



December 21, 2020

Yolo County Grand Jury Foreperson  
PO Box 2142  
Woodland, CA 95776

Dear Yolo County Grand Jury Foreperson:

The 2019-2020 Yolo County Grand Jury completed two reports that require response from the City of Davis City Council:

- The Davis Police Accountability Commission, SB 1421, and Residual Questions from the Picnic Day 2017 Incident (All Findings and Recommendations)
- The Hawk, the Beatle and the Budget: An Evaluation of the Approved Yolo Habitat Conservation Plan in its First 16 Months (Findings 1, 2, 4, 5, 6, 7, 8, 9, 10, 11 and Recommendations 2, 3, 4, 6)

The City Council responses for each report are included as attachments to this letter. In addition, the Grand Jury invited the Police Accountability Commission to provide responses to the first report. Those responses were submitted to the City Council and are included alongside the responses from the City Council. The City Council formally approved the full package of responses at their meeting of December 15, 2020.

Sincerely,

Michael Webb  
City Manager

Attachments



**DAVIS CITY COUNCIL RESPONSES TO GRAND JURY REPORT: *The Davis Police Accountability Commission, SB 1421, and Residual Questions from the Picnic Day 2017 Incident***

<u><b>FINDINGS</b></u>	<u><b>CITY COUNCIL RESPONSE</b></u>	<u><b>POLICE ACCOUNTABILITY COMMISSION RESPONSE</b></u>
<p><b>F1.</b> The practice of excluding DPD leadership and officers from meetings of the Davis PAC limits candid dialogue between the PAC and the DPD.</p>	<p><b>Agree.</b> See PAC response.</p>	<p><b>Agree.</b> The PAC agreed on this practice based on concerns expressed by multiple people from the public and our Commission Liaisons. The PAC now has DPD staff come to meetings when discussions of police policy / practice are on the agenda. Examples include: February 7, 2019 – Pytel (Overview), October 3, 2019 – Waltz (Training), June 1, 2020 – Pytel (Police Restraint and Use of Force), August 3, 2020 – Pytel (Surveillance Technology), Sept 14, 2020 – Lyon (RIPA data).</p>
<p><b>F2.</b> The practice of excluding DPD leadership and officers from meetings of the PAC limits the PAC’s ability to obtain the specialized knowledge it needs to make recommendations to the City Council.</p>	<p><b>Disagree Partially.</b> The PAC does need technical expertise if they are expected to make technical recommendations, and the PAC does not regularly have police representation at every meeting. However, the commission is working to identify agenda items where law enforcement presence is necessary and beneficial, and is inviting representatives to those meetings for those specific items.</p>	<p><b>Disagree Partially.</b> The PAC does not exclude DPD leadership from meetings and lists DPD participation on agendas, which are publicly posted. In the past, the PAC has wanted the Chief to attend a number of meetings but there has been reluctance on his part. The PAC created a subcommittee to have regular meetings with the Chief and his staff. One meeting was held. There was agreement that the Chief or his designee</p>

	<p>As for the Police Chief’s ability to attend meetings, the Chief, along with other City staff, must balance a variety of meetings and other work obligations into schedules. Staff attempts to meet the requests for attendance at City-related meetings, schedule permitting.</p> <p>This balances the need for technical expertise with the role of the PAC in reaching disenfranchised groups or individuals in the community, who may not be comfortable at a meeting with law enforcement present. Part of the reason for the PAC is to provide outreach to disenfranchised groups in the community.</p>	<p><i>would attend PAC meetings as appropriate. This has occurred several times (see F1). The Independent Police Auditor (IPA) also supplements the PAC’s understanding of DPD policy and procedure, although in a limited manner as he is not within DPD.</i></p>
<p><b>F3.</b> Sensitivity to a limited number of individuals has outweighed the claims of the larger community to benefit from hearing the insights and perspectives of the DPD as the PAC attempts to fulfill its responsibility to provide meaningful guidance to the Davis City Council with respect to police policies, procedures, and practices.</p>	<p><b>Disagree Partially.</b> The PAC tends to attract individuals who are interested in police accountability, however it is not unusual for a small portion of the population to be actively involved in any city commission. It is the Council’s role and responsibility, however, to take information from all sources, including commissions, and weigh all information appropriately, in order to make well-rounded decisions to benefit the community. Further PAC outreach and engagement with the broader Davis community to</p>	<p><i><b>Disagree.</b> We are unclear who the Grand Jury is referring to related to “the claims of the larger community.” The PAC has heard multiple specific requests for the police to <b>NOT</b> attend. We have not heard specific requests for the police <b>TO</b> attend PAC meetings.</i></p>

	gauge community wide topics of interest and perceptions is strongly encouraged.	
<b>F4.</b> The PAC has not fulfilled its responsibility to provide annual written input to the City Manager and the City Council on the effectiveness of the IPA.	<b>Agree.</b> The PAC discussed the IPA evaluation at their November meeting and completed an evaluation at their December meeting.	<i>Agree. As a new committee, members have asked about the evaluation and have not gotten responses that led us to make this a priority.</i>
<b>F5.</b> During calendar year 2019 and the first quarter of 2020, the PAC did not coordinate with the IPA to identify and prioritize topics to be audited by the IPA.	<p><b>Agree.</b> In the original structure, it was thought that the IPA and the PAC would coordinate on topics to audit, however, that has not turned out to be the primary focus of either entity. Instead, the IPA is auditing complaints and bringing information to the PAC to advise them of trends, issues, and concerns. The City Council formally revised the PAC’s authorizing resolution in November 2020 to clarify the roles Council expects of the group.</p> <p>The PAC refers to recommendations made by the Auditor earlier in 2020. Many of those recommendations require further review, and staff resources have been redirected since the spring to address COVID needs. The staff liaison is aware of the recommendations and will continue to work with the Police Department to determine whether/how to implement.</p>	<i>Agree. The PAC did ask the IPA to confirm whether IPA recommendations have been implemented by the DPD. In the DPD report, it was noted that several recommendations were not fulfilled and the explanations provided were not complete. In the May 2020 meeting, the PAC asked the IPA and City staff to request further explanations from the Chief. So far, no further explanations have been received.</i>

<u>FINDINGS</u>	<u>CITY COUNCIL RESPONSE</u>	<u>POLICE ACCOUNTABILITY COMMISSION RESPONSE</u>
<p><b>F6.</b> As stated in its authorizing resolution, the PAC is to provide community-based police accountability by way of interactions with the public, the IPA, the DPD, and others. The PAC’s responsibility to provide police accountability is not limited by the non-action of the Davis City Council at its July 30, 2019, meeting.</p>	<p><b>Agree.</b> The City Council has a number of advisory commissions that assist the Council with information gathering, public outreach and decision making. The Council considers recommendations of all its commissions carefully, but ