

City of Davis

Independent Police Auditor Semi-Annual Report

December 2019



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I. Introduction

In January 2018, the OIR Group team was appointed as interim Independent Police Auditor (IPA) for the City of Davis. In February 2019, Davis City Council approved a scope of work for a more robust Independent Police Auditor (IPA) and selected the OIR Group team to serve in that capacity.¹ As part of its core duties, and in recognition of transparency's key role in effective oversight, the IPA is tasked with publishing written reports that include information about misconduct complaint investigations and trends. This report, which encompasses the work of IPA since its interim appointment, is OIR Group's initial response to that important and ongoing responsibility.

We begin by acknowledging the positive working environment we have thus far experienced in this role. There are various models of police oversight, but one feature they share is the importance of unfettered access to the relevant documents, records, and other sources of information that influence and explain case outcomes. From the outset, the leadership of the Davis Police Department ("DPD") has provided such access – along with other forms of cooperation and assistance that have facilitated the reviews we discuss below. City officials have also been an invaluable source of support and guidance. The effectiveness of our work is enhanced by these dynamics, and we are appreciative of the spirit of collaboration we have experienced.

As of October 2019, eleven formal matters had been completed or were in process since this IPA's first assignment, which was an independent review of the 2017 Picnic Day incident and subsequent internal investigation.² This report focuses on six completed cases, and includes both a summary of the underlying investigation and IPA's independent assessment of how the matter was handled by DPD. The case discussions also include IPA's formal recommendations, which apply the lessons gleaned from past events in an effort to improve future performance by the Department.

¹ OIR Group is comprised of experts in police practices who have worked in the field of independent oversight of law enforcement since 2001. Based in the Los Angeles area, OIR Group members consulted for jurisdictions throughout California and several other states prior to assuming the IPA duties in Davis. The team is led by Michael Gennaco, a former Assistant United States Attorney and a nationally-recognized authority on policing issues.

² That report was submitted to Council and can be found on the City's website at <http://documents.cityofdavis.org/Media/Default/Documents/PDF/CityCouncil/CouncilMeetings/Agendas/20180410/07A-Interim-Police-Auditor-Report-Picnic-Day-Incident.pdf>

Considering the individual cases in a broader context, one observation that emerges is that DPD is not plagued with widespread issues of officer misconduct. In fact, of the six cases reviewed, none of them resulted in a finding of a formal policy violation. However, as detailed below, the cases do suggest that in some occasions DPD's response to concerns about officer performance could have been more timely and robust. On several occasions, the complainants' concerns about the underlying performance issues were matched or even surpassed with their disappointment over DPD's reaction to their outreach about them. To the degree that a unifying takeaway can be received by DPD, we recommend that the Department redouble its efforts in the "customer service" arena, and that it considers ways to instill and project a commitment to rigorous public response through its internal review process.

Following the discussion of the individual narratives, we include a brief section on IPA's liaison role with the City's new Police Accountability Commission and a listing of DPD's recent initiatives with respect to community engagement.

We appreciate the opportunity to provide the people of Davis with this window on the nature of the concerns raised, what was revealed about those concerns through internal investigations and IPA's independent review, and suggestions on how to improve DPD's mechanisms on a going forward basis. We also welcome any feedback from Davis residents on the matters contained in this Report.

II. Case Histories

Case One: Allegation of Discourtesy Resolved by Restorative Justice (2018)

IPA received a complaint of discourtesy. According to the complainant, he arrived in the Davis Police Department parking lot and headed for the lobby. He encountered a Davis Police Officer as he was walking on the sidewalk who instructed the complainant not to walk between him and another person he was talking to. The complainant felt that the officer was discourteous to him.

IPA discussed the matter with the complainant and discussed the various options available. At the time, the complainant decided he wanted to participate in a personnel investigation against the officer. DPD initiated an investigation and determined that the officer had committed no violation of policy.

After the DPD investigation was completed, IPA spoke again with the complainant and indicated that a restorative justice path remained as a possible additional option. The complainant was amenable to participating in the process. And to his credit, despite the investigation finding him not to have committed a violation of policy, the involved officer also agreed to participate in the process.

The restorative justice process was facilitated by a “neutral” on contract with the City and by all accounts a positive resolution for all parties was achieved. As a result, IPA is closing out its file in this matter.

Case Two: DPD Changes in Police Identification Procedures: Response to Improve its Practices (2018)

A. Introduction

An attempted kidnaping prosecution of a 12-year old girl was dismissed by the Yolo Office of the District Attorney after information was received that showed that the defendant's car and cell phone was an hour from the scene when the crime was committed. Even though the victim had identified the defendant from a photo spread, the District Attorney told the Court that based on the new information it could not proceed with the prosecution based on its analysis of the newly presented exculpatory evidence.

The dismissal was brought to the attention of the Independent Police Auditor with a request to examine the identification procedures deployed by Davis PD in the case.

B. Factual Narrative

According to information developed during the preliminary hearing and cited in prosecution filings, the juvenile victim described the man who grabbed her arm as wearing a black mask which covered the person's nose and mouth. Meanwhile, the investigation had identified a possible suspect.

A DPD detective sergeant then created a six-person photographic lineup for the victim to view. Since the victim had indicated that her assailant had his nose and mouth covered with a mask, the detective sergeant used paper to cover the corresponding area of the face on all six photographs.

According to DPD police reports, the victim looked at the six photographs and said that the photo of the suspect "sort of looks like him". The victim said she recognized the "hairdo" but thought that her assailant's hair was lighter in the photograph than she had remembered. She also said that the person depicted in the photograph that she identified had a head and face shaped the same as her assailant.

C. Analysis

The identification process used in criminal justice proceedings has been the topic of much discussion over recent years. Concerns have been raised about the reliability of eyewitness identification and incarcerated persons have been released whose convictions turned almost exclusively on eyewitness evidence. Research has found that juries tend to "overvalue" eyewitness evidence and has questioned the reliability of victim's ability to effectively identify their assailants.

In addition, criminal justice commentators have long-raised concerns about police procedures in conducting eyewitness identification procedures. One concern has been the

conscious or sub-conscious “suggestibility” conveyed by a detective who knows the subject to the victim or witness. As a result, some criminal justice academics have suggested using a double-blind process during the identification procedures so that the detective actually showing the victim/witness the photospread does not know which of the photos is the suspect. Other criminal justice advocates have recommended that the identification process be recorded.

As a result of these concerns, in 2018, the California legislature passed SB923 which sets out minimum eyewitness procedures for all law enforcement agencies. The requirements, scheduled to take effect January 1, 2020, include that the law enforcement investigator conducting the identification procedure not be aware of who the suspect is. The statute further requires that the identification procedures be recorded. In the Davis kidnaping case the subject of this discussion, the detective who showed the photo spread to the victim was aware of the identity of the suspect and did not record the identification procedure, which was consistent with “then practices” of most California law enforcement agencies.

After reviewing the kidnaping case, IPA was concerned about the advisability of even conducting an identification procedure considering the limited opportunity the victim had to view the perpetrator and the fact that he was wearing a mask that covered his nose and mouth. In short, the juvenile victim had scant identifying information upon which to base her identification.³ As a result, IPA suggested on a going forward basis that DPD’s identification policy be changed requiring that in cases in which the facial features of the perpetrator were significantly obscured that, when practicable, the supervisor of the investigator be consulted before the procedure was undertaken.⁴

When IPA reached out to DPD with this recommendation earlier this year, it learned that the Department was already working on making changes to comply with the new law, even though the requirements were not to go into effect until January 1, 2020. DPD also

³ We recognize that despite the inability of the victim to observe the full facial features of her assailant, the District Attorney’s Office proceeded with the prosecution and relied on this identification procedure in subsequent proceedings until the case entirely unraveled as a result of newly acquired evidence.

⁴ As noted above, in this case, the detective who determined to conduct the identification process was a sergeant. Accordingly, as we would read the recommended change in policy, he would have consulted with a lieutenant before deciding to conduct the identification procedure.

agreed with IPA's recommendation and included this modification as part of its other changes in policy that brought its procedures within the new state law dictates. Remarkably, the modifications and training behind the changes was all accomplished by DPD in May 2019, over six months ahead of the statutory deadline. While most California agencies continue to work to implement the changes demanded by the new state law and provide the training to its members in time for the statutory deadline, commendably DPD is already in compliance with the dictates of the new statute.

RECOMMENDATION: When DPD modifies its identification procedures to conform with new state law dictates, IPA recommends that it include a provision requiring consultation with a supervisor before any identification is attempted when the victim/witness was not able to view full facial features of the perpetrator.

Case Three: Resolution of Claim for Property Damage After Law Enforcement Action at Residence (2018)

A. Factual Narrative

The property owners in this case are residents of Davis. In the aftermath of a joint operation involving officers from both the Davis and West Sacramento departments, they filed a claim with the City requesting reimbursement for almost \$10,000 worth of damage to the floors of their home.

The law enforcement operation had been undertaken to execute a search and arrest warrant seeking a murder suspect, based on information provided to Davis PD by an out-of-state police department. As a result of the out-of-state investigation, it was learned that spyware had been installed on a cellphone that was believed to be in the suspect's possession. Using GPS information obtained from the spyware, the originating agency retrieved coordinates which, when placed into Google maps, indicated a Davis residence as the current location of the cell phone.

Davis PD then used that information to obtain a warrant to search the residence for the murder suspect, and approximately twenty officers were used in the ensuing operation. However, the subsequent search not only revealed no sign of the murder suspect, but also failed to establish that he had ever been at the Davis residence. The murder suspect was arrested the next day approximately seventy miles from Davis.

The male resident later said that he had been home alone at the time of the operation; his wife was out of town on business. At approximately 1:00 am, he was awakened by the emergency lights of police units. The resident initially believed an accident had occurred outside his residence. As he went to the front door, he received orders from officers to exit his residence with his arms raised. He exited the front door in his underclothes. He was briefly handcuffed, placed in the back of a police vehicle, and questioned about whether others were inside. The resident told the officers he and his dog were the only current occupants of the house and that he had never seen the murder suspect. The resident said that officers were initially gruff with him and told him that it would be "on him" if things went south. However, as the officers began to recognize that it was unlikely that the murder suspect was in his house, they became more cordial and eventually retrieved a wrap and additional clothing for him. He indicated that he was outside of the house for a couple hours while the officers conducted the search of his house.

Damage to the floors of the residence occurred as a result of the use of “flash bangs,” which are diversionary devices that are thrown into targeted structures to facilitate safer entry. The flash bang devices are incendiary and can singe (and potentially burn) surfaces upon which they come into contact. It is not disputed that the officers deployed flash bangs during the operation. While the police “after action” report indicated that there had been “no damage” to the home, photographs submitted by the residents with the claim clearly indicate singeing of the floors in at least three locations as an apparent result of the devices that had been used.⁵

In June 2018, the City of Davis Department of Human Resources submitted a letter to the residents indicating that their claim had been denied. After receiving the letter, the residents contacted the Independent Police Auditor about the property damage incurred by them. While recognizing that Davis PD had a legal right to search their house after obtaining the search warrant, they believed that it was unfair for them to have to shoulder the entire financial burden of an incident in which they were completely innocent parties. They also noted the anxiety, inconvenience, and embarrassment suffered by the male resident as a result of being pulled out of his house at gunpoint and held for several hours during the search.

B. Analysis

It is not disputed that Davis PD had a legal right to execute the search and arrest warrant it had appropriately obtained. In attempting to apprehend the suspect in a serious crime, the Department relied on investigative information provided by another agency.⁶ That information had also been vetted by the District Attorney’s Office and authorized by the reviewing judge prior to the search operation. Moreover, because of the dangerousness of the suspect being sought, Davis PD needed to conduct a significant operation in order to safely execute the warrant. As a result, it was both appropriate and reasonable to order the male resident out of his home at gunpoint, briefly handcuff him for officer safety

⁵ While the report was prepared by the other participating agency, DPD should have reviewed the report and pointed out the inaccuracy to the agency that authored the Report. *See* Recommendation One below.

⁶ It is common for a local agency to assist an out of state agency with an arrest; there was no evidence at the time the warrant was served by DPD that the locator information initially supplied by the outside agency was inaccurate. DPD does have discretion, however, on whether and what additional investigative work is appropriate prior to making the arrest warrant application.

purposes, and keep him out of the residence until the search for the suspect was completed.⁷

However, even though the City of Davis could clearly defend a denial of the resident's claim based on the legality of the search, a balancing of the broader equities in this case suggested a different result. Most obviously, this is because the residents were being asked to absorb the consequences of an operation that was flawed at the most basic level: namely, the assumption about the suspect's presence. While Davis PD relied on the relevant GPS information in good faith, the information was not accurate. The reason for the faulty GPS coordinates is unclear at this juncture;⁸ what is known is that resident's unfortunate experience and attendant property damage were the proximate result of inaccurate evidentiary information.

In short, the operation was legally defensible, but, the resulting harms to both the detained resident and his wife called for a more holistic appraisal of the appropriate remediation. It was with this in mind that IPA suggested that it might be prudent for the City to reconsider the residents' claim.

C. Resolution

As a result of IPA's recommendation, City leadership did revisit the initial denial of the claim and eventually agreed to an acceptable payment for the financial loss incurred by the residents as a result of the property damage.⁹ The claimants found the offer acceptable and agreed not to pursue further litigation.

In offering this compromise rather than standing insistently on its potential legal defense, the City showed a willingness to think in broader terms of fairness and equity. IPA

⁷ A more debatable decision within the operation was the use of flash bangs. While flash bangs devices remain widely used by law enforcement, some agencies discourage the device as potentially counter-productive from a tactical perspective, as well as likely to cause the kind of damage that occurred here. *See* Recommendation Two, below.

⁸ More could have and should have been done by DPD regarding trying to learn why the GPS information proved so inaccurate. Such insight as part of an after-action might result in advising DPD detectives to exercise more caution in solely relying on such data in executing similar intrusions on Davis residents and it is recommended that more surveillance work or other investigative methods be undertaken to supplement the GPS data.

⁹ The City of Davis belongs to an insurance pool with other neighboring governmental jurisdictions. As a result, depending on the size of the claim, the City does not have full discretion about whether to pay.

concur with and commends this approach.¹⁰ It is gratifying to observe that the City's ability to make an appropriate accommodation allowed for a fair, mutually acceptable conclusion.

D. Recommendations

RECOMMENDATION ONE: DPD should review all after-action reports of joint operations for accuracy, including those authored by the other participating agencies.

RECOMMENDATION TWO: DPD should consider the advantages and disadvantages of deployment of flash bang munitions in future similar operations.

RECOMMENDATION THREE: When satellite locator information becomes so faulty that it misidentifies the location of suspects, DPD's after-action should include an attempt to ascertain the technical basis for the mistake.

RECOMMENDATION FOUR: The City should advise those officials who are initially responsible for the processing of claims to adopt a more holistic approach toward assessment and should encourage them to forward those with equitable considerations to the attention of City leadership.

¹⁰ The City should advise its initial receivers of claims to consider each claim with this equitable frame of reference and elevate those to City leadership that share similar characteristics. *See* Recommendation Four.

Case Four: Complaint Regarding “Overaggressive” Traffic Enforcement (2018)

IPA received a complaint from a motorist who works in Davis in which he complained about what he termed “over aggressive” traffic enforcement by the Davis Police Department. The complainant alleged that he had been stopped on four occasions by DPD officers including being cited for speeding. The complainant alleged that the traffic stops had cost him several hundred dollars in fines, including the cost of traffic school.

IPA forwarded this complaint to DPD who researched traffic and court records and only identified one stop of the complainant. The identified stop was captured on the officer’s body worn camera. IPA reviewed the body camera footage for that stop and found the officer’s demeanor and actions to be completely professional.

IPA then wrote back to the complainant that only one stop had been identified and that if he was able to identify other stops by DPD, it would be happy to review them as well. IPA received no further correspondence from the complainant.

It should also be noted, as IPA informed the complainant, that the degree to which traffic speeds should be enforced is a common source of debate with differing views on traffic safety and the dangers of unsafe driving. IPA also related how police are often in the middle of these opposing viewpoints. IPA further informed the complainant that near the place he had been stopped there was a notorious tragic traffic fatality as a result of unsafe driving and a following plea from Davis residents to its police department to step up enforcement on the roadway.

As a result of receiving insufficient evidence to support the complainant’s allegations, IPA closed this matter without further action.

Case Five: DPD Sexual Misconduct Investigation (2014)¹¹

A. Introduction

In 2014, the Davis Police Department (DPD) received information that an adult male was possibly involved in a sexual relationship with a minor female. Based on that information, DPD conducted a criminal investigation into the allegations and eventually arrested the male for statutory rape. The parents of the juvenile complained about several aspects of the investigation, most significantly the interview of their daughter and the way the arrest of the male was handled. Eventually, the complaint was forwarded to the Interim Independent Police Auditor (IIPA) for review.

The IIPA analysis and findings are discussed below. This Report concludes that while DPD's internal assessment could have been more reflective about the investigation for purposes of performing better in future situations, there was no clear evidence of officer misconduct relating to the underlying investigative techniques. There were, however, other troubling dimensions to the DPD response. These included comments made by officers in response to the complainants' articulated concerns, the apparent failure to pursue available leads to corroborate or refute those concerns, and the lack of any documentation or follow through by DPD in response to the respective complaints. The Report offers recommendations intended to ensure that future complaints are identified appropriately, handled more comprehensively, and documented sufficiently. Ideally, every significant investigation can and should result in a learning experience for the Police Department.

B. The Incident

In 2014, DPD initiated a statutory rape investigation when it received information from an informant that an adult male was possibly in a sexual relationship with a minor female. DPD conducted some preliminary investigation and eventually traveled to the juvenile's school to interview her about the allegations. While initially denying any sexual relationship, the minor eventually admitted that she had engaged in sex with the subject adult. Using the juvenile's cell phone, DPD texted the subject with the intent of luring him to the juvenile's residence under the pretense of inviting him to have sex with the minor. DPD surveilled the adult as he traveled to the juvenile's residence and arrested him as he parked outside the residence. The adult was arrested and admitted to having a

¹¹ While as explained within, concerns about the handling of the incident were raised immediately to DPD, those concerns did not come to the attention of IPA until 2017.

sexual relationship with the minor. The adult eventually pleaded guilty to having sex with an underage minor.

C. The Complaint

The mother of the juvenile was home at the time of the arrest, and the adult in question was a person whom the family knew. The mother reported that the arrest occurred in front of the family residence, causing neighbors to come out and creating undue and unnecessary trauma and embarrassment to them. According to the mother, when she complained to responding officers about the nature of the arrest, at least one of them admitted to her that, in retrospect, there might have been a better way to effectuate the arrest. The mother further alleged that when she continued to express her concerns about the arrest, one of the officers told her that she could complain about it, but that eventually her complaint would come to him for review and go nowhere.

The parents also later expressed concern about the circumstances surrounding the interview of her daughter at school. Among the issues they raised were these: that they had not been notified about the interview until it was concluded, that their daughter asked for but was not granted the opportunity to consult with an attorney, and that her cell phone was taken without showing her a warrant.

Several months later, the complainants met with a DPD officer who was responsible at the time for receiving complaints. In a letter dated several months after the meeting, the complainants wrote to the officer referencing the earlier meeting, indicated that he had agreed to provide feedback regarding their concerns. The letter was prompted by the fact they had not subsequently heard from him. The letter also referenced the on-scene admission by two officers that the arrest occurred could have been handled a better way.

In 2017, when Davis hired consultants to advise on ways to improve its police oversight system, the complainants advised them of their concerns regarding DPD's handling of this case. The matter was referred to the IIPA, and this led to direct communications with the family at the outset of this review process.

The complainants advised IIPA that DPD visited their daughter's school, took her out of class, and took her cell phone without showing her a warrant. DPD then used their daughter's phone to set up a sexual testing ruse, in which officers pretended to be their daughter to entice the adult to their home for a supposed sexual encounter. According to the complainants, their daughter asked for both an attorney and her parents during the interview, but those requests were denied. The complainants also indicated that DPD officers questioned their daughter in a very "forceful" way.

The complainants further advised IIPA that when the adult arrived at their residence, DPD dragged the adult out of his car, put him face down, and handcuffed him. The

complainants reported that ultimately DPD allowed him to sit on the curb while still handcuffed. According to the complainants, neighbors witnessed the police action. The mother of the minor indicated that, upon observing the activity, she went outside to speak with the police. She asked one of the officers what was going on and why they had arrested the man so aggressively. According to the complainant, the officer initially said he could not comment. Later, though, when he was inside their house and alone with her, he reportedly seemed somewhat chagrined and admitted the arrest probably could have been done a better way.

The complainant said that after this officer left, another officer entered to explain the basis for the arrest. According to the complainant, when she expressed to him concern about the way the arrest was executed, the officer said that she could file a complaint but that it would ultimately land on his desk and go nowhere.

Additionally, and according to the complainants, the adult who was arrested later informed them that he was never advised of his right to consult with an attorney.

The complainant noted that during their subsequent meeting with the DPD officer at the police station, he took notes and informed them that based upon what he already knew and read about the case, his sense was that DPD had acted appropriately. However, according to the complainant, the officer said he would again look into the incident and get back to them.

The complainant said that after they sent the follow up letter, there was still no follow up. When they eventually called the officer to inquire, he denied ever telling them that he would get back to them. According to the complainant, during that phone call the DPD officer further told them that he had looked into the facts of the case and that everything had been done properly. The complainant indicated that the officer said that they could file a formal complaint if they remained dissatisfied. The complainants explained that they chose not to prepare a formal complaint form because of their belief that DPD was not genuinely interested in pursuing their concerns. They based this assessment largely on the statement by the DPD officer at their residence, and the apparent disinterest shown by the DPD officer whom they met at the police station.

In response to this version of events, DPD offered its own perspective to IIPA. The Department acknowledges that the officer in charge of the criminal investigation spoke to the complainants shortly after the arrest. The officer indicated that he answered many questions raised by the complainants and tried to explain the reasons for their actions. According to the officer, the mother of the minor kept asking questions and contacting him first at the scene and then later as the criminal matter progressed.

DPD indicates that the officer discussed the mother's concerns with command staff at the time – including the then-Chief. According to DPD, the mother wasn't really alleging "misconduct". Instead, she was simply unhappy with what happened.

DPD indicated that it had offered Alternative Conflict Resolution (ACR) as a way for everyone to exchange viewpoints. This, though, is a point of contention. According to DPD, the officer spoke to the complainants about that possibility, but that it went nowhere. However, the complainant denies being offered the option of ACR to resolve this matter. There is no apparent documentation from DPD to corroborate that the ACR option was offered to the complainants.

DPD also asserted that it had no current recall of ever receiving the letter (though the desk officer did recall speaking to the complainants on several occasions) nor did the officer recall ever indicating his intent on getting back to them after their visit. DPD command staff told the desk officer to inform the complainants to either file a formal complaint or not but took the position that additional "back and forth" communications were not going to be productive.

D. IPA Analysis

1. Interview of Minor

An officer from DPD did travel to the school and interview the juvenile. He was accompanied by a female employee who was familiar with the minor. IIPA reviewed the tape-recorded interview and found the officer to be persistent but patient and neither overbearing nor unkind in speaking with the minor. After several minutes of denying any sexual involvement with the adult, the juvenile requested to be alone with the female DPD employee. When she reconvened on tape with the officer, the minor admitted the sexual relationship.

Documents indicated that DPD did obtain a warrant for the juvenile's cellular phone. The warrant also authorized DPD to use the cell phone to send texts to the adult, in keeping with the tactic that DPD ultimately deployed successfully to lure the adult to the minor's residence.

Reports indicate that the juvenile was eventually provided a copy of the warrant and given an "evidence receipt" for the cell phone that was taken. A review of the tape-recorded interview indicated that the minor did ask about the possibility of speaking to an attorney, but the officer informed her that she was not in trouble and did not need an attorney. A review of the tape-recorded interview revealed no evidence that the juvenile ever asked to speak to her parents or requested the officer to have them come to the school. When IIPA met with the individual herself and asked if she recalled making either request, she said she could not recall doing so.

In short, DPD did not engage in misconduct during the interview of the minor. The interview was professional. While the minor did request an attorney, there was no legal requirement for DPD to end the interview as a result of this request, given her status as a victim in the case. The documented evidence also refutes the stated concerns about the lack of a warrant and/or the unauthorized taking of the phone.

2. Arrest of Adult

DPD did arrest the adult in front of the complainant's residence. One of the responding officers wrote in his report that he explained to the complainant that the reason the arrest occurred the way it did was because of concern that evidence might be destroyed.

A review of the text messages between DPD (in the guise of the juvenile) and the adult indicates that DPD initially wanted the adult to park down the street from the residence, which would have created a discreet distance. However, the adult texted he was not inclined to do that, because it would only raise suspicion of the juvenile's parents. Instead, he wrote that he would park in front of the residence as was customary.

After the adult was taken into custody, reports and recordings indicated that the adult was, in fact, read his Miranda rights, including his right to consult with an attorney.

3. DPD's Handling of Complainant's Concerns

As detailed above, a review of the investigative file finds that there was no evident misconduct by DPD during either the interview of the minor or the arrest of the adult. However, the way in which DPD responded to the concerns raised by the complainants did not comport with best law enforcement practices for internal investigations.

As noted above, when the mother of the minor complained about the way in which the arrest of the adult was effectuated, the officer allegedly informed her that she could complain, but that eventually any complaint would land on his desk and go nowhere. This is problematic in a couple of ways.

First, the implication to a potential complainant that it would be futile to register her concern is clearly not an optimal response. From both the procedural and substantive perspectives, police personnel should be more than ready to accept criticism, advise potential complainants of ways in which complaints can be initiated, and take appropriate steps to facilitate that process.

Second, a participant in an operation which is the subject of the concern should not only pre-judge it in such a fashion, but also should not be directly involved at all in the decision-making about the complaint's merits. To the degree any such sentiment was conveyed by the DPD officer to the mother of the minor, it runs contrary to what one would expect when a person complains of police performance. In this case, the officer

should have documented and forwarded the concerns raised directly to command staff for handling.

The seeming indifference or hostility to the concerns of the complainants in this matter was exacerbated when they visited the police station to again raise concerns about how DPD handled aspects of the case. If the station officer informed them when they first met that he had reviewed the incident and found nothing out of sorts, he essentially conveyed to them that he had already reached a conclusion that all DPD actions were appropriate. While he indicated he would take another look at the case, the desk officer never initiated feedback to the complainants about what he found.

As noted above, at this juncture DPD indicates that it has no record of a letter being sent to them by the complainants. There is also a dispute about whether the desk officer ever represented to the complainants that he would get back to them after reviewing and/or investigating their concerns. However, even assuming that no such representation was made by the desk officer, or that the Department did not receive the letter for whatever reason, DPD nonetheless should have provided feedback to the complainants based solely on their visit to the station.

DPD responds that because the complainants never filed a formal complaint form, there was no need to conduct any fact finding or provide a written response to the complainants. However, this perspective takes a too narrow view of what constitutes a “complaint”. Progressive police agencies take an inclusive approach to the grievances raised by their public about agency performance, no matter how they are received. They do not rely on on the happenstance of the “correct” form being filed before activating their internal investigative and review processes. Instead, they treat all relevant feedback as opportunities to address performance lapses or otherwise improve operations.

In other words, an inclusive and responsive approach speaks to both expected levels of public service and an agency’s own interest in using outside feedback as a springboard for meaningful internal review. As indicated above, for example, the complainant reported that one of the officers who was part of the investigation admitted to her that the arrest might have been effectuated differently. However, even when alerted to such potential information by its own personnel, DPD did not apparently ask the officer whether he had said as much to the complainant and whether he had any concerns or suggestions about how the arrest was undertaken.

Here, the complainants had apparently already raised issues on the date of the incident about the performance of DPD personnel and were reportedly discouraged from proceeding by an officer that was the subject of their complaint. Then, when the complainants took the time to visit the police station and speak to the desk officer about their continued concerns, DPD apparently chose to conduct no investigation, do no fact

finding, or take no further action. Nor did it formally provide feedback to the complainants about how they determined that personnel performed consistent with expectations. Instead, DPD officials determined that they would do nothing further unless a complaint form was completed.

In this case, DPD could and should have done more to investigate the complainant's concerns in this case. Rather, DPD chose to engage in no fact finding and no apparent analysis and reflection regarding the concerns raised by the complainants. Moreover, a robust police agency complaint system should ensure an effective and documented feedback loop to a member of the public who advances any concerns. Here, on the other hand, long gaps of passivity and lack of communication contributed to the parents' frustrations with the case.

DPD may maintain that because the complainants raised no issues of apparent "misconduct," there was no obligation to conduct fact finding into the matter. However, as detailed above, sufficient concerns were raised both at the time of arrest and during the meeting at the police station that should have triggered some level of documented inquiry. Even if allegations do not fit neatly into a "misconduct" category in the policy manual, the sincere concerns raised here by residents of Davis deserved a more robust and formal response from the complainants' police department.

4. The Benefits of Holistic Review

In addition to responding to the particular complaints raised by the parents of the juvenile victim, there are additional benefits to conducting a holistic review of an investigation of this sort. Here, at least during the pendency of the investigation, the juvenile was extremely reluctant to participate in the case. That reluctance extended to the prosecution stage. Moreover, in this case, the "victim" reported suffering negative consequences in the case beyond the crime that was the subject of the prosecution.

As stated above, a review of the file revealed no "misconduct" by Davis Police personnel. However, a holistic case review could have provided the opportunity for special insight into the investigation and prosecution of this case. That review could have asked critical questions such as whether in hindsight there might have been a better way to maintain the objectives of prosecuting a clear law violator while limiting the potential for additional emotional trauma to the victim.

Even now, to hear it from the victim and her family, this goal did not seem to receive very much attention, either from the Davis Police Department in particular or from the criminal justice system in Yolo County in general. A post-hoc review of this case could have produced insights to better DPD and its criminal justice partners in addressing future similar challenges.

5. Recommendations

RECOMMENDATION ONE: When issues regarding DPD performance are raised in the field, the individual hearing the concerns should document them and forward to command staff for appropriate review.

RECOMMENDATION TWO: When complainants raise performance issues at the police station involving DPD personnel, those concerns should be documented, and appropriate fact finding should be undertaken.

RECOMMENDATION THREE: DPD should not wait or need a complaint form to be prepared in order to conduct an internal assessment and/or investigation; any concern that alleges sub-standard performance of its personnel should be carefully reviewed and/or investigated.

RECOMMENDATION FOUR: Whenever a complainant visits the police station with concerns about police performance, she/he should receive a written response documenting the results of any DPD assessment or inquiry.

RECOMMENDATION FIVE: Whenever a complainant is offered Alternative Conflict Resolution, DPD should document both the offer and the complainant's response.

RECOMMENDATION SIX: DPD should hold a post-hoc case review after any significant investigation and prosecution and identify ways to improve its processes on a going forward basis.

RECOMMENDATION SEVEN: DPD should create written protocols designed to ensure implementation of these recommendations on a going forward basis.

Case Six: Traffic Collision Incident (2016)

A. Introduction

A traffic collision occurred in Davis between a pedestrian and a vehicle, resulting in serious injury to the pedestrian. The Davis Police Department (DPD) conducted an accident investigation into the incident and concluded that the pedestrian was at fault. The pedestrian disputed that determination and raised concerns about other aspects of the investigation. The Police Department conducted additional investigation into the incident and found the initial determination to be correct. The matter was then eventually forwarded to the Interim Independent Police Auditor (IIPA) for an independent review. This report is the result of that process.

The IIPA analysis and findings are discussed below. The report identifies concerns about some aspects of the initial and follow-up investigation and makes attendant recommendations. However, as the report ultimately explains, I have found DPD's "at-fault" determination regarding the accident itself to have been reasonable.

B. The Incident

On the date of the incident, a pedestrian who was running on the bike path approached a crosswalk and pressed the button for the crosswalk assist lights. After she entered the crosswalk, she was struck by the driver's side front bumper of a truck. Paramedics responded to the location, and the pedestrian was transported to the hospital. The following are the accounts of the involved parties and witnesses to the accident, as derived from the DPD incident report:

Driver: The driver of the truck was interviewed at the scene and, according to the accident report, indicated that he was driving approximately 30-35 miles per hour. The driver said that as he approached the crosswalk, he looked in his rear-view mirror briefly. The driver stated that when he redirected his focus towards the front of the vehicle, he saw a female running through the crosswalk. The driver said he slammed on his brakes but struck the female with the front driver's side bumper of his vehicle.

Pedestrian: Several hours after the incident, the investigating officer telephoned the hospital and spoke to the pedestrian's spouse, who was with her as she was being diagnosed and treated. According to the spouse, he relayed questions from the officer to his wife, and her responses back to the officer. From this telephone call, the officer wrote that the pedestrian indicated that she was running on the bike path and, as she approached the crosswalk, she pressed the button for the crosswalk assist lights. She said she

observed the truck coming in her direction and believed that it was going to stop. The pedestrian said that she stopped prior to entering the crosswalk. The pedestrian said that as she entered the intersection, the truck continued and struck her with the driver's side front bumper of the vehicle.

Witness F: An individual reported being a witness to the incident and upon request visited the Davis Police station, where he was interviewed by the investigating officer. The witness said that he was driving and, as he approached the crosswalk, he observed the driver of the truck coming from the opposite direction. The witness said that the female was quickly running on the path from the park and into the crosswalk. The witness further stated that the female did not look for oncoming traffic, nor did she activate the crosswalk assist lights. The witness said that the driver hit the female with the front passenger side of his vehicle, that she went up onto the hood of the vehicle, slid across to the driver side and fell to the ground. The witness stated that the driver slammed on his breaks as soon as he hit the female and that he did not observe distracted behavior – such as texting – by the driver.

Based on the statement of the uninvolved witness, the investigator determined that the female caused the collision by running out into the street without confirming it was safe to do so, in violation of 21950(b) CVC. The investigator concluded that the collision would have been avoided had the female waited until all approaching vehicles had come to a complete stop.

Approximately two weeks later, following the conclusion of the investigation, the investigating officer received an email from an additional person who indicated she had witnessed the accident.

Witness L: After receiving her email, the investigator conducted a telephonic interview that he then summarized and added to the case file. This witness told the investigator that she was driving when she observed a female running from the park toward the crosswalk. As the female approached the intersection, she reached out with her left hand and activated the crosswalk assist lights and then continued to run through the intersection without confirming whether vehicles were approaching from either direction. The witness said she thought: "Wow, she is pretty brave for not stopping." The witness said that, as the female entered the crosswalk, the witness saw a red truck approaching the crosswalk. The witness said that the truck did not appear to slow its speed and that the driver's side of the truck hit the female, causing her to fall to the ground.

This account of the event did not change the conclusion that the investigator had previously reached.

C. Concerns Raised by the Spouse and Pedestrian

1. Concerns Raised by the Spouse Directly to DPD

Approximately one month after the traffic accident, the spouse of the injured pedestrian raised concerns about the case with the Davis Police Department.¹² Those concerns had several different components in support of two main contentions: that the Department’s “at-fault” conclusion about the accident was mistaken, and that a flawed investigative process had reflected and contributed to that mistake. The “ask” of the spouse was for DPD to revisit the “at fault” determination.

The spouse alleged that the handling officer never spoke directly to his wife about the incident but spoke through him while she was still being evaluated in the trauma unit and before the extent of her injuries was even known. The spouse further reported that he was informed by the handling officer that he would come by the hospital at a later date to take her statement and document her injuries, but he never did. The spouse indicated that he then called the officer several days later because he had never attempted to make contact with him or his wife. The spouse indicated that the officer informed him that he had already made a determination based on an independent witness that his wife was “at fault” in the accident. The spouse additionally stated that when he tried to correct the record regarding his wife’s statement, the officer accused him of trying to change her story.

The spouse further alleged that a particular eyewitness had never been interviewed.¹³ The spouse further indicated that multiple first responders had contacted him and that their description of the scene did not match the drawing in the accident report. The spouse additionally asserted that the handling officer relied on the driver’s estimate of his speed rather than his spouse’s estimate or that of an eyewitness. The spouse further stated that there was no evidence in the police report of whether the handling officer

¹² The spouse and his wife also raised those issues with City leadership, including its elected officials.

¹³ This eyewitness is Witness L, referred to above. As noted above, the initial handling officer had eventually interviewed this witness and attached her statement to the original accident report. The complainant was eventually made aware that the witness had been interviewed.

examined the driver's cell phone records. The spouse stated that the officer's conclusion appeared primarily guided by the statement of an eyewitness who came into the police station several hours after the incident.

The spouse opined that the accident was not his wife's fault and that her actions were reasonable and cautious. He said that she had been halfway through the crosswalk when she was struck by the driver's side fender. And he further asserted that, had the driver been alert, paid attention to the crosswalk sign or the flashing lights, and not been speeding egregiously, he would not have caused the accident.

The spouse also alleged that the officer did not sufficiently investigate the accident. As an example, the spouse pointed to the officer's apparent disregard for the shared description by the driver and his wife that she was hit by the driver's front fender of the truck; instead, the investigator relied on the statement from the eyewitness that she had been struck by the passenger's side front fender.

2. Additional Allegations by Pedestrian to the Then-IPA

In an email to the independent police auditor¹⁴, the pedestrian herself raised concerns about DPD's determination of fault, citing her positioning in the crosswalk when the accident occurred. In the email, the pedestrian noted that she had been told that the accident scene was cleaned up and the street reopened within fifteen minutes of the accident, suggesting that DPD rushed through the procedure to prevent traffic delays.

The pedestrian further asserted that the first responders could verify where she had been thrown, and that this location – which was not indicated in the accident report – supported her version of events. She argued that it would have been physically impossible for her to land where she did if she had been hit just after entering the crosswalk.

3. Filing of Civil Claim

Several months after the incident, a civil claim was filed by the pedestrian, alleging that the crosswalk, as it was designed, built, and maintained by the City, constituted a dangerous condition. The claim further alleged that the condition created a reasonably foreseeable risk of pedestrian/vehicle collisions, that the condition was caused by the negligent or wrongful act of a public employee, and that the City had actual or

¹⁴ Davis' Independent Police Auditor at the time subsequently left his position when his contract period ended and prior to additional concerns being raised by the pedestrian and spouse as detailed below.

constructive notice of the dangerous condition a sufficient time prior to the injury to have taken measures to protect against it. The pedestrian did not pursue the civil claim. The City of Davis, however, recently worked with a consultant to complete an analysis of the mid-block crossing at F Street, south of Covell Boulevard to determine the feasibility of installing a pedestrian hybrid beacon, also known as a high intensity activated crosswalk (HAWK). The existing crossing has a Rectangular Rapid Flashing Beacon (RRFB) which provides flashers that are activated by pedestrians. The study determined that the existing RRFB does meet the California Manual on Uniform Traffic Control Devices (CAMUTCD) guidelines for providing safety and awareness at this crosswalk, however the addition of the HAWK signal could provide additional safety to the crossing. City staff is in the process of getting a proposal for the design of the signal and will determine funding sources for design and construction of the signal. Provided the installation is feasible, staff plans to work on the design and construction of this signal in FY 18/19, which will be a late add on to the Cannery Grade Separated Crossing project that was recently awarded.¹⁵

4. DPD Follow-Up Investigation

After receiving the spouse's concerns, DPD assigned a supervisor to reopen the case and the "at fault" determination. The supervisor conducted the following additional investigation:

Pedestrian's Statement: The supervisor first met with the pedestrian and her spouse to review the events of the collision. The three visited the scene of the incident. According to the supplemental report, the pedestrian said that she was preparing for a marathon the following weekend and was taking a slower four-mile run at an approximately ten-minute pace. The pedestrian said that as she was running on the bike path from the park, she first observed a truck coming around the corner. According to the report, the pedestrian indicated that she then focused her attention to the traffic coming in the other direction. The pedestrian said that she then observed a vehicle slowing down and stopping in the lane just prior to the crosswalk she was intending to use. She said she stopped and activated the rapid flash warning sign by pushing the button. The pedestrian said that she then proceeded across the street and as she was crossing, she turned and waved to the driver of the truck to say thank you for stopping. The pedestrian then observed that the driver was holding the steering wheel at the "10" and "2" positions and was looking straight ahead. The pedestrian indicated that she felt the driver was going "at a speed much greater than the posted limit".

¹⁵ The Interim Independent Police Auditor recommends that serious consideration be given to this structural improvement.

The pedestrian realized that the driver was not going to stop, so she turned and continued to run out of the way but was struck on the left hip and thigh area. According to the pedestrian, she was rendered unconscious by the impact. The next thing she knew, she was “waking up” in the back of an ambulance.

Driver’s Statement: The supervisor re-interviewed the driver over the telephone. According to the supplemental report, the driver said that he was traveling approximately 30 mph when he looked in his rear-view mirror to ensure that he was not cutting anyone off as the road went from two to one lane. The driver then looked forward and observed a female in the roadway directly in front of his truck. The driver said he quickly hit the brakes and turned to the right to attempt to avoid the collision but was unable to do so. The driver said that he recalled that his vehicle struck the pedestrian at the left front area. The driver stated that he came to a stop and immediately called 911 to summon help.

Witness L Statement: The supervisor also met with Witness L at the accident location and re-interviewed her. She stated that, on the date of the incident, she was driving and approaching the crosswalk. She observed a female running in the park and toward the roadway. Witness L slowed and stopped before reaching the crosswalk. Witness L said she came to a full stop as the female continued in a jogging stride, approach the pole that has the activation switch for the rapid flashing warning light and without stopping hit the button to activate the lights and entered the roadway. The witness said she thought what the jogger had done was a “brave” maneuver.

Witness L then observed a truck traveling in the opposite direction approaching the crosswalk. She said she recognized that the driver was not stopping or slowing down and thought he must not be looking. She then observed the female to be about halfway across the roadway when she broke her stride, raised her arms, and waved them, while side stepping. The witness watched as the female realized the truck was not stopping and then turned and tried to cross the street in front of the truck.

Witness L said that the truck struck the female, causing her to roll up onto the truck then fall off. Witness L said she was sure that had the female not have slowed, she would have made it across the road and successfully have avoided being struck.

Witness F: The supervisor re-interviewed Witness F telephonically. He told the supervisor that he had been driving and that he slowed down to approximately 25 mph as he approached the crosswalk, knowing that it was a busy area between the park and the ball fields. The witness said that as he slowed, he observed a truck traveling in the opposite direction. According to Witness F, at this point he was approximately 50 feet from the crosswalk. As the witness neared the crosswalk, he first heard the collision then

saw a female rolling up on to the hood of the truck and then going to the ground. Witness F said he was sure that the female had come from the park because she did not run in front of him.

The supervisor listened to the initial tape-recorded statement of Witness' F interview with the initial investigating officer and clarified that Witness F said that he did "not think" the female had stopped, but rather that she had continued straight across the crosswalk.

Supervisor Calculations: The supervisor calculated that the truck was traveling at approximately 29 miles per hour at the point of impact.

Supervisor Conclusions: The supervisor concluded that a review of the evidence indicated that the pedestrian failed to ensure the roadway was safe prior to entering it. The supervisor noted the pedestrian's statement that she had observed the truck before she turned her attention to the vehicle that was slowing in the opposite lanes, prior to the crosswalk. While the supervisor acknowledged that the pedestrian said she had stopped and activated the light, he noted that Witness L said the pedestrian never stopped, but instead had activated the light by hitting the button as she continued to run by the pole. The supervisor opined that the pedestrian had not re-checked the traffic when she entered the roadway and failed to notice that the truck was so close as to be a danger. The supervisor noted that the driver knew the roadway merged from multi lanes to a single lane and was checking his mirrors to ensure that he was clear to merge. The supervisor indicated that the posted speed limit is 25 miles per hour, and that a 2011 speed survey found the average speed traveled on that roadway is 31 miles per hour with a critical speed of 33 miles per hour.¹⁶

California Vehicle Code

The following California Vehicle Code provisions are applicable to this case:

Section 21950(a) CVC: The driver of a vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection except as otherwise provided in this chapter.

Section 21950(b) CVC: This section does not relieve a pedestrian from the duty of using due care for his or her safety. No pedestrian may suddenly leave a curb or other place of safety and walk or run into the path of a vehicle that is so close as to constitute an

¹⁶ "Critical speed" is the speed at which 85 percent of the vehicles sampled travelled at or below.

immediate hazard. No pedestrian may unnecessarily stop or delay traffic while in a marked or unmarked crosswalk.

Section 21950(c) CVC: The driver of a vehicle approaching a pedestrian within any marked or unmarked crosswalk shall exercise all due care and shall reduce the speed of the vehicle or take any other action relating to the operation of the vehicle as necessary to safeguard the safety of the pedestrian.

Section 21950(d) CVC: Subdivision (b) does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within any marked crosswalk or within any unmarked crosswalk at an intersection.

Relying on Subdivision (b) of the Vehicle Code, the supervisor concluded that the original “at-fault” assessment had been correct.

DPD Closing Memorandum

DPD command staff reviewed the records of the accident and the supervisor’s conclusion and determined that the investigation was complete, comprehensive, and appropriately conducted.

DPD also met with the spouse and advised him of the Department’s determination that the initial “at fault” finding should remain unchanged. During that meeting, in which the then Independent Police Auditor was present, the Chief suggested several resolutions including sending the investigation to a reconstructionist at another independent police agency in the area and request an independent review of the investigation. The offer was that if the determination by the other agency was that the findings should be changed, DPD would amend the report. The Chief further offered to have the couple hire their own qualified reconstructionist and that any resulting report would be attached to the DPD police report. The Chief indicated that DPD would use any additional information to help determine whether the police report should be amended. Finally, the Chief offered the couple the opportunity to write their own narrative and that it would be attached directly to the report.

5. Additional Concerns Raised

Outreach to the Independent Police Auditor

Almost a year after the meeting with command staff, the spouse wrote to the Independent Police Auditor – who had since left the position – with additional concerns after having

reviewed the body camera videos from the responding officers. The spouse wondered whether any measurements were taken to calculate the driver's speed, or if any of the witnesses were asked how fast they thought the driver was going when he struck his wife. The spouse further wondered why the driver was not cited for driving without insurance and why that information was not included in the police report. Finally, the spouse asked about the relevance of the officer's comment to the driver that the next contact would probably be from the District Attorney. The spouse noted that at the meeting with command staff, the Chief said that if he was still dissatisfied with the supplemental investigation, he would invite an outside agency to examine the report and its conclusions and asked the Auditor how he might be able to request such a review. The Independent Police Auditor responded by saying that his own term had ended, and he forwarded the correspondence to the Davis Police Department for follow-up. No further action was taken by DPD at that time.

Concerns Raised to California State Department of Justice

The pedestrian also complained to the California State Department of Justice (Cal DOJ). In addition to setting out her account of the incident, the pedestrian asserted that the supervisor who interviewed her was rude and dismissive of her statement. The pedestrian was particularly concerned that when the supervisor was informed that she was out for a run as part of her training for a marathon, he said: "I know some marathon runners. They're a bunch of risk-takers."¹⁷

The pedestrian further asserted that the finding in the initial police report erroneously concluded that she was struck by the passenger side of the truck, implying that she had stepped into the crosswalk and was immediately hit. The pedestrian alleged that she was in the crosswalk for more than three seconds and therefore could not have constituted an immediate hazard. Cal DOJ suggested that the pedestrian first submit a request to the Yolo County Grand Jury which was done.¹⁸ Prior to re-contacting Cal DOJ, the pedestrian learned of the appointment of an Interim Independent Police Auditor and pursued their concerns with the undersigned.

¹⁷ The supervisor did not deny making this comment.

¹⁸ The Yolo Grand Jury apparently acknowledged receipt of the complaint but there is no indication that any further action was taken.

6. Follow-Up by Interim Independent Police Auditor

Additional Information from Couple

After being designated as the Interim Independent Police Auditor, this writer received inquiries from the pedestrian and her spouse about the status of their continued concerns. As a result, I requested and reviewed the materials prepared in the matter and met with the pedestrian and her spouse. During that meeting, I was told that during their initial conversation with the supervisor at the traffic scene, he complained about having to re-investigate the traffic collision as it was taking him away from two other more consequential fatal traffic accidents. According to the couple, the supervisor informed them at the scene that the pedestrian was lucky she had not ended up like the fatalities he was investigating.

IIPA was further informed that, during the follow up meeting with the Chief, he had apologized for the statements of the supervisor. The Chief had also offered a “restorative justice” session where the couple’s concerns about the investigation could be discussed with the investigating officer and supervisor.¹⁹ The spouse said that he and his wife rejected that offer because it could not lead to a changed result in the “at-fault” determination.

In addition to the information provided in the meeting, the pedestrian subsequently provided an account of the incident in which she indicated that, on the date of the incident, she was approaching the crosswalk when she noticed a truck making a turn onto the street that she was intent on crossing. The pedestrian stated she stopped to trigger the flashing lights before entering the crosswalk and that the northbound traffic had already stopped for her. The pedestrian indicated that knowing that the speed limit was 25 and the southbound truck had just turned onto the street, she waved to thank the northbound driver and walked into the crosswalk.

The pedestrian stated that she had nearly reached the center of the crosswalk at the median, looked north again and was surprised to see the truck was at the top of the median and mere feet from striking her. The pedestrian estimated that the driver was traveling 35-40 miles per hour. The pedestrian indicated that she saw the driver looking through the windshield and thought, “he sees me and is trying to hurry me up.” The pedestrian stated she turned to run toward the median and get out of the way. The pedestrian stated that she was about to step onto the protected center of the crosswalk

¹⁹ The Chief indicated that when he met with the spouse and learned of the comments made by the supervisor, he apologized for the comments and counselled the supervisor for making them.

when the truck's left headlight struck her left hip, throwing her 25 feet and knocking her unconscious.

In follow-up correspondence with the IIPA, the spouse raised the following issues and assertions regarding traffic reconstruction:

- Not all vehicles decelerate at the same rate when braking.
- By using the skid mark as the sole determinant of braking distance, the police are ignoring the possibility that some braking may have occurred prior to the skid starting.
- The idea that the driving speed can be calculated down to the hundredths of a second is not reasonable.
- The failure of Davis PD to ask the eyewitnesses the speed that they believed the truck was traveling was problematic.
- The driver's obligations under the Vehicle Code to exercise "all due care in safeguard the safety of pedestrians, and the express provision stating that the pedestrian's responsibilities do not relieve the driver of his duties, militated in favor of a different outcome.
- The Vehicle Code does not require a pedestrian to come to a full stop before entering a crosswalk.
- The driver should have been found to have been at least partially at fault.
- The discretion that police agencies have in making an "at-fault" finding should be considered to see if it was misused or exceeded.

In subsequent correspondence, the pedestrian noted that, during her spouse's meeting with the Chief, he stated that the driver had no obligation to slow down for her. She also raised a concern about the response she had received from the Police Department to a request she had made pursuant to the California Public Records Act (CPRA). According to the pedestrian, they had submitted a CPRA request to the City of Davis for information regarding civilian complaints. In response, they received only very high-level summary information. According to the pedestrian, when a journalist requested the same information under the CPRA, he received more extensive information from the DPD than she had.

Results of Independent Accident Reconstruction Review

During my conversation with the pedestrian and her spouse, we also re-examined the possibility of an independent accident reconstruction expert reviewing the material. Eventually, the pedestrian and her spouse supported the idea of an outside expert review. The IIPA selected a retired police officer for the review. During his 35 years with an agency in Southern California, his career was mainly focused on traffic safety and

enforcement. He served as either a traffic officer, motorcycle officer, or traffic investigator for 27 ½ years. During his career, he personally investigated or assisted in the investigation of over 15,000 traffic collisions. His training included basic, intermediate, advanced and reconstruction collision investigation courses, including “vehicle versus pedestrian” accidents. Prior to retirement, the investigator was a member of the Orange County Traffic Investigators Association and the California Association of Accident Reconstructionists. The investigator affirmed that he did not know anyone associated with the Davis Police Department. The independent investigator noted that the initial officer did not obtain any measurements at the scene. However, body camera footage by the initial and backup officer showed surveyor marks on the pavement and asphalt patches in the roadway which could be used to assist with measurements.

This footage indicated to the independent expert that the truck’s skid mark came from the right front tire – and not from the right rear tire as determined by the DPD supervisor during his follow-up of the original investigation. The independent expert did find that the supervisor’s speed calculations were correct. However, he also opined that it was more precise to articulate that the “minimum” speed of the truck was approximately 29 mph, and that it could have been a couple mph faster.

The investigator found that if the driver had released pressure on the accelerator pedal before impact, the speed could have been reduced by 1-2 mph. Based on such analysis, the investigator determined that the truck was travelling at least 30-31 mph as it travelled on the roadway. The investigator found that the truck was potentially traveling faster but that at impact its speed was no more than 30-31 mph. The investigator found that if the truck had been traveling at a speed significantly faster than 35 mph, the truck would have been at or past the crosswalk before the pedestrian took her first step off the curb. The investigator concluded by agreeing with DPD’s determination that the pedestrian was at fault. He found that the collision occurred within 2-3 seconds of the pedestrian entering the roadway. He concluded that once the pedestrian entered the street, she did not provide the driver sufficient time to perceive her and react.

7. IPA Analysis

As detailed above, the spouse and the injured pedestrian raised numerous concerns about the thoroughness and objectivity of the Davis PD accident investigation and the determination that the pedestrian was “at fault”. The following is an analysis of each concern, and of their individual merits in relation to the available evidence.

a. Failure of the Initial Investigating Officer To Directly Interview the Pedestrian.

DPD has acknowledged that the officer called the hospital to speak to the pedestrian, but because she was undergoing diagnosis, treatment, and was under medication that he had used her spouse as a “go between” because of her circumstances as a patient. Nor does DPD dispute that the initial investigating officer had indicated to the spouse that he would interview the pedestrian at some later time. However, once an un-involved witness appeared at the police station, the officer apparently determined that it was unnecessary to interview the pedestrian. And it was only after the pedestrian’s spouse initiated contact several days later that the officer informed him that he had reached a final determination and that he no longer felt it necessary to talk with the pedestrian. Best investigative practices recognize the importance in interviewing all parties to an incident before making a determination of “fault.” The failure to interview the pedestrian in this case directly was particularly concerning, not only because the officer had told the spouse that he would do so but also because he did not contact the couple when he decided it was no longer necessary. Nor should the appearance of an uninvolved witness at the police station have changed the basic investigative precept that all available parties and witnesses should be interviewed.²⁰

The spouse indicated that when he protested about the result to the officer and attempted to provide further information about his wife’s version of events, the officer accused him of trying to change her story. Instead of making such accusations against a person who had never claimed to be at the scene, the officer should have recognized the heightened importance of interviewing the pedestrian as he had originally agreed to do. As a result of this failure, the spouse and pedestrian rightly concluded that DPD had made a determination of “fault” without providing the pedestrian the full opportunity to set out her version of the incident. It understandably raised skepticism about the thoroughness of the initial DPD investigation. Accordingly, the initial officer’s decision to resolve the investigation without interviewing the pedestrian herself was a serious misstep that was exacerbated by poor communication.

RECOMMENDATION ONE: DPD should develop written protocols and advise its personnel and reviewing supervisors of the need to interview all available parties to a serious accident investigation before reaching a finding.

²⁰ Another problem with the accident report is that the officer wrote the report suggesting that he talked directly with the pedestrian when his questions and her answers were actually being relayed by the spouse who was with her. It is critical that a police report accurately reflect details such as the facilitation of an interview by a third party.

b. Description of Scene in Accident Report

As described above, the spouse averred that the description of the scene from multiple first responders did not match the drawing in the accident report. Later, the spouse stated that the location where the pedestrian had been thrown by impact was not indicated in the accident report. The cursory sketch in the accident report does not purport to be a “to scale” drawing of the accident scene. More significantly, a review of the accident report indicates that the officer did not rely on where the pedestrian landed in making the “at fault” determination.

Since these issues were raised, the spouse has been provided body camera footage which is the best evidence of the scene. It shows the end positioning of the truck and damage to the left front side of the vehicle, the skid marks, and the pedestrian’s landing place after she was thrown into the air. Regardless of any omission in the narrative of the report of where the pedestrian landed, the preservation of the body camera footage sets out the scene in accurate and observable detail.

c. DPD’s Estimate of Driver’s Speed

The speed of the driver at the time of the collision remains a matter of contention. As noted above, the driver indicated at the scene he was traveling between 30-35 mph and later told the supervisor that he believed he was traveling at 30 mph. In a statement provided to the supervisor, the pedestrian said she believed the driver was going at a speed “much greater than the posted limit.” In correspondence with the IIPA, the pedestrian indicated that she believed the driver was traveling between 35-40 mph. While not set out in the accident report, the body camera footage of Witness F’s interview indicated that he believed the driver was traveling at 20 mph.²¹

The supervisor used skid marks and other identifiable marks and calculated the driver’s speed at approximately 29 mph at the point of impact. The independent reviewer found that while the truck was likely traveling faster as it approached the crosswalk, at the point of impact he was traveling no more than 30-31 mph.

²¹ As for the fourth documented witness, the two summaries of Witness L’s statements that were prepared by DPD unfortunately do not indicate how fast she thought the driver was traveling. Either the initial investigator and supervisor failed to ask her this question, or they neglected to include her response in their summary reports. Witness L should have been asked this important question, and her response should have been documented.

It is apparent that estimates about speed by the involved parties and the one uninvolved witness diverge significantly and are therefore of limited utility in reaching a conclusion. As for the physical evidence, the calculations of the driver's speed place the speed at the time of impact at between 29-31 mph. The independent accident reviewer used this finding to estimate that the truck's travelling speed (before braking) was no more than 35 mph, though it is impossible to calculate the maximum speed precisely.

d. DPD's Braking Distance Determination.

The spouse asked whether using the skid mark as the sole determinant of braking distance ignores the possibility that some braking may have occurred prior to the skid starting. The calculations by the supervisor and the independent reviewer accounted for the likelihood that the driver took his foot off the accelerator and may have reduced pre-impact speed by 1-2 miles an hour. Once the driver slammed on the brakes, he would have locked them and caused an observable skid mark.

The spouse questioned whether the driving speed can be calculated to the hundredths of a second. While the mathematical formula used to calculate driving speed at point of impact produces a specific result, the supervisor appropriately rounded the result and concluded that the driving speed was *approximately* 29 mph at the point of impact.²²

e. No Evidence that Cell Phone Records Were Examined.

The spouse asserted that the accident report did not indicate any examination of the driver's cell phone records, presumably to discover whether he was illegally manipulating the phone and distracted at the time of the accident. The driver was asked about this possibility during his initial interview and he denied using the phone. Independent witnesses did not observe the driver on his cell phone. Most significantly, in her statement to the supervisor, the pedestrian indicated that she observed the driver holding the steering wheel at the "10" and "2" positions. The positioning of the driver's hands as related by the pedestrian would have made it virtually impossible for the driver

²² As noted above, the spouse raised a question as to whether different braking capabilities of vehicles would affect the point of impact speed calculations. While there is variety in the functionality of braking systems among vehicles, the point of impact calculations in this case are based on the skid mark that the one wheel made when the brakes were applied, which measures how far it took the truck being driven that day to stop. Again, it is important to note that the "point of impact" speed determination is an approximation, but one that is rooted in objective analysis of specific available evidence.

to be also manipulating his cell phone, obviating the need for further examination on this issue.²³

f. Initial “At Fault” Conclusion Dependent on Statement of One Witness.

The spouse stated that DPD’s initial conclusion of fault was based on the statement of one witness. While the flaws in the original investigation have been itemized above, even the first conclusion incorporated the statements of the involved parties as well as Witness F. Moreover, and fortunately, after the initial finding of fault was made, another witness contacted DPD and provided additional information about her observations. When the case was reopened, the DPD supervisor directly interviewed the pedestrian, and re-interviewed the driver and the two eyewitnesses. Moreover, the supervisor used the information and body camera footage from the scene and used his accident reconstruction expertise to calculate the driver’s speed at the point of impact.²⁴ As a result of the fortuitous appearance of another uninvolved witness and the follow-up investigation and calculations by the supervisor, the initial defects in the investigation were significantly ameliorated.

g. DPD Determination Regarding Where the Pedestrian Was Struck.

The spouse asserted that the officer disregarded the statement from the driver and his wife that she was hit by the driver’s side of the truck and relied instead upon the statement from the eyewitness that she was hit by the passenger’s side of the truck. However, the original police report indicates that both the driver and the pedestrian said that the truck struck her on the driver’s side front fender. While Witness F erroneously said that he believed the truck struck the pedestrian on the passenger side, there is no evidence that either the officer or supervisor relied on this observation in drawing their ultimate conclusions about fault.

h. DPD Interpretation of “Immediate Hazard”

As discussed above, the Vehicle Code section cited as a basis for the at-fault determination states that “No pedestrian may suddenly leave a curb or other place of

²³ Similarly, there was no basis to conduct a field sobriety test as there were no independent indicia of alcohol consumption. Moreover, the driver was coming directly from his work site, as corroborated by a work colleague who responded to the accident location.

²⁴ And as noted above, the calculations by the independent accident investigator reached similar results.

safety and walk or run into the path of a vehicle that is so close as to constitute an immediate hazard.” The pedestrian alleged that since she was in the crosswalk for more than three seconds, her presence could not have constituted an immediate hazard. The Vehicle Code does not define what constitutes an “immediate hazard” and the term is open to interpretation. The intent of the statute is to prevent pedestrians from leaving a place of safety and going onto the roadway in a way that precludes the driver of the vehicle sufficient time to stop.

It is also true that, as noted by the spouse, the Vehicle Code does require the driver to exercise “all due care and...reduce the speed of the vehicle or take any other action relating to the operation of the vehicle as necessary to safeguard the safety of the pedestrian.” The Vehicle Code further expressly states that the driver is not relieved from “the duty of exercising due care for the safety of any pedestrian within any marked crosswalk.” Additionally, the spouse was correct in noting that the Vehicle Code does not require a pedestrian to come to a full stop before entering a crosswalk.

The evidence in this case is that when the driver saw the pedestrian in the roadway, he did immediately slam on his brakes to slow his truck and pulled to the right in an effort to avoid the collision. Considering these facts, it was reasonable for DPD to conclude that the driver met this duty under the Vehicle Code.²⁵

Regarding whether the Vehicle Code requires the pedestrian to come to a full stop, the pedestrian indicated that she did so. Moreover, while that requirement is not written in the Vehicle Code, the evidence from uninvolved eyewitnesses that the pedestrian hit the crosswalk light button and continued without stopping was appropriately used in determining fault.

The apparent determinative question in the ultimate fault finding is whether the pedestrian stopped after hitting the crosswalk button or whether she continued with her jogging pace. There are three witness accounts that speak to this question; the pedestrian who stated she did stop; Witness F who stated he did not believe the pedestrian stopped; and Witness L who stated that the witness did not stop. In reaching his determination, the DPD supervisor relied heavily on the stated observations of Witness L. That witness did not know the involved individuals and was in an ideal position to observe the incident. Moreover, her observations are consistent with the other non-disputed facts. It was not

²⁵ The pedestrian alleged that during her spouse’s meeting with the Chief, he was informed that the driver had no obligation to slow down for her. The recollection of precisely what was said during this discussion differ.

unreasonable for DPD to rely on this witness' statement of what she observed to have occurred in determining that the pedestrian was "at fault" in the accident.²⁶

i. DPD Processing of the Scene.

As noted above, the spouse stated that DPD rushed through the processing of the scene to prevent traffic delays. A review of the body camera footage does not show that the scene was inadequately processed. While the initial officer did not take any measurements and ideally it would have been helpful if he had done so, the body camera footage of him and another responding officer provided a rendering of the scene that showed the positioning and damage to the truck, the skid marks, and where the pedestrian was being treated on scene. This video information proved critical to the subsequent review by the DPD supervisor and the independent reviewer. In addition, the body camera footage shows the initial interview of the driver and the attempts by on-scene officers to identify eyewitnesses. There is insufficient evidence to support any finding that the scene processing was unnecessarily rushed.

j. Failure of Driver to Carry Insurance.

The spouse questioned why the driver was not cited for driving without insurance. At the scene, the driver admitted that he did not have current insurance, yet was not cited. Police officers have discretion regarding whether to cite a driver who cannot demonstrate proof of insurance.²⁷ Moreover, the fact that the driver apparently allowed his insurance coverage to lapse should not have, and appropriately did not have, an effect on the determination of fault.²⁸

²⁶ The spouse raised the question of whether the driver should have been found to have been at least partially at fault. The concept of "contributory negligence" allows a fact-finder to determine that each party was partially at fault. While this option was available for DPD, it was not unreasonable based on the evidence collected for DPD to reach the result that the pedestrian was solely at fault.

²⁷ In some situations, such as a domestic violence allegation, police officers have limited discretion in how to proceed. However, in the field of traffic enforcement, police officers have wide discretion on making an "at fault" finding, deciding whether to cite a driver who has no proof of insurance, and whether to cite a pedestrian who is found to have been at fault in a traffic collision.

²⁸ Under California law, each party to a traffic accident has an obligation to file a report with the Department of Motor Vehicles. While the pedestrian filed a report, the driver apparently failed to file such a report. Moreover, DMV is independently made aware of the traffic accident as a result of any investigation conducted by a police agency, such as in the present case. Apparently, as a result of the traffic collision, and his failure to file

k. Comment by Officer that Next Contact with Driver Would Be by District Attorney.

As noted above, the spouse asked about the relevance of the officer's on-scene statement to the driver that the next contact he would have would be from the District Attorney. At that point, the officer was still early in the fact collection stage and may have been suggesting to the driver that the collision might have criminal implications. However, when DPD determined that the pedestrian was at fault, any potential for criminal implications for the driver was obviated. The independent review of this incident provides no basis for a criminal referral of this matter.

l. Performance of Supervisor.

As noted above, the pedestrian alleged that the supervisor was rude and dismissive of her statement. She particularly noted that when she first visited the scene with the supervisor, he told her that marathon runners were risk-takers. The comment was best left unsaid as it created the impression that the supervisor had already adjudged the pedestrian as a "risk-taker" simply because she had indicated that she was a marathon runner and prior to the supervisor collecting the facts in the re-investigation.

