstances, may be reasonably relied upon in the exercise of discretion as a basis for disciplinary action.

2. For sustained allegations, once a Chief is satisfied that no further investigation or action is required, they will consult with appropriate staff to determine the amount of discipline, if any, that should be imposed.

a. Generally, the appropriate Division Commander or supervisor of the member is responsible for carrying out any imposed counseling, training or minor discipline. However, the Office of the Police Chief may also issue discipline, as appropriate.

b. In the event major disciplinary action, as defined in the Personnel Rules & Regulations of the City of Davis, is proposed, a Chief shall provide the member with written notice of the charges, proposed action and reasons for the proposed action. Written notice shall be provided within one year from the date of discovery of the misconduct (Government Code § 3304(d)).

3. In some instances, an investigation may fail to disclose sufficient evidence to meet the burden of proof to sustain the allegation of misconduct, but the matter may warrant further training or counseling. The appropriate Division Commander or supervisor of the member is responsible for carrying out any counseling or training.

4. Corrective action/training may include, but is not limited to:

- a. Oral Warning or Counseling
- b. Training
- c. Documented Counseling

These actions are not discipline and are not subject to appeal.

5. Discipline may include, but is not limited to:

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- a. Written Reprimand
- b. Suspension
- c. Demotion
- d. Discharge
- e. Criminal complaint

305.11.1 RIGHT TO RESPOND TO ADVERSE COMMENT

Any employee may respond to any adverse comment placed in any file. The response shall be submitted within 30 days of the entry of the adverse comment to the file.

305.11.2 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Police Chief or the authorized designee shall ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint (Penal Code § 832.7(f)).

305.11.3 NOTICE REQUIREMENTS

The disposition of any civilian's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall not include what discipline, if any, was imposed (Penal Code § 832.7(f)).

305.12 APPEAL FROM DISCIPLINE

Discipline may be appealed in accordance with the Personnel Rules and Regulations of the City of Davis, the MOU between the City of Davis and the Davis Police Officers Association and also, in the event of punitive action against an employee covered by the POBR, the appeal process shall be in compliance with Government Code § 3304 and Government Code § 3304.5.

During any administrative appeal, evidence that an officer has been placed on a *Brady* list or is otherwise subject to *Brady* restrictions may not be introduced unless the underlying allegations of misconduct have been independently established. Thereafter, such *Brady* evidence shall be limited to determining the appropriateness of the penalty (Government Code § 3305.5).

305.13 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline (Penal Code § 13510.8).

305.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and probationary employees and those members other than non-probationary employees may be released from employment for non-disciplinary reasons (e.g., failure to meet standards) without adherence to the procedures set forth in this policy or any right to appeal. However, any probationary officer subjected to an investigation into allegations of misconduct shall be entitled

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to those procedural rights, as applicable, set forth in the POBR (Government Code § 3303; Government Code § 3304).

At-will, probationary employees and those other than non-probationary employees subjected to discipline or termination as a result of allegations of misconduct shall not be deemed to have acquired a property interest in their position, but shall be given the opportunity to appear before the Police Chief or authorized designee for a non-evidentiary hearing for the sole purpose of attempting to clear their name or liberty interest. There shall be no further opportunity for appeal beyond the liberty interest hearing and the decision of the Police Chief shall be final.

305.15 MEMBER REVIEW

The member's Division Commander and a Chief shall meet with any member who receives 3 or more internal or personnel complaints within any 24-month period, regardless of the findings of those investigations. The meeting shall not constitute discipline and shall be for the purpose of determining whether the member needs additional training, guidance, or resources to aid them in their position.

305.16 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

305.17 REQUIRED REPORTING TO POST

The Office of the Police Chief shall notify POST on the appropriate POST form within 10 days of certain officer personnel events, including but not limited to (Penal Code § 13510.9):

- (a) Termination or separation from employment or appointment. Separation from employment or appointment includes any involuntary termination, resignation, or retirement.
 - 1. A POST affidavit-of-separation form shall be executed and maintained by the Department and submitted to POST as required by Penal Code § 13510.9 and 11 CCR 1003.
- (b) Events that could affect an officer's POST certification, such as:
 - 1. Complaints, charges, or allegations of serious misconduct (as defined by Penal Code § 13510.8).
 - 2. Findings of civilian review boards.
 - 3. Final dispositions of any investigations.
 - 4. Civil judgments or court findings based on conduct, or settlement of a civil claim against an officer or the Davis Police Department based on allegations of conduct by an officer.

The Police Chief or the authorized designee shall be responsible for providing POST access to or duplication of investigation documentation (e.g., physical or documentary evidence, witness

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statements, analysis, conclusions) within the applicable timeframe provided in Penal Code § 13510.9.

305.17.1 NOTIFICATIONS TO POST FOR SERIOUS MISCONDUCT

The Office of the Police Chief or the authorized designee shall report allegations of serious misconduct by an officer to POST and the report shall include the following (11 CCR 1207):

- (a) Name of the Department
- (b) Administrative case number
- (c) Name, current address, and phone number of the complainant, if available
- (d) Name, POST ID, current address, and phone number of the involved officer
- (e) A summary of the alleged misconduct including:
 - 1. A narrative of the allegations
 - 2. Date and time of incidents
 - 3. Location of occurrence
 - 4. Any witness information, if available
 - 5. Summary of arrest or indictment of involved officer
- (f) A change in employment status of the involved officer (e.g., administrative leave, suspension, termination)
- (g) Name and contact information of the assigned investigator

The Office of the Police Chief shall provide updates of the investigation to POST every 90 days until the final disposition in the method designated by POST (11 CCR 1207).

Upon completion of the investigation, the Office of the Police Chief shall submit to POST the final disposition of the investigation as well as investigation materials and the officer's service record as provided by 11 CCR 1207.

305.17.2 ADDITIONAL NOTIFICATIONS TO POST

Additional notification shall be made to POST (11 CCR 1207):

- (a) If the imposed disciplinary action is pending appeal or other review through an administrative or judicial proceeding:
 - 1. The Department shall provide the name of the body conducting the proceeding.
 - 2. The status of the proceeding, if known.
- (b) If criminal charges are pending:
 - 1. The name of the court having jurisdiction over the criminal charges against the officer.
 - 2. The status of the criminal case, if known.

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305.18 COMPLAINT FORM

See attachment: [Personnel Complaint Forms \(rev 2022\).pdf](#)

Attachments

PP 1.07-AA ACR Program.pdf

COMMUNITY – POLICE ALTERNATIVE CONFLICT RESOLUTION (ACR) PROGRAM

BACKGROUND

In October 2013, the City of Davis engaged a consultant to facilitate Dialogue Sessions between Davis Community members and the Davis Police Department on the topic of racial profiling. Discovery Sessions in October lead to Dialogue Sessions held from November 2013 through September 2014. The Dialogue Sessions resulted in the creation of this Community – Police Alternate Conflict Resolution (ACR) Program designed to restore the Davis Community when conflict occurs between a Davis Community Member(s) and a Davis Police Department employee(s).

The **ACR Program** outlined in the following pages borrows liberally from and acknowledges the work of **Kay Pranis**, a national leader in restorative justice, specializing in peacemaking circles and **Marshall B. Rosenberg, Ph.D.**, American psychologist and the creator of Non-Violent Communication, a communication process that helps people to exchange the information necessary to resolve conflicts and differences peacefully.

An outline of the flow of ACR Program basic functions is found in Figure 1: Community – Police Alternate Conflict Resolution (ACR) Program Process. Each basic function of the process (presented in a verb + noun format) is described below.

AUTHORITY

This ACR Program uses a method of conflict resolution known as the “circle process.” This method of conflict resolution complies with the California Evidence Code Section 1115 definition of mediation which states:

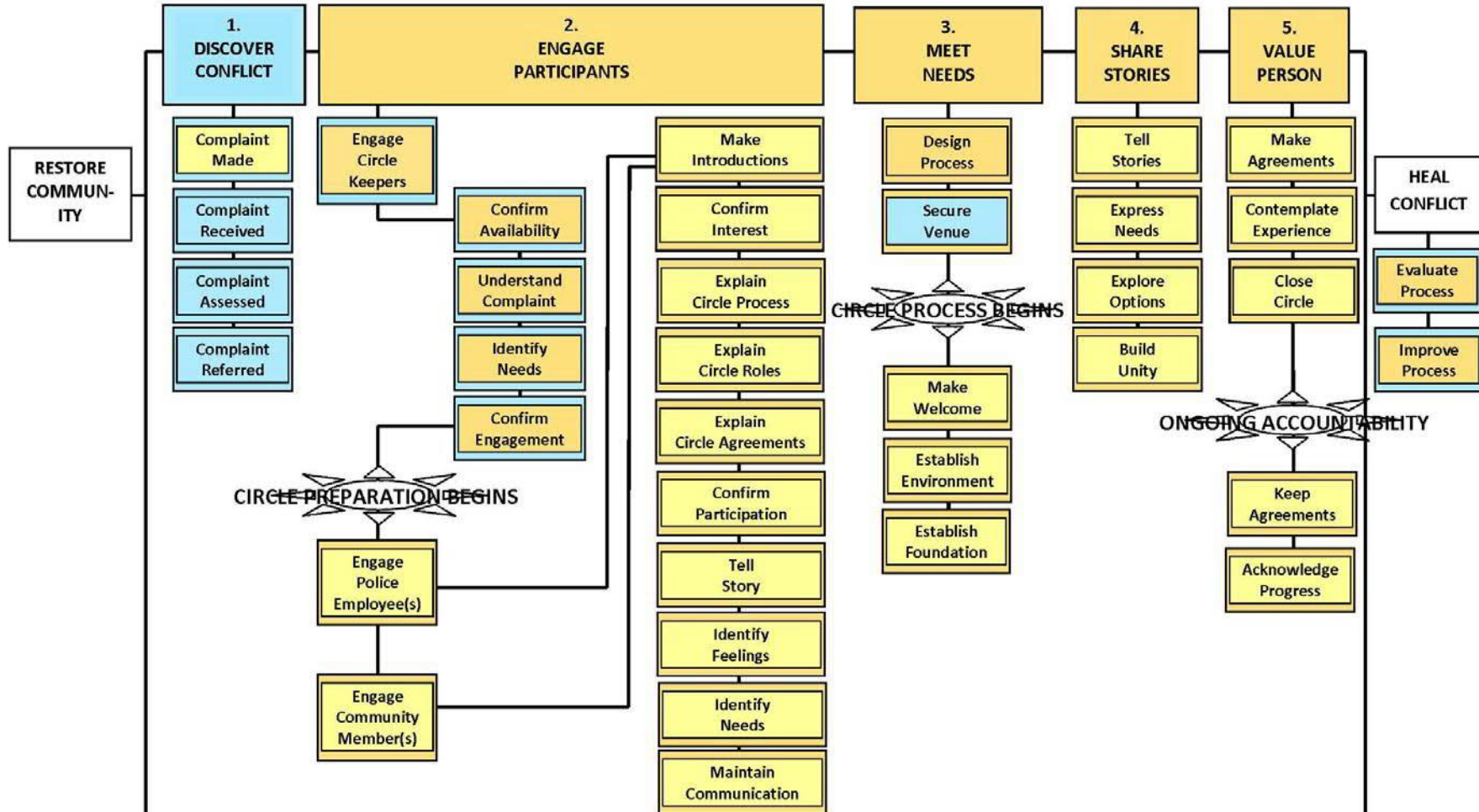
- (a) "Mediation" means a process in which a neutral person or persons facilitate communication between the disputants to assist them in reaching a mutually acceptable agreement. The “circle process” is mediation.
- (b) "Mediator" means a neutral person who conducts a mediation. "Mediator" includes any person designated by a mediator either to assist in the mediation or to communicate with the participants in preparation for a mediation. A “circle keeper” is a mediator.
- (c) "Mediation consultation" means a communication between a person and a mediator for the purpose of initiating, considering, or reconvening a mediation or retaining the mediator.

FIGURE 1

COMMUNITY – POLICE ALTERNATIVE CONFLICT RESOLUTION (ACR) PROGRAM PROCESS

(08.29.14)

<i>Keep Confidentiality</i>	<i>Be Voluntary</i>	<i>Maintain Safety</i>	<i>Be Non-Hierarchical</i>	<i>Use Non-Violent Communication</i>	<i>Be Transparent</i>	<i>Be Flexible</i>
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LEGEND	Start/End	Community Member(s) / Police Employee(s)	Circle Co-Keepers	Davis PD	Holds Responsibility	Activity Done By	Requirements
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ACR PROGRAM PURPOSE

RESTORE COMMUNITY

The ACR Program is an informal, confidential mediation process based on two restorative practices: circle processes and non-violent communication. Through the ACR Program, the Community Member(s) with a specific complaint about an interaction with a Davis Police employee(s), and the Davis Police employee(s) meet in a face-to-face restorative process with the assistance of a team of two trained Circle Co-Keepers.

HEAL CONFLICT

The ACR Program allows the participants to the interaction giving rise to the complaint to safely explore, understand, and/or mutually resolve the issues of the interaction with the object of healing the conflict. This may result in an agreement or an agreement to disagree. Participants are not required to reach a formal resolution. The expectation, however, is that by “coming together in a good way,” the relationship between the participants will be restored.

REQUIREMENTS

Requirements are specific characteristics that are critical to participants' satisfaction with the ACR Program. The program is informed, in its design and implementation, by these participant expectations.

Keep Confidentiality

Keep Confidentiality. Confidentiality is an essential element of the ACR Program. All participants must feel free to speak candidly. Audio or video recording of any kind is not allowed during the preparation or execution of an ACR Program circle process.

Confidentiality has special relevance for public complaints. Participants must be assured that any apology or acknowledgement of wrong doing will not be used against them, either by the Police Department or by a private attorney, in any subsequent proceeding of any sort.

Confidentiality does not preclude the Department from capturing general statistical information necessary to evaluate the effectiveness of the ACR Program.

**Be
Voluntary**

Be Voluntary. Community Members and Police Employees must choose voluntarily to participate in the ACR Program. Much of the power of circle processes comes from affirming that the participants have the ability to choose for themselves. Making choices is empowering.

Circle processes invite participants to drop their ordinary identity and protections that create distance between us as people. A circle process is designed to create an environment where strong emotion and feeling, truth, conflict, silence, paradox, and opposite opinions can be safely engaged.

**Maintain
Safety**

Maintain Safety. The role of the Circle Keeper is to initiate an environment for conflict resolution that is respectful and safe. Additionally the Circle Keeper engages the circle participants in sharing responsibility for maintaining that space of safety and respect. The safer the environment, the greater the potential for participants in the ACR Program to explore their issue(s), come to some understanding, and/or resolve or heal the conflict.

**Be Non-
Hierarchical**

Be Non-Hierarchical. Circle processes share power. Nothing in a circle process should convey rank or privilege. All participants in a circle process, not just the Circle Co-Keepers, are responsible for what happens during the circle process. All participants in the circle are equal community members. Development of the circle's values, guidelines, and decisions are arrived at together.

**Use Non-Violent
Communication**

Use Non-Violent Communication. The ultimate aim of Non-Violent Communication (NVC) is to develop societal relationships based on a restorative, "partnership" paradigm and mutual respect, rather than a retributive, fear-based, "domination" paradigm. NVC focuses on three aspects of communication: *self-empathy* (defined as a deep and compassionate awareness of one's own inner experience), *empathy* (defined as listening to another with deep compassion), and *honest self-expression* (defined as expressing oneself authentically in a way that is likely to inspire compassion in others).

Whether speaking or listening, NVC uses the following four steps:

- Observation: What I observe (see, hear, remember, imagine – all free from evaluations).
- Feelings: How I feel (emotion or sensation rather than thought) in relation to what I observe.

- Needs: What I need or value (rather than a preference or a specific action) that causes my feelings.
- Requests: What concrete action would I like taken, without demanding, that would enrich my life.

*Be
Transparent*

Be Transparent. Although the outcome of the ACR Program is unknown as participants begin this journey, the process will be transparent to the participants. Transparency allows participants to have trust in the circle process that they voluntarily are agreeing to engage in.

*Be
Flexible*

Be Flexible. Humans are unique. Human relationships are unique. The ACR Program is designed and delivered in a way that recognizes and accommodates the needs of its participants. Circle Co-Keepers will create strong circle plans to allow participants to engage one another “in a good way.” As needed, these plans are flexible to better respond and be of service to the participants and the journey they are taking together.

1.
DISCOVER
CONFLICT

PROCESS OVERVIEW.

STEP ONE: DISCOVER CONFLICT.

Complaint
Made

Complaint Made. A Community Member, whether a resident, student, visitor or employee of a business within the City of Davis, makes a formal complaint about a specific interaction with an employee of the Davis Police Department using the Citizen Complaint Procedure and Forms available from the:

- Davis Police Department – 2600 Fifth St.
- [Davis Police Department website.](#)
- City Manager’s Office at City Hall – 23 Russell Blvd.

The complainant may indicate their interest in taking part in the ACR Program as part of the initial formal complaint.

Complaint
Received

Complaint Received. The complaint may be filed by contacting a Police Department supervisor and giving them the details of the specific interaction. Additionally a completed complaint may be delivered to the Police Department.

The Community Member may request use of the ACR Program to resolve the complaint. The initially responding supervisor assessing any complaint may discuss the ACR Program with a complaining party and make recommendations for the ACR Process on the complaint form.

The complaint is then forwarded to the Office of the Police Chief.

Complaint Assessed. The Office of the Police Chief reviews all formal complaints and preliminarily determines which complaints meet the ACR Program case eligibility criteria.

Police Employee(s) Assessment. The Office of The Police Chief will review the complaint history of the Police Employee(s) to determine eligibility for the ACR Program. Generally, a Police Employee is eligible for the ACR Program unless they have two prior complaints with similar allegations within the past 12 months. Employee eligibility is ultimately at the discretion of the Office of the Police Chief, who may make exceptions to this guideline as deemed appropriate.

Community Member(s) Assessment. The Office of the Police Chief reviews the complaint reporting history of the Community Member(s) and current or past litigation against the City. This information is considered in screening though it will not be used as a criterion to automatically preclude using the ACR Program.

The Office of the Police Chief contacts the Community Member(s) to determine if there are additional circumstances or allegations - not reported at initial intake - that might make the case ineligible for the ACR Program. The Department will also determine if the complainant first desires a mediated dialog with Department Administration to express concerns and resulting feelings related to historic issues of the police and/or procedure prior to confirming their participation in the ACR Process.

Complaints involving the following allegations will be considered for the ACR Program:

- Biased policing and rude conduct complaints with no additional allegations of misconduct.
- Biased policing and rude conduct complaints with other allegations of minor misconduct.

Complaints involving the following situations will not be initially considered for the ACR Program:

- Force was used.
- Ethnic remark or other specific discourtesy directed at a class of person.
- An employee was assaulted.
- A lawsuit was filed.
- A person was injured.
- Excessive delay in reporting allegations.
- Allegations of criminal misconduct.

Cases not approved for the ACR Program shall be processed for investigation according to the existing personnel complaint policy.

Complaint
Referred

Complaint Referred. The Office of the Police Chief refers a complaint to the ACR Program when all the following criteria are met:

- The complaint of the alleged misconduct is either non-disciplinary or, if the allegation were proved to be true, or is found to be true (sustained) through a formal investigation, could/would result in minor discipline (e.g., discourtesy, general conduct, minor policy violations, or a minor neglect of duty, etc.), or involves an allegation of bias policing as alleged by the Community Member(s); and
- The Police Employee(s) has no apparent pattern of similar behavior (normally limited to the past two years) for which they are accused or has a sustained finding.

The Office of the Police Chief contacts the eligible employee(s) and after providing an overview of the ACR Program determines the Police Employee(s) interest in participating. The Police Employee(s) is minimally supplied with the following information:

- Name of the Community Member(s) making the complaint.
- Description of the complaint.
- Advisement to the employee that the complaint has been approved for the ACR Program.
- Explanation of the ACR Program process including that:
 - All participants engage in the Program voluntarily.
 - Upon completion of the ACR process, the complaint will appear as “Alternative Conflict Resolution Resolved” in the Department’s files.
- Instructions to the employee to reply and either express interest or no interest in voluntary participation in the ACR Program no later than five (5) working days after receiving the notice. A working day is determined by the employee’s schedule. An extension may be granted for good cause.

- Interest in the ACR Program will result in two Circle Co-Keepers being assigned to the complaint.
- No Interest in the ACR Program will result in the case being processed for investigation according to the existing personnel complaint policy.

All Police Employee(s) named in the complaint must be willing to voluntarily participate in the ACR Program or a circle process will not go forward. If any one Police Employee does not agree to volunteer for the ACR Program, the complaint shall be processed for investigation or disposition according to existing personnel complaint policy.

Cases approved for the ACR Program shall preclude formal corrective action being taken against the Police Employee. The complaint will be handled as a Category III – Informal Complaint or Inquiry, under existing department policy.

Cases approved for the ACR Program shall receive expedited attention. Cases not resolved within 45 calendar days from complaint referral to Circle Co-Keepers will be reviewed by the Office of the Police Chief to determine whether the case should continue using the ACR Program.

**2.
ENGAGE
PARTICIPANTS**

STEP 2. ENGAGE PARTICIPANTS.

Three types of participants voluntarily decide to engage in the ACR with the intention of coming together “in a good way”:

- The Circle Co-Keepers. The Office of the Police Chief or his/her designee is responsible for engaging the Circle Co-Keepers.
- The Police Employee(s). Circle Co-Keepers are responsible for fully explaining the ACR Program and confirming the Police Employee(s) voluntary participation in the Program. Police Employee(s) are confirmed before Community Member(s). If any Police Employee involved in the complaint declines to participate in the ACR Program, the complaint will no longer be eligible for the ACR Program.
- The Community Member(s). Circle Co-Keepers are responsible for fully explaining the ACR Program and confirming the Community Member(s) voluntary participation in the Program.

The steps followed to engage the Police Employee(s) and the Community Member(s) are the same.

Engage
Circle
Keepers

Engage Circle Keepers

Circle Co-Keepers help participants engaged in the ACR Program circle process create a safe space for their conversation. They monitor the quality of the interaction throughout the circle process. If the atmosphere becomes disrespectful, it is the responsibility of the Circle Co-Keepers to bring the group's attention to that problem and help the group re-establish a respectful space.

Specific functions held by the Circle Co-Keepers are:

- Preparing participants.
- Planning the specifics of the circle process.
- Self-preparation.
- Establishing and monitoring a respectful, safe space for exploration, understanding, healing, and/or resolution to occur.

Selected Circle Co-Keepers are Davis residents who are trained in the conducting circle processes. Every attempt is made to secure a team of two Circle Co-Keepers who reflect the combined demographic characteristics of the participants¹. Circle Keepers display the following qualities:

- Patience.
- Humility.
- Deep listening.
- Acceptance of everyone as worthy of respect.
- Willingness to sit with uncertainty.
- Ability to share responsibility.

Confirm
Availability

Confirm Availability. The Office of the Police Chief will confirm the availability of a team of two qualified Circle Co-Keepers. Circle Co-Keepers agree to see the case through to its completion.

Understand
Complaint

Understand Complaint. The Office of The Police Chief and an appointed representative of the Police Officer's Association reviews with the Circle Co-Keepers the specifics of the case and the standard police practices associated with it.

Identify
Needs

Identify Needs. The Circle Co-Keepers review the resources required to establish a successful circle with the Office of the Police Chief, e.g., venue, materials, timing. This is an iterative process impacted by the needs expressed by ARC Program participants.

¹ The Davis Police Department, in consultation with the Davis Police Officers Association, is actively recruiting a cadre of demographically diverse, trained Circle Keepers for the purposes of the ACR Program.

Confirm Engagement

Confirm Engagement. The Office of the Police Chief executes an agreement with the Circle Co-Keepers confirming their engagement to mediate specific complaint using the ACR Program. Upon execution of the agreement, Co-Keepers are authorized to directly contact the Police Employee(s) and Community Member(s) to confirm their participation in the ACR Program. Once all participants confirm their engagement in the ACR Program, the Co-Keepers take steps to prepare and execute the ACR Program circle process through to completion.

CIRCLE PREPARATION BEGINS

Engage Police Employee(s)

Engage Police Employee(s). The Circle Co-Keepers will meet with each Police Employee identified in the complaint to confirm their interest and agreement with proceeding with the ACR Program circle process. All Police Employee(s) named in the complaint must voluntarily agree to use the ACR Process before the Co-Keepers will engage the Community Member(s) initiating the complaint. This avoids possible disappointment should the Community Member agree to the ACR Process and then later learn that the Police Employee declines to use the ACR Process.

Engage Community Member(s)

Engage Community Member(s). The Circle Co-Keepers meet with the Community Member(s) identified in the complaint to confirm their interest and agreement with proceeding with the ACR Program circle process. Police Employee participation must be confirmed before contacting the Community Member(s). This avoids raising expectations of the Community Member(s) unnecessarily should the Police Employee(s), upon further consideration, decline to go forward with the ACR Program.

Make Introductions

Make Introductions. The Circle Co-Keepers contact participants by phone, introduce themselves, inquire into their interest in learning more about the ACR Program and request a face-to-face meeting to review the ACR Program and its process. The outcome of this meeting is to have an informed decision, "Yes" or "No," to participate in the ACR Program. During this call, a determination of need for interpretative services will be made. Such services will be arranged through the Office of the Police Chief.

Confirm Interest

Confirm Interest. Upon confirming interest in learning more about the ACR Process, the Co-Keepers set a date and time to meet and explain the circle process, roles and agreements. If any party expresses no interest in proceeding, the complaint is returned to the Police Department and processed for investigation according to existing personnel complaint policy.

Explain Circle Process

Explain the Circle Process. At their face-to-face meeting, the Co-Keepers review the steps of the ACR Program and the types of circle processes that participants could engage. Often circles morph from one type to another as ‘talking’ leads to ‘understanding’ and ‘understanding’ leads to ‘resolution of differences.’ Briefly, the following three types of circle processes could be used in the ACR Program:

Talking Circles. Participants explore a particular issue or topic from many different perspectives. There is no attempt to reach consensus on the topic. The Talking Circle allows all voices to be respectfully heard and offer participants diverse perspectives to stimulate their reflections.

Circle of Understanding. A talking circle focused on understanding some aspect of a conflict or difficult situation. The purpose is to develop a more complete picture of the context or reason for a particular event or behavior. Consensus is not required because understanding – not decisions – is the focus of the circle.

Conflict Circle. Disputants are brought together to resolve their differences. Resolution takes shape through a consensus agreement.

The following ACR Program steps are explained to participants:

Engaging Participants.

- Preparatory conversations with Police Employee(s).
- Preparatory conversations with Community Member(s).

Meeting Needs.

- Creating initial design of opening / closing activities and circle questions / topics.
- Securing a meeting venue that can be arranged in a way that creates a safe and friendly meeting environment and is available at times and dates acceptable to all participants.
- Making participants welcome as they arrive for the circle process.
- Establishing a dedicated environment for the circle process.
- Establishing the Foundation for conversation.

Share Stories.

- Telling stories that allow participants to begin to see each other as human beings rather than “others.”
- Expressing feelings and needs that have arisen due to the conflict.
- Exploring options that would address the needs that arose due to the conflict.
- Building unity by identifying common ground and points of agreement.

Value Person.

- From a place of community and common ground, make agreements between the participants.
- Reflecting on the experience of the circle process – both personally and from the perspective of the larger community.
- Closing the circle to transition from an environment of peacemaking to that of everyday life.
- As agreed, following up and providing support to assure that Agreements are kept.
- Having Co-Keepers check-in with participants one and six weeks after the completion of the circle to acknowledge, document and celebrate the impact of the participants coming together “in a good way.”

After the ACR Program circle process is complete, all participants will consider the complaint “Alternative Conflict Resolution Resolved” and no further action relative to the incident will be initiated.

Explain Circle Roles

Explain Circle Roles. The Co-Keepers review the roles and structures of the circle process. These include:

Circle Keeper. The facilitator of the circle. The Keeper is not responsible for finding solutions or for controlling the group. The Keeper’s role is to *initiate* a space that is respectful and safe, and to engage participants in *sharing responsibility* for the space and for their shared work. The Keeper helps the participants access their individual and collective wisdom by opening the space as the group proceeds. The Keeper is a participant in the process and may offer his/her thoughts, ideas and stories. Bias is minimized by caring about everyone in the circle rather than by holding a clinical distance. The ACR Program attempts to use two Circle Co-Keepers representative of the diversity of its participants whenever possible.

Guidelines. Commitments or promises that participants make to one another about how they will behave in the circle.

Opening and Closing Activities. Mark the time and space of the circle as distinctly different from everyday life and dedicated to peacemaking.

Focal Point. Circle participants create a focal point that supports authentic speaking and open listening. The focal point usually sits on the floor in the center of the open space inside the circle of chairs to help remind participants of their values and the shared vision of the group.

Talking Piece. An object that is passed from person to person around the circle. As the name implies, holding of the talking piece gives one the opportunity to talk while all others have the opportunity to listen without thinking about a response. The holder of the talking piece may also choose to offer silence, or the holder may pass the piece without speaking. There is no obligation to speak when the talking piece comes. The talking piece is a critical element in creating a space where participants can speak from a deep place of truth. It slows the pace of conversation and encourages thoughtful and reflective interactions among participants. It often carries symbolic meaning related to the group's shared values – a concrete reminder to the speaker of those values.

Consensus Decision-Making. Not all circle processes involve making decisions, but when they do, the decisions are made by consensus. This is understood to mean that all participants are willing to live with the decision and support its implementation.

Storytelling. Storytelling delivers information in a way that opens the listener. The body relaxes, settles back, and is more open and less anxious. We take in the story before screening the content. We engage emotionally as well as mentally. This different kind of listening allows information to be exchanged more thoroughly, leading to greater understanding between participants.

Explain Circle Agreements. The Co-Keepers outline the required agreements that allow participants to come together “in a good way:”

Respect the Talking Piece. This shows respect for each others' views and perspectives.

Speak Genuinely. This draws to the circle universal values of honesty, trust, sharing, courage, humility, and perhaps empathy and forgiveness. Following this helps participants find ways to express their feelings

Explain
Circle
Agreements

and needs “in a good way.” It also avoids toxic communication such as blame, defensiveness, stonewalling and contempt.

Speak with Respect. Feelings and needs are shared in a non-judgmental and respectful way demonstrated by the words chosen and how the words are said. By speaking with respect, we honor our differences by expressing our needs without diminishing the interests of others.

Listen with Respect. Attending to how we listen, without judgment, conveys respect to others and the process. It supports the intention of working together “in a good way.” Our whole body (words, body, tone, focus) demonstrate our willingness to listen.

Remain in the Circle. Unless excused by a Keeper, all participants are expected to remain in the circle until it’s completed. Because circles deal with emotions, personal stories and volatile issues, participants need to stay together to work everything through, if not to full resolution, at least to some balanced stopping point. If a person explodes with rage and storms out or if the one at who anger is directed leaves, the conflict can’t be processed safely and constructively in the circle. Knowing the time limits of a circle and taking timely breaks help people remain in the circle by providing everyone with an emotional breather.

The requirement to remain in the circle means that participants agree to stay with the circle process and honestly work through difficulties together. This is part of “coming together in a good way.” Withdrawals from the process by the community member will result in a return of the complaint to the Office of the Police Chief where it will be closed with “Alternative Conflict Resolution Resolved.”

Honor Confidentiality. Honoring confidentiality allows participants to share what’s on their minds freely; they know that what they say won’t be repeated out of context or used against them. For this reason, no recording devices may be used. Confidentiality is so important that all participants are required to sign a Confidentiality Agreement (Attachment 1) when they confirm their voluntary participation the ACR Program.

Confirm
Participation

Confirm Participation. After Co-Keepers explain and answer questions about the circle process and its associated roles and agreements, participant(s) are asked whether they want to voluntarily participate in the ACR Process.

Tell Story

Yes. If the answer is “Yes,” from all:

- Police Employee(s) named in the complaint, and
- Community Member(s) initiating the complaint, each participant will be required to sign, the following documents:
- Confidentiality Agreement (Attachment 2).
- Community – Employee Mediation: Agreement to Mediate. (Attachment 2).

No. If the answer is “No,” from any:

- Police Employee named in the complaint, or
- Community Member(s) initiating the complaint,

The complaint will be referred back to the Police Department for classification and investigation.

Need Time to Consider. Participants that require time to further consider the ACR Program will agree to meet with Co-Keepers on a specific day and time within seven (7) calendar days of this initial conversation to discuss the Program further and make a final “Yes” or “No” decision about participation in the ACR Program.

Tell Story. Upon confirmation of one’s participation in the ACR Program, the Co-Keepers invite the participant to tell the story of the conflict: what was happening before and during the conflict as well as what has happened since the conflict. Co-Keepers actively listen for the facts as well as the emotions associated with the conflict. Co-Keepers reflect back this information to the participant to confirm their understanding of the conflict as well as to let the participant hear back their own story. The Co-Keepers may ask clarifying questions of the participant to assure their understanding of the conflict.

If during the telling one’s story, a significant act of misconduct is disclosed, the ACR session will be stopped and the complaint referred to the Office of the Police Chief for classification and formal investigation.

In order to “meet in a good way,” Co-Keepers will provide participants with the basic techniques needed to communicate non-violently. This encourages respectful speaking and listening. Participants are coached to use “I” statements that describe what s/he observed, free from personal evaluation.

Identify
Feelings

Identify Feelings. The Co-Keepers ask the participant to consider the feelings (emotions or sensations rather than thoughts) that have been elicited as a result of the conflict. To assist with this, a list of feelings developed by the Center for Nonviolent Communication (Attachment 3) will be used.

Identify
Needs

Identify Needs. Negative feelings are the result of unmet needs or values. The Co-Keepers dialog with the participant to help them identify the unmet needs or values that were elicited by the conflict. To assist with this, a list of needs and values developed by the Center for Nonviolent Communication (Attachment 4) will be used.

Additionally the Co-Keepers discuss participant needs related to creating a safe environment for the circle itself. These include identifying:

Initial desired **Outcomes** for the circle. Based on the identified feelings and needs, the participants may have a sense of requests they would like to make to help resolve the conflict. It is also likely that the initial desired outcomes may shift as a result of the conversations held inside the circle.

Personal **Values** that need to be embodied in the circle process. Circle Keepers have found that participants identify combinations of these ten values as being essential for a safe circle environment: respect, honesty, trust, humility, sharing, inclusivity, empathy, courage, forgiveness and love.

Others whose participation would enhance the circle process. Based on the preparatory interviews with all of the circle participants the Co-Keepers determine whether there are others whose participation could be helpful in the circle (e.g. third parties or community members who are respected by both of the key parties and are not aligned with either of the key parties on this issue, individuals who provide emotional support to the participants, others who have been effected by the situation, experts who may explain standard police procedures, etc.) The Co-Keepers will engage these other participants to confirm their suitability and contribution to the circle process and prepare them for the circle process should they be included. Employee representation or legal counsel for either participant may not be included in the circle.

Considerations related to the **Environment** of the circle. Accommodations needed by participants to be comfortable with the process will be explored including individual sensitivities, physical needs, and transportation requirements.

Personal Availability related to the scheduling of the circle. Every attempt will be made to hold the circle at a time and place that is mutually supportive of participants' schedules. Participants are required to be in good communication regarding their schedules. Cases may be re-scheduled with good cause and when participants are in proactive communication. Cases where participants fail to appear without good cause will be provided the choice of rescheduling the ACR Program circle process or having the case closed as "Alternative Conflict Resolution Resolved."

Maintain
Communi-
cation

Maintain Communication. The Co-Keepers keep participants regularly informed of the circle plans and progress. They provide all parties with equal access to information in a timely and transparent manner.

3.
MEET
NEEDS

STEP 3: MEET NEEDS.

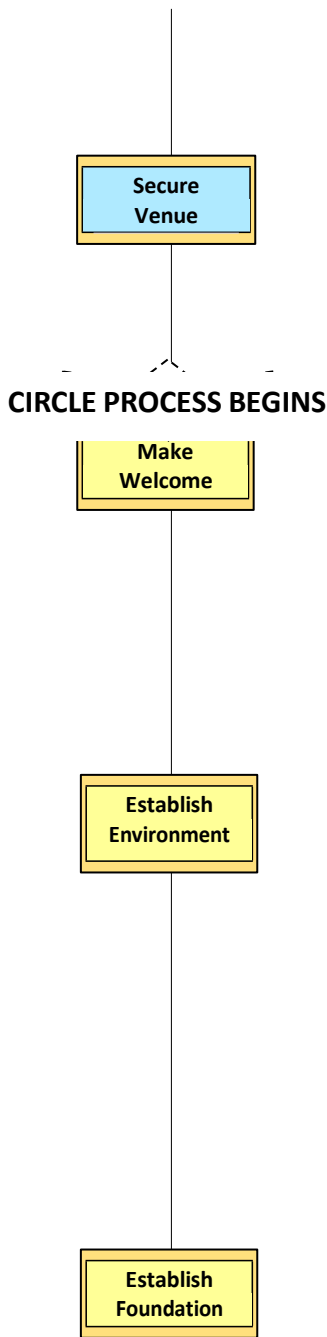
Upon confirmation of participants' desire to engage in the ACR Program and an understanding of their stories, feelings and needs, the Co-Keepers begin the process of designing the circle process so it meets the collective needs of the participants.

Design
Process

Design Process. Through **Engaging Participants**, the Co-Keepers identify the key issues to be addressed through the circle process. They begin putting together the circle plan answering the following questions:

- What time and date should the circle be held?
- Where the circle should be held?
- What will be the talking piece?
- What will be in the focal point?
- What opening activity will be used?
- What question will be used to generate values for the circle?
- What question will be used for an introduction or check-in round?
- Is there a need for further relationship building before getting into the issues? If so, how will that be done?
- What question(s) will be used to begin the dialogue about the key issues?
- What further questions might be useful if the group is not getting deeply enough into the issues?
- What closing activity will be used?

The Co-Keepers also decide how to share the responsibilities of keeping the circle. The plan is always seen as flexible and open to modification based on the needs of the circle participants.



Secure Venue. After the Co-Keepers identify the requirements, date and time for the circle process, recommendations for specific venues, if known, are made to the Office of the Police Chief, who secures the venue for the ACR Program. The best locations provide comfortable chairs and are accessible, quiet, peaceful, neutral and perceived as belonging to the community.

Make Welcome. The meeting space used for the ACR Process is intentionally created to be warm and welcoming to participants. Co-Keepers greet participants upon arrival, orient them to the space and invite them to enjoy refreshments together. Attending to the physical space makes participants feel welcome and comfortable before, during and after a circle. The informal spaces created around a circle play an essential role in achieving all the circle’s objectives, because they contribute to an atmosphere conducive to a respectful, cooperative endeavor.

Establish Environment. The opening activity of the circle is designed to help participants transition from the scattered, hectic pace of everyday life to the dedicated space of peacemaking. The Co-Keepers explain which activities are proposed, what they mean and why they’re important. The Opening activity can take many forms – a reading, a moment of meditation, or a simple deep breathing exercise. Whatever form is chosen is selected to reflect what has special meaning within the community. It should feel easy and natural. Co-Keepers ask permission to begin. Opening activities are planned to include everyone. However, Keepers encourage those who may feel uncomfortable to decline, assuring them that the circle respects their wishes.

Establish Foundation. Keepers begin the first round of the circle by having participants introduce themselves – sharing who they are, how they feel and what they hope to achieve. This introductory round gives everyone a sense of where people are emotionally and what’s on their minds.

Next the Co-Keepers review and seek consensus on the circle guidelines, which include the basic agreements (discussed when **Engaging Participants**) and other suggestions or changes. This reaffirms the participatory nature of the process and demonstrates the importance of creating and maintaining a safe and sacred space for dialogue.

4.
SHARE
STORIES

Tell
Stories

Express
Needs

Explore
Options

Build
Unity

5.
VALUE
PERSON

Make
Agreements

Contemplate
Experience

STEP 4: SHARE STORIES.

Co-Keepers will pose a series of questions and invite participants to respond to them as the talking stick is passed around the circle. Typically these rounds follow this general format:

Tell Stories. Participants move beyond personal masks and appearances and meet one another as human beings through an initial round of storytelling.

Express Needs. The participants' feelings, needs, interests and/or shared vision resulting from the conflict are shared and received in the circle.

Explore Options. The participants' interests, issues, and options for conflict resolution are shared and received in the circle. Co-Keepers identify possible consensus points.

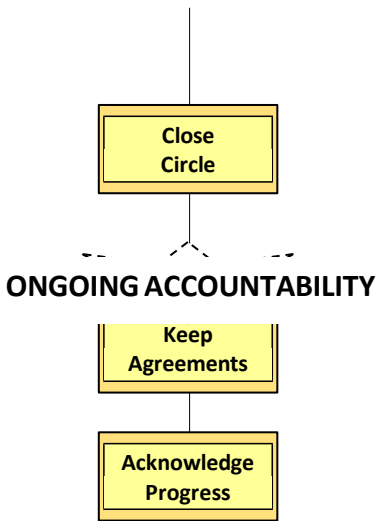
Build Unity. Points of agreement between the participants and common ground are identified. This builds a sense of unity or a consensus for action. Unity is often found when individual interests are considered from the perspective of the larger community where wider, more imaginative consensus can be built. Co-Keepers suggest next steps.

STEP 5: VALUE PERSON.

When the participants begin to see each other as individual people rather than "others," restoration of the relationship is possible.

Make Agreements. Points of agreement and disagreement are reviewed. Final views heard. Next steps confirmed. Support needed to complete agreements is identified and plans are made for success. Any future communication needs or follow-up are identified. Measures of circle success are identified.

Contemplate Experience. Co-Keepers summarize the journey the participants have made together and express gratitude for coming together "in a good way." Participants reflect together on their experience noting both their inner journeys as well as the bigger journey they have taken together on behalf of the larger community of Davis.

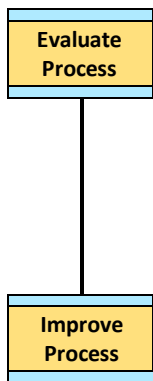


Close Circle. The closing circle is the last round of conversation with masks down. It also marks the transition from the unique environment of the circle back to the everyday worlds of the participants where open and vulnerable conversation is not the norm.

Keep Agreements. If made, participants follow through with the specific agreements made with one another.

Acknowledge Progress. At one week and six weeks after the circle, Co-Keepers follow up individually with participants to identify the immediate and ongoing impact of the circle. Measures of success previously identified by the participants are discussed. If participants mutually agree that additional circle work is needed to **Keep Agreements** or to celebrate the completion of agreements, an additional circle may be convened for that specific purpose.

POST ACR PROCESS



Evaluate Process After each conflict is processed through the ACR Program, an evaluation will be conducted using the participants own measures of success, the Co-Keeper’s measures of success, and the Davis Police Department’s measures of success Findings identified include:

- What worked well and should be continued?
- What didn’t work well and how could it be improved?

Improve Process. After each circle process is completed, the Office of the Police Chief and Co-Keepers identify changes to be implemented into the next circle process.

ATTACHMENTS

1. Confidentiality Agreement and California Evidence Code
2. Community – Employee Mediation: Agreement to Mediate
3. Non-Violent Communication List of Feelings
4. Non-Violent Communication List of Needs and Values

Attachment 1
CONFIDENTIALITY AGREEMENT

The confidentiality of this ACR Program is governed by **California Evidence Code Sections 1115-1128**. These provisions (printed on the back) pertain to the confidentiality and admissibility of evidence. Specifically, **Section 1119, Confidentiality**, in summary provides:

Anything said or written, prepared for the purpose of, in the course of, or pursuant to a mediation or a mediation consultation (the ACR Program), is inadmissible and not subject to discovery in any subsequent arbitration, administrative adjudication, civil action or other non-criminal proceeding, and all communications, negotiation, or settlement discussions by and between participants in the course of a mediation or mediation consultation shall remain confidential.

A communication or a writing, which is confidential under **Section 1119**, can be admissible or subject to discovery if all persons who conduct or otherwise participate in the mediation expressly agree in writing (**Section 1122**).

Evidence otherwise admissible or subject to discovery outside of mediation or a mediation consultation shall not be or become inadmissible or protected from disclosure by reason of its use or introduction in the mediation or mediation consultation (**Section 1120**).

Communications and documentary evidence prepared in the course of mediation or mediation consultation is confidential in accordance with provisions related to the confidentiality of law enforcement personnel records. The provisions of **Section 703.5** apply to this mediation.

The mediation, and mediation consultation, are considered confidential conversations, meaning that any person who intentionally, and without the consent of all parties, records any part of the conversation is guilty of a public offense.

WE UNDERSTAND AND AGREE THAT THE PARTIES AND THEIR AGENTS TO THIS MEDIATION AGREEMENT WILL KEEP CONFIDENTIAL ALL STATEMENTS MADE DURING THE MEDIATION SESSION AND THAT NEITHER PARTY OR THEIR AGENTS SHALL SUBPOENA THE PARTIES, REPRESENTATIVES OR THEIR AGENTS NOR ANY DOCUMENTS PREPARED AS A RESULT OF THE MEDIATION PROCEEDINGS.

Signature

Date

CALIFORNIA EVIDENCE CODE

§703.5. Judges, arbitrators or mediators as witnesses; subsequent civil proceeding.

No person presiding at any judicial or quasi-judicial proceeding, and no arbitrator or mediator, shall be competent to testify, in any subsequent civil proceedings, as to any statement, conduct, decision, or ruling, occurring at or in conjunction with the prior proceeding, except as to a statement or conduct that could (a) give rise to criminal contempt, (b) constitute a crime, (c) be the subject of investigation by the State Bar or Commission on Judicial Performance

§1115. For purposes of this chapter:

- (a) "Mediation" means a process in which a neutral person or persons facilitate communication between the disputants to assist them in reaching a mutually acceptable agreement.
- (b) "Mediator" means a neutral person who conducts a mediation. "Mediator" includes any person designated by a mediator either to assist in the mediation or to communicate with the participants in preparation for a mediation.
- (c) "Mediation consultation" means a communication between a person and a mediator for the purpose of initiating, considering, or reconvening a mediation or retaining the mediator.

§1118. An oral agreement "in accordance with Section 1118" means an oral agreement that satisfies all of the following conditions:

- (a) The oral agreement is recorded by a court reporter, tape recorder, or other reliable means of sound recording.
- (b) The terms of the oral agreement are recited on the record in the presence of the parties and the mediator, and the parties express on the record that they agree to the terms recited.
- (c) The parties to the oral agreement expressly state on the record that the agreement is enforceable or binding or words to that effect.
- (d) The recording is reduced to writing and the writing is signed by the parties within 72 hours after it is recorded.

§1119. Except as otherwise provided in this chapter:

- (a) No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation is admissible or subject to discovery, and disclosure of the evidence shall not be compelled, in any arbitration, administrative adjudication, civil action, or other noncriminal proceeding in which, pursuant to law, testimony can be compelled to be given.
- (b) No writing, as defined in Section 250, that is prepared for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation, is admissible or subject to discovery, and disclosure of the writing shall not be compelled, in any arbitration, administrative adjudication, civil action, or other noncriminal proceeding in which, pursuant to law, testimony can be compelled to be given.
- (c) All communications, negotiations, or settlement discussions by and between participants in the course of a mediation or a mediation consultation shall remain confidential.

§1120. (a) Evidence otherwise admissible or subject to discovery outside of a mediation or a mediation consultation shall not be or become inadmissible or protected from disclosure solely by reason of its introduction or use in a mediation or a mediation consultation.

- (b) This chapter does not limit any of the following:
 - (1) The admissibility of an agreement to mediate a dispute.
 - (2) The effect of an agreement not to take a default or an agreement to extend the time within which to act or refrain from acting in a pending civil action.
 - (3) Disclosure of the mere fact that a mediator has served, is serving, will serve, or was contacted about serving as a mediator in a dispute.

§1121. Neither a mediator nor anyone else may submit to a court or other adjudicative body, and a court or other adjudicative body may not consider, any report, assessment, evaluation, recommendation, or finding of any kind by the mediator concerning a mediation conducted by the mediator, other than a report that is mandated by court rule or other law and that states only whether an agreement was reached, unless all parties to the mediation expressly agree otherwise in writing, or orally in accordance with Section 1118.

§1122. (a) A communication or writing, as defined in Section 250, that is made or prepared for the purpose of, or in the course of, or pursuant to, a mediation or a mediation consultation, is not made inadmissible, or protected from disclosure, by provisions of this chapter if either of the following conditions is satisfied:

- (1) All persons who conduct or otherwise participate in the mediation expressly agree in writing, or orally in accordance with Section 1118, to disclosure of the communication, document, or writing.

§1123. A written settlement agreement prepared in the course of, or pursuant to, mediation, is not made inadmissible, or protected from disclosure, by provisions of this chapter if the agreement is signed by the settling parties and any of the following conditions are satisfied:

- (a) The agreement provides that it is admissible or subject to disclosure, or words to that effect.
- (b) The agreement provides that it is enforceable or binding or words to that effect.

Attachment 2

AGREEMENT TO MEDIATE

The ACR Program is an informal, confidential mediation process based on two restorative practices: circle processes and non-violent communication. Through the ACR Program, the Community Member(s), with a specific complaint about an interaction with a Davis Police employee(s), and the Davis Police employee(s) meet in a face-to-face, restorative process with the assistance of a team of two trained community Circle Co-Keepers. The participation of all persons in this process must be voluntary.

The ACR Program circle process allows the participants in the complaint to safely explore, understand, heal, and/or mutually resolve the issues of the interaction with the goal of healing the conflict. This may result in an agreement or an agreement to disagree. Participants are not required to reach a formal resolution. The expectation, however, is that by “coming together in a good way,” the relationship between the participants will be restored.

The ACR Program’s process is outlined in the document, Community – Employee Alternative Conflict Resolution (ACR) Program, which I have received and read.

Anything said and anything written during this process is confidential, which means that it cannot be used in a civil lawsuit unless everyone agrees. If you reach a written agreement, a statement verifying that you elect to make the agreement enforceable or admissible in court may be included in the agreement. You do not have to agree to anything that you do not want to. Before the process begins, you will be asked to sign this information.

1. All parties agree that everything said and everything written during these proceedings will remain confidential and will not be disclosed outside this process. No party will subpoena any staff or volunteer, or anything written by them, for any purpose in any legal proceeding, whether it is civil or criminal.
2. All parties understand the sole purpose of this proceeding is to resolve the complaint regarding conduct of the Police Employee(s). There is no monetary resolution or impact on any legal proceedings or traffic citations.
3. The Community Member(s) (complainant(s)) agrees that, to the best of his/her recollection, he/she has disclosed all the alleged misconduct which occurred during the incident resulting in this process, and that there is no intent to disclose any further misconduct once this process begins.
4. All parties understand that any mutual agreement reached shall not be enforceable in court and/or admissible as evidence in any judicial or administrative proceeding.
5. All parties understand that once this process has been completed, the complaint will be closed without additional investigation.

Attachment 2: AGREEMENT TO MEDIATE

This agreement is entered into voluntarily by:

_____ Printed Name	_____ Signature	_____ Date
_____ Printed Name	_____ Signature	_____ Date
_____ Printed Name	_____ Signature	_____ Date
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_____ Printed Name	_____ Signature	_____ Date

Attachment 3

NON-VIOLENT COMMUNICATION LIST OF FEELINGS

NEGATIVE FEELINGS (How we are likely to feel when our needs are not met)

- Afraid.
- Aggravated.
- Agitated.
- Alarmed.
- Aloof.
- Angry.
- Anguished.
- Annoyed.
- Anxious.
- Apathetic.
- Apprehensive.
- Aroused.
- Ashamed.
- Beat.
- Bewildered.
- Bitter.
- Blah.
- Blue.
- Bored.
- Brokenhearted.
- Chagrined.
- Cold.
- Concerned.
- Confused.
- Cool.
- Cross.
- Dejected.
- Depressed.
- Despairing.
- Despondent.
- Detached.
- Disaffected.
- Disappointed.
- Discouraged.
- Disenchanted.
- Disgruntled.
- Disgusted.
- Disheartened.
- Dismayed.
- Displeased.
- Disquieted.
- Distressed.
- Disturbed.
- Downcast.
- Downhearted.
- Dull.
- Edgy.
- Embarrassed.
- Embittered.
- Envious.
- Exasperated.
- Exhausted.
- Fatigued.
- Fearful.
- Fidgety.
- Forlorn.
- Frightened.
- Frustrated.
- Furious.
- Gloomy.
- Guilty.
- Grumpy.
- Harried.
- Heavy.
- Hesitant.
- Horrible.
- Horrified.
- Hostile.
- Hot.
- Humdrum.
- Hurt.
- Impatient.
- Indifferent.
- Intense.
- Irate.
- Irked.
- Irritated.
- Jealous.
- Jittery.
- Keyed-Up.
- Lazy.
- Leery.
- Lethargic.
- Listless.
- Lonely.
- Mad.
- Mean.
- Miserable.
- Mopey.
- Morose.
- Mournful.
- Nervous.
- Nettled.
- Numb.
- Overwhelmed.
- Panicky.
- Passive.
- Perplexed.
- Pessimistic.
- Puzzled.
- Relieved.
- Rancorous.
- Reluctant.
- Repelled.
- Resentful.
- Restless.
- Sad.
- Scared.
- Sensitive.
- Shaky.
- Shocked.
- Skeptical.
- Sleepy.
- Sorrowful.
- Sorry.
- Spiritless.
- Startled.
- Stressed.
- Surprised.
- Suspicious.
- Tepid.
- Terrified.
- Tired.
- Torn.
- Troubled.
- Uncomfortable.
- Unconcerned.
- Uneasy.
- Unglued.
- Unhappy.
- Unnerved.
- Unsteady.
- Upset.
- Uptight.
- Vexed.
- Vulnerable.
- Weary.
- Wistful.
- Withdrawn.
- Woeful.
- Worried.
- Wretched.

Feelings are words that describe our emotional states or body sensations. Feelings serve to alert us to look deeper into ourselves and to connect with our needs and values. www.nvcproducts.com

Attachment 3: NON-VIOLENT COMMUNICATION LIST OF FEELINGS

Positive Feelings (How we are likely to feel when our needs are met)

- Absorbed.
- Adventurous.
- Affectionate.
- Alert.
- Alive.
- Amazed.
- Amused.
- Animated.
- Appreciative.
- Ardent.
- Aroused.
- Astonished.
- Blissful.
- Breathless.
- Buoyant.
- Calm.
- Carefree.
- Cheerful.
- Comfortable.
- Complacent.
- Composed.
- Concerned.
- Confident.
- Contented.
- Cool.
- Curious.
- Dazzled.
- Delighted.
- Eager.
- Ebullient.
- Ecstatic.
- Effervescent.
- Elated.
- Enchanted.
- Encouraged.
- Energetic.
- Engrossed.
- Enlivened.
- Enthusiastic.
- Excited.
- Exhilarated.
- Expansive.
- Expectant.
- Exultant.
- Fascinated.
- Free.
- Friendly.
- Fulfilled.
- Glad.
- Gleeful.
- Glorious.
- Glowing.
- Good-Humored.
- Grateful.
- Gratified.
- Happy.
- Helpful.
- Hopeful.
- Inquisitive.
- Inspired.
- Intense.
- Interested.
- Intrigued.
- Invigorated.
- Involved.
- Joyous, Joyful.
- Jubilant.
- Keyed-Up.
- Loving.
- Mellow.
- Merry.
- Mirthful.
- Moved.
- Optimistic.
- Overjoyed.
- Overwhelmed.
- Peaceful.
- Perky.
- Pleasant.
- Pleased.
- Proud.
- Quiet.
- Radiant.
- Rapturous.
- Refreshed.
- Relaxed.
- Relieved.
- Satisfied.
- Secure.
- Sensitive.
- Serene.
- Spellbound.
- Splendid.
- Stimulated.
- Surprised.
- Tender.
- Thankful.
- Thrilled.
- Touched.
- Tranquil.
- Trusting.
- Upbeat.
- Warm.
- Wide-Awake.
- Wonderful.
- Zestful.

Feelings are words that describe our emotional states or body sensations. Feelings serve to alert us to look deeper into ourselves and to connect with our needs and values. www.nvcproducts.com

Attachment 4

NON-VIOLENT COMMUNICATION LIST OF NEEDS AND VALUES

- To Have Your Intentions Seen.
- Appreciation.
- To Be Seen for Who You Are.
- Respect.
- Clarity.
- Understanding.
- Structure.
- Connection.
- Trust.
- Balance.
- Shared Reality.
- Hope.
- Autonomy / Choice.
- To Matter and Belong.
- Equality.
- Peace.
- Compassion / Empathy.
- Efficiency.
- Participation.
- Reassurance.
- Protection.
- Help / Support.
- Self-Expression.
- Power in Your World.
- Security.
- Inclusion.
- Consideration.
- Safety.
- Freedom.
- Creativity.
- To Be Heard.
- Harmony.
- Predictability.
- Acknowledgment.
- Acceptance.
- Authenticity.
- Honesty.
- Dependability.
- Inspiration.
- Affection.
- Order.
- Fun & Play.
- Beauty / Aesthetics.
- Celebration.
- Ease / Comfort.
- Competence.
- Integrity.
- Health.
- Intimacy.
- Contribution.
- Privacy.
- Meaning / Purpose.
- Friendship.
- Mourning.
- Love.
- Nurturance.

Needs & Values are worlds that describe the life-serving energy that motivates and sustains us. All of our actions and words are attempts to meet our needs and values. www.nvcproducts.com

PP 1.07-AA Personnel Complaint Forms (rev 2022).pdf

Davis Police Department
MAKING AN INQUIRY OR COMPLAINT

The information on this form can be provided in languages other than English. If you need this information in another language, need translation services, or need any other assistance because of a disability, please contact the Davis Police Department @ 530-747-5400.

Forms in Spanish can be found using this link:

Los formularios en español se pueden encontrar usando este enlace:

<https://www.cityofdavis.org/home/showpublisheddocument/16453>

Forms in Russian can be found using this link:

Blanki na russkom yazyke mozhno nayti po etoy ssylke:

<https://www.cityofdavis.org/home/showpublisheddocument/16455/637703331874420527>

The public's trust, confidence and support are vital to successful police service. The public is entitled to have ready access to supervisors and the police administration that is sworn to serve them, and have them respond to any grievances or complaints regarding any member of the Davis Police Department. This access will help foster public understanding of police procedures and aid in the detection or correction of improper or undesirable practices or behavior by members of the Davis Police Department.

Pursuant to Penal Code § 832.5, the Davis Police Department has adopted a policy that provides a fair, orderly and uniformly applied process for receiving, investigating, and resolving complaints of alleged police misconduct. Pursuant to that policy, a complaint means either of the following:

1. Any issue where the complainant perceives that a member engaged in criminal conduct, abusive or discriminatory behavior, inappropriate or discourteous conduct, or violation of any law or rules, policies, and regulations of the Davis Police Department or the City of Davis; or
2. Disagreement solely with the policies, procedures, or services of the Davis Police Department and not with the performance of any personnel.

Complaints may be filed in a variety of ways, including;

1. By filling out this form and submitting it either in person or by mail to the Davis Police Department located at 2600 Fifth St. Davis, CA 95618.

2. By filling out this form and submitting it either in person or by mail to the City Manager's Office located at City Hall, 23 Russell Blvd Davis, CA 95616.
3. By speaking directly to a Davis Police Department supervisor either in person at 2600 Fifth St. Davis, CA 95618 or by telephone 530-747-5400.
4. By sending an email to the Police Department at policeadmin@cityofdavis.org or the City Manager's Office at CMOWeb@cityofdavis.org.
5. By directly contacting the Independent Police Auditor by email at policeauditor@cityofdavis.org.

Filling out a complaint form is not a requirement for making a complaint. All complaints, from any source, including anonymous or third-party complaints, in any language, whether in writing or verbally received, no matter how received by the Police Department, will be reviewed.

Although a person is not required to speak to anyone at the Police Department prior to making a complaint, if your inquiry or complaint is specifically about a member of the Davis Police Department, we encourage you to speak directly to a supervisor or the on-duty Watch Commander. If your inquiry or complaint appears to be based on a misunderstanding or lack of knowledge of acceptable or desired conduct, policies and procedures, the supervisor may offer an explanation and attempt to resolve the situation without a formal investigation. If you are not satisfied with an explanation of acceptable and desirable conduct, policies or procedures, a formal complaint may be filed and it will be referred to the Office of the Police Chief.

Some complaints may be addressed through the Community - Police Alternative Conflict Resolution (ACR) Program process - a voluntary restorative process designed to resolve the complaint through face-to-face conversation with a member of the Davis Police Department. If you are interested in participating in the ACR Pilot Program, please indicate this on the form below. Information regarding the ACR can be found online at:

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

If you make a formal complaint, it will be thoroughly investigated by an assigned supervisor. The investigation will usually include a review of all applicable reports, examination of any evidence, review of any video or audio footage and interviews with all parties and witnesses. A simple inquiry might take several days to complete, while a complex investigation might take two or three months or more to investigate and review.

The Office of the Police Chief reviews every complaint. If the Police Chief determines that an employee violated Department policies or procedures, appropriate corrective

action is taken. The Police Chief's review will also include looking for ways to improve policies, procedures, training, and service.

FINDINGS

You will receive written notification of the findings of any formal complaint. The possible findings are:

- a. **Unfounded** –The investigation clearly established that the allegation is not true.
- b. **Not Sustained** –The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation in the complaint.
- c. **Sustained** –The investigation disclosed sufficient evidence to prove the truth of allegation in the complaint by the preponderance of evidence.
- d. **Exonerated** –The investigation clearly established that the actions of the personnel that formed the basis of the complaint are not a violation of law or agency policy.
- e. **Frivolous** –Means totally and completely without merit or for the sole purpose of harassing an opposing party.
- f. **Alternative Conflict Resolution** –The complaint is resolved in accordance with the ACR Program.

If the complaint is sustained, meaning there was wrong doing, the Police Chief will determine whether the employee will be disciplined and/or receive additional training. Discipline may include: reprimand, suspension, demotion or termination. In most instances, State law does not allow the release of the specific action taken against a public safety employee.

Although we cannot guarantee you will be satisfied with the results of the investigation, we do guarantee that your complaint will be investigated thoroughly and fairly.

Sincerely,

Darren Pytel
Police Chief

Complaint Form

Your Name _____ **Date** _____

Home Address:

Phone # _____ **Cell #** _____

Email _____

Date and Time of Incident _____

Names of Involved Employees:

Witness Information

Name _____ **Cell #** _____

Name _____ **Cell #** _____

Name _____ **Cell #** _____

Additional witness information attached.

Does your complaint involve racial or identity profiling? YES NO

If YES, what type: _____

Did you speak to a supervisor at the Police Department regarding the incident?

YES NO

Would you like to speak to a supervisor prior to making a formal complaint?

YES NO

Would you be interested in using the Alternative Complaint Resolution process?

YES NO

If you've already spoken to a supervisor, name of supervisor: _____

Signed _____

Additional documents attached

DO NOT WRITE BELOW THIS LINE-FOR DEPARTMENT USE ONLY

Name of Supervisor/Member Receiving Complaint: _____

Copy to Complainant? **YES** **NO** **Date** _____ **Employee** _____

Forwarded to Office of Police Chief **Date** _____ **Employee** _____