

STAFF REPORT

DATE: February 23, 2015
TO: City Council
FROM: Landy Black, Police Chief
Darren Pytel, Assistant Police Chief
SUBJECT: Community-Police Alternative Conflict Resolution (ACR) Pilot Program

Recommendation

Informational

Fiscal Impact

None at this time. If the *ACR Program* is fully adopted after the pilot period, funding may be necessary to train community members to act as trained facilitators.

Council Goal

- Ensure a Safe and Healthy Community
- Promote Community

Background

In October 2013, the City of Davis engaged a consultant, Judith MacBrine from the Mirror Group, to facilitate Dialogue Sessions between Davis community members – selected and recommended by the Human Relations Commission – and the Davis Police Department on the topic of racial profiling (collectively – the “*Working Group*”). The participating community members were Carlos Matos, Cecilia Escamilla-Greenwald, Diane Evans, Malik Bennett, and Yvonne Clinton. The participating Davis Police Department members were Assistant Chief Darren Pytel, Lieutenant Tom Waltz, Lieutenant Paul Doroshov, Sergeant Rod Rifredi, and Officer Jesse Dacanay.

Discovery sessions in October 2013 led to dialogue sessions held from November 2013 through January 2015 and resulted in the creation of this *Community-Police Alternative Conflict Resolution (ACR) Pilot Program*, designed to restore the Davis community when conflict occurs between Davis community members and Davis Police Department employees. Additionally, the Human Relations Commission adopted several recommendations to host both informal and formal dialogues on police-community issues.

Formal and Informal Dialogues

During early dialogue sessions, the *Working Group* catalogued the history of community-police conflict at the national, regional, and local level over the past several decades (1960’s to present); often identifying the specific incidents that sparked the conflict. A review of the incidents showed a striking correlation between national/regional incidents and related local

incidents or events that often followed. In examining the relationship between the timing of incidents, it became evident that police – not only here, but everywhere – miss important opportunities to build community trust, and instead perpetuate mistrust by failing to directly discuss policies/procedures, or remain accountable for changing practices that reflect the local attitudes and feelings of their community on policing issues. In short, the *Working Group* discovered that often the worst time to have dialogue is immediately following a local incident because strong emotions can hinder thoughtful reflection. Thoughtful reflection and engaged, productive dialog simply provides a better opportunity the police and community to prevent negative incidents or even make needed changes or reforms in practices. The timing that facilitates thoughtful reflection and productive dialogue is before, not after, the local incident.

With this context in mind, the *Working Group* recommended the following actions, which the Davis Human Relations Commission adopted:

- Establish a sub-committee charged with following national or state issues of concern related to the police (e.g., King City, CA policy corruption scandal, Ferguson) and sponsor local conversations to allow minority and the general communities to air their concerns and engage in pro-active community-police dialog on these subjects. The purpose is to address, and perhaps relieve, local community concerns generated from national and regional stories.
- Hold regular, informal conversations in different parts of the community to discuss issues of concern (e.g., City of Davis Sanctuary City status with Latino Community).
- Work with local churches or community groups to hold regular (perhaps monthly) community coffee discussions between the community and the Davis police (e.g., in a world cafe or similarly engaging format) to discuss issues of mutual concern.

Police Accountability

In addition to finding new ways to hold community dialogues, coming up with a new way to resolve certain types of citizen complaints about Police Department employees, through a restorative-type process, quickly became one of the top priorities for the *Working Group*. Through the dialogues, and after discussions with key stakeholders (the Human Relations Commission, the City Attorney, City Human Resources, The Davis Police Officers Association), the *ACR Pilot Program* was developed.

Review of Existing Accountability Programs

The Davis Police Department has several existing methods of assuring police accountability. The following is a short review:

- Davis Police Department Community Advisory Board (CAB). Formed in the fall of 2005, the Community Advisory Board (CAB) was (and is) designed to provide the Police Chief with face to face dialogue with representatives of the community. Initially 12 members of the community were selected. Additional positions have been added to increase and diversify the representation. This board meets with the Police Chief on a monthly basis to provide input regarding citizen and community concerns. Additionally, the CAB

members take information away from the police department, back into the community. This Board has broad public representation and input into the police department. Most importantly, CAB opens and sustains an on-going dialogue with key members of the community on issues of mutual concern.

- City of Davis Independent Police Auditor. The City Council created this position in 2006 and the City of Davis currently contracts with Bob Aaronson to provide police auditor services. The Davis Independent Police Auditor is an entity designed and appointed to assist citizens with concerns about the Police Department, and to make recommendations to improve the delivery of police services. In the course of those duties, the auditor reviews Police Department citizen complaint investigations, accepts for referral to the Police Department citizen complaints about Police employee conduct from people who may not feel comfortable going directly to the Department with their complaint, and interacts with community members and organizations when needed.
- Formal Citizen Complaint Investigations. The Police Department has a detailed policy that describes and prescribes how citizen complaints are received and investigated. Every complaint currently receives some form of Departmental review to ensure compliance with City and Department Rules and Regulations, as well as State and federal law. Serious allegations of misconduct are often investigated by a Lieutenant assigned to the Professional Standards Unit, and are ultimately reviewed by the Chief or Assistant Chief, who render formal findings. When it is determined there was misconduct, formal corrective action is imposed – ranging from re-training to termination.

The current process for formally investigating/resolving citizen complaints is both detailed and sufficient for investigation serious allegations of misconduct. With that being said, the *Working Group* quickly identified historical occurrences where the formal investigative process actually hindered effective communication that could have resolved the complaint in a “good way,” both for the complaining party and the community. Instead the process led to further distrust, or allegations of secrecy and even cover-up. Common criticism includes:

- The formal complaint process is impersonal. Often a complaining person simply wants to personally convey their thoughts/feelings directly to the officer they encountered. The current process does not allow for direct, face-to-face dialog.
- The investigations are confidential. The person who complains is simply informed of the findings, but they are often not given a detailed account of what the investigation revealed.
- There is no citizen involvement in the process.
- There is no restorative component to the process (joint healing); even if it is discovered the officer did violate departmental rules.

ACR Pilot Program

The *ACR Pilot Program* is an informal, confidential mediation process based on two restorative practices: circle processes and non-violent communication. Through the *ACR Pilot Program*, community members with a specific complaint about an interaction with Davis Police employees, and the Davis Police employee(s) meet in a face-to- face, restorative process with the

assistance of a team of two trained *Circle Co-Keepers*, who are members of the Davis Community.

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

Requirements

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

- **Keep Confidentiality.** Confidentiality is an essential element of the *ACR Pilot Program*. All participants must feel free to speak candidly. Confidentiality has special relevance for public complaints. Participants must be assured that any apology or acknowledgement of wrong doing will not be used against them, either by the Police Department or by a private attorney, in any subsequent proceeding of any sort.

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

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

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

- **Maintain Safety.** The role of the *Circle Co-Keepers* is to initiate an environment for conflict resolution that is respectful and safe. Additionally the *Circle Co-Keepers* engage the circle participants in sharing responsibility for maintaining that space of safety and respect. The safer the environment, the greater the potential for participants in the *ACR Pilot Program* to explore their issue(s), come to some understanding, and/or resolve or heal the conflict.
- **Be Non-Hierarchical.** Circle processes share power. Nothing in a circle process should convey rank or privilege. All participants in a circle process, not just the *Circle Co-Keepers*, are responsible for what happens during the circle process. All participants in the circle are equal community members. Development of the circle’s values, guidelines, and decisions are arrived at together.

- Use Non-Violent Communication. The ultimate aim of Non-Violent Communication (NVC) is to develop societal relationships based on a restorative, "partnership" paradigm and mutual respect, rather than a retributive, fear-based, "domination" paradigm. NVC focuses on three aspects of communication: self-empathy (defined as a deep and compassionate awareness of one's own inner experience), empathy (defined as listening to another with deep compassion), and honest self-expression (defined as expressing oneself authentically in a way that is likely to inspire compassion in others).
- Be Transparent. Although the outcome of the *ACR Pilot Program* is unknown as participants begin this journey, the process will be transparent to the participants. Transparency allows participants to have trust in the circle process that they voluntarily are agreeing to engage in.
- Be Flexible. Humans are unique. Human relationships are unique. The *ACR Pilot Program* is designed and delivered in a way that recognizes and accommodates the needs of its participants. *Circle Co-Keepers* will create strong circle plans to allow participants to engage one another "in a good way." As needed, these plans are flexible to better respond and be of service to the participants and the journey they are taking together.

Types of Eligible Complaints

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

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

Initially, complaints involving the following situations will not be considered for the *ACR Pilot Program*:

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

Complaint Referred

The Office of The Police Chief refers a complaint to the *ACR Pilot Program* when all the following criteria are met:

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

Cases not approved for the *ACR Pilot Program* shall be processed for investigation according to the Department's existing citizen complaint policy.

Pilot Program Evaluation

After each conflict is processed through the *ACR Pilot Program*, an evaluation will be conducted using the participants own measures of success, the *Circle Co-Keepers'* measures of success, and the Davis Police Department's measures of success.

Findings identified include:

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

After each circle process is completed, the Office of the Police Chief and *Circle Co-Keepers* identify changes to be integrated into the next circle process. The *Working Group* will also remain intact during the pilot period in order to assist with program evaluation and to make program changes, if necessary.

The entire program will be evaluated at the end of the first program year to determine whether it will become a regularly offered method for resolving conflict with members of the Department.