The supervisor wrote in his report that after obtaining a statement from the pedestrian, he informed her that the preliminary investigation showed that the driver was going approximately 30 mph. The supervisor added that he explained to the pedestrian that when faced with a vehicle, the distortion of speed and danger can cause a perception of a much higher speed. He also wrote that he explained to the pedestrian that he had two independent witnesses who stated that she did not come to a complete stop prior to entering the roadway. He said that one witness stated that she had seen the pedestrian approach the sign, hit the button and continue.

The information conveyed to the pedestrian by the supervisor about the speed of the vehicle appeared at best to be an effort to persuade her that she was wrong about the estimated speed of the vehicle and to explain why she might have miscalculated. The statement about other witnesses was an apparent effort to challenge the pedestrian's account of the event.

In his initial interview with the pedestrian, the supervisor should not have used the opportunity to try to persuade or challenge her that her account was incorrect. At that

the mandatory report in addition to his not carrying current proof of insurance, the driver's license was eventually suspended.

point, the supervisor's role was to simply collect the account of the pedestrian that the initial officer had failed to effectively do. Any immediate challenge to the witness will be likely perceived that the supervisor had already determined that the account of the witness was incorrect. Any presentation of conflicting evidence to a complainant should be deferred until the investigation is concluded and a final determination has been reached.

Of even greater concern was the supervisor's alleged statement to the pedestrian and spouse that having to re-investigate the traffic accident was delaying his work investigating two fatal accident investigations. Any supervisor who is conducting an investigation of this nature should not voice any comment that the assignment was of less importance than other work. Doing so in this case understandably left the couple with the impression that he viewed the case as an annoyance. This undermines the sense of professionalism and appropriate objectivity that contribute to public confidence.

RECOMMENDATION TWO: DPD should develop written protocols and advise its personnel that when conducting an investigation of this nature, during the initial interview of those raising issues, supervisors should not attempt to persuade them that they were mistaken nor challenge them with contrary evidence.

RECOMMENDATION THREE: DPD should advise its personnel that when assigned to an investigation in which concerns have been raised about the initial DPD determination, supervisors should not make any comments suggesting that the assignment is keeping them from more important tasks.

m. Failure to Tape Record Witness Accounts: Significant Investigative Deficiencies

To the initial investigating officer's credit, his body-worn camera captured the on-scene interview of the driver and provided a detailed depiction of the scene and his actions after responding to the location. Moreover, when Witness F appeared at the police station, the officer tape recorded his interview. Unfortunately, when the officer interviewed Witness L telephonically, he did not record her interview.

During the investigation conducted by the supervisor, he did not tape-record any of the supplemental interviews, including the pedestrian, the driver, and Witnesses F and L. While this issue was not raised by the pedestrian or her spouse, the failure of the supervisor to tape-record any of the statements he collected is not consistent with

standard investigative protocols for such investigations. As a result, the only record of those interviews is a brief written summary of their substance based on the supervisor's recollection. More significantly, the failure of the supervisor to record the interviews makes it difficult for a reviewer within DPD's chain of command or an outside reviewer such as the Independent Police Auditor the opportunity to review precisely which each witness said.

DPD responds that while the Department's Internal Affairs complaint policy required that interviews of witnesses be tape-recorded, the follow up work conducted by the supervisor was considered a re-investigation of the collision. Regardless of how the additional investigative work was characterized, any interviews of complainants or witnesses that were undertaken as part of the supplemental investigation should have been tape-recorded.

DPD further indicates that the updated body worn camera and recording policy now sufficiently addresses this issue in that current policy requires investigators to, subject to consent or pursuant to law, record all interrogations or interviews conducted as part of an investigation. It is unfortunate that this best practice was not followed in this case, particularly considering its sensitivity.

n. Response to Public Record Act Request

As noted above, the pedestrian indicated that, pursuant to the California Public Records Act (CPRA), she requested information from DPD regarding civilian complaints. According to the pedestrian, a journalist who requested the same information received a greater level of detail regarding the complaints.

As stated by the Attorney General's Summary of the CPRA, the fundamental precept of the Act is that governmental records shall be disclosed to the public, upon request, unless there is a specific reason not to do so. The CPRA does not distinguish between journalists and non-journalists regarding the amount and type of information that is to be provided. It is apparent that in this case identical requests resulted in disparity regarding the detail of information provided. It is incumbent upon DPD to devise protocols so that each requestor is provided identical information.

RECOMMENDATION FOUR: DPD should devise protocols to ensure that any request under the California Public Records Act is handled similarly.

8. Conclusion and Next Steps

As this Report indicates, there were flaws in the Davis Police Department's approach to both the original and subsequent investigations of the traffic collision at the center of this case. However, this is different than saying that the ultimate conclusion of those investigations was mistaken or invalid. Additionally, the independent analysis of the evidence that was obtained as a further layer of review found a sufficient basis to support the "at-fault" finding. Given this evidentiary foundation, it is not our role to substitute our judgment for the agency so long as the ultimate determination was reasonable. In this case, while the traffic calculations provide value in obtaining an approximation of the speed of the truck, the most significant basis for the finding of fault required a credibility determination between four accounts of the accident; that of the pedestrian, the driver, and two uninvolved eyewitnesses. The key fact that supported DPD's decision to find the pedestrian at fault was its determination that she did not stop after activating the crosswalk light, without due care for her safety, and that subsequently ran into the path of a vehicle that was too close to avoid the collision. As with any case with contested evidence, it was not unreasonable for DPD to credit the account of Witness L over that of the pedestrian on this key fact.²⁹

The question remains about appropriate remedial action regarding the lapses in investigative protocols and collateral matters by DPD personnel that are delineated above. With regard to possible individual accountability, additional efforts at potential internal discipline for involved personnel are precluded under state law because of the passage of time since the alleged conduct occurred. Even so, and perhaps more significantly, this Report and its findings can still serve as a learning tool, not only for the involved investigators but also the agency as a whole. One option would be for all DPD officers to read this report as an example of how important it is to take seriously concerns raised by its public. It is hoped that DPD leadership will seriously consider the recommendations in an effort to enhance the strength and legitimacy of future investigations.

This Auditor recognizes that the mixed findings in this case are likely to be met with similarly mixed reactions on the part of close observers. The physical and emotional

²⁹ This review also demonstrated the widespread misperceptions among the general public regarding the rights and responsibilities of pedestrians in determining when and whether to enter a crosswalk. Many who have opined on this case to the Auditor have done so under the incorrect belief that the pedestrian always has the right of way in a crosswalk and that any accident that occurs therein will necessarily and automatically be the fault of the driver.

trauma precipitated by the accident itself, the disputed nature of facts, and the circuitous path of the various investigations have produced understandably strong feelings. But the analysis here was an effort to provide a dispassionate and independent review. If the Report itself is a reflection of that effort, then ideally a sense of fairness will help mitigate any disappointment.

The Department's performance in this matter had shortcomings that deserve remediation: however unintentionally, they either produced or exacerbated the different investigative concerns that troubled the pedestrian and her spouse. In the end, though, to the extent that the ultimate focus of the concern was a challenge to the "at-fault" finding, there is simply insufficient evidence to support a reversal of DPD's decision.

III. IPA's Work with Davis' PAC

The current scope of work envisions that IPA work closely with the City's newly formed Police Accountability Commission (PAC). As a result, since its inception, IPA has attended the monthly PAC meetings and been available as a police practices subject matter expert. In addition, IPA has met off-line and over the phone with various PAC members as issues or questions have arisen. IPA has presented at each public meeting on topics of interest, including changes to state law regarding oversight, data collection, and identification procedures. IPA also led a "table-top" interactive exercise about issues that present themselves after a critical incident involving police activity; the presentation covered the challenges for police agencies in responding effectively to investigative needs while also emphasizing transparency and appropriate sensitivity. As the PAC continues its work, IPA welcomes the opportunity to serve as a resource based on its experience with police oversight.

IV. Davis PD Initiatives

DPD annually produces its year in review report which is the prime source for learning about community engagement and training issues accomplished in the previous year. However, per IPA request, DPD provided a bulleted list of some of those initiatives for inclusion in this Report.

Community events

Following is a partial list of community events that DPD personnel have coordinated:

- Pioneer Elementary-Lunch with a Cop (Oct 2019)
- Ultimate Frisbee: DPD vs Davis Youth Ultimate Team (Oct 2019)
- National Coffee with a Cop (Oct 2019)
- Movie Night in the Park (Aug 2019)
- Carlton Plaza First Responder Day (August 2019)
- Pack the Patrol Car Backpack Drive (July 2019)
- Basketball with DPD-Open Gym (July 2019)
- Youth Academy (June 2019)
- Tennis Club Mixer (June 2019)
- Special Olympics Run (June 2019)
- Batting Practice with DPD (June 2019)
- Sparkle Davis (March & June 2019)
- Battle of the Badges (April 2019)

The Department's commit to regular engagement with its communities outside of its traditional law enforcement function is a testament to DPD's recognition that an important element of police work is gaining and retaining the trust of the people the agency is privileged to serve.

Training Initiatives

To the Department's credit, it has a committed orientation to providing regular training to its officers. Following is a list of recent training initiatives:

- POST Principled Policing (Procedural Justice): Recently, several DPD supervisors have been dispatched to instructor level training in POST's Principled Policing class. This course teaches fairness, procedural justice concepts, and emphasizes bias awareness.

- The team of instructors have certified an 8-hour POST class here at the Davis Police Department that is tailored to our community. All DPD employees have been through the class. To supplement the class, DPD command staff have met with supervisors and discussed supervision styles aimed at reinforcing principles around procedural justice.
- DPD is currently discussing future update trainings pertaining to procedural justice and putting together a plan to enhance our customer service mindset.
- DPD has incorporated de-escalation training into all of our defensive tactics training.
- All DPD officers undergo 4 hours of implicit bias training.