

City of Davis

Independent Police Auditor Report:

Review of Allegation Regarding Rudeness,
Inappropriate Pointing of Firearms, and Taking of
Cell Phone

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Independent Police Auditor
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Factual Background

This complaint was submitted by three residents concerned about the way in which Davis Police Department officers responded to a prowler call. Specifically, the concerns were that DPD officers unnecessarily drew their firearms while they were searching the back yard of the residence, were “short” with the residents when explaining the reason for their visit, and took a cell phone belonging to a visitor who was staying with them.

The complaint stemmed from a call for service about a prowler from a neighbor of the residents who saw an unfamiliar person go into the backyard. Three officers responded. One went to the door but did not get an immediate response. The other two officers went to the back yard and cleared the yard and a garage area. Eventually, two of the residents responded to the front door and the officer explained the reason for their visit. A cell phone was found in the front area of the neighborhood by one of the officers who picked it up and it was taken when they cleared the call. The residents called the number and told the officers that it belonged to their visitor; the officers returned to the location and returned the phone.

DPD Investigation and Outcome

DPD opened a formal personnel investigation into the complaint. The investigator was able to utilize body-worn camera recordings, reports, and other documentation in assessing the DPD response. He also interviewed the three residents (who requested that they be interviewed together) and the three officers. Following the interview, and to this credit, the investigator showed the residents the body camera footage available which caused two of them to be ameliorated when the footage helped explain the officers’ conduct.

The investigation revealed that one of the officers who had been involved in clearing the back yard did not have his body worn camera with him.

The Chief reviewed the completed investigation and determined that the officers had handled the incident appropriately. However, the Chief sustained an allegation against the officer who had not worn his body worn camera in violation of DPD policy.

IPA Review and Analysis

The Independent Police Auditor (IPA) reviewed the materials relevant to this incident, including DPD police reports, the internal investigative report, and the body-worn camera video that captured the interaction. We concurred with the determination that the incident had been handled appropriately.

While it can be upsetting for residents to be surprised to see officers responding to their back yard with firearms out of the holster, there was an initial effort to contact those residents at the front door but there was no initial response. The body-worn footage of one of the officers showed that the firearms were unholstered but at the low ready position (guns out but not pointed at anyone) for most of the encounter. The investigation was somewhat hampered by the failure of one of the officers to have his body worn camera with him. That officer admitted that he may have briefly pointed his weapon at the resident when she first appeared at the back door, but put it down once he realized that she was not a threat. Considering the nature of the call, the responding officers performed consistent with policy and agency expectations.

Regarding the officer interacting with the residents who eventually came to the front door, the initial concern was that he insufficiently and hurriedly explained the purpose for the officers' response. The body worn camera footage showed, however, that the officer was professional and courteous. It appears that any concern about his interactions may have been influenced by the initial sighting by the residents of two officers in their back yards with firearms out of their holster.

The body worn camera footage shows that the phone was recovered on a sidewalk. The officer who recovered the phone initially believed that the phone belonged to a neighbor and asked him if it was his phone. Not knowing who the owner of the phone was, the officers took the phone with them with the intent of trying to locate the owner at the station. When the residents called the phone, they returned to the residence and returned it to them.

The investigation was thorough, and we concur with the disposition reached. Particularly commendable was the identification of the body worn camera violation, even though it had not been identified by the complainant. One thing noted was that while the cell phone issue was covered during the investigation, the investigator did not discuss that issue in his analysis and disposition recommendation. Additionally, it would have been helpful had the closing letter to the residents expressly reflected that as a result of their complaint, important remediation with regard to the officer's failure to wear his body worn camera resulted from the logging of their complaint.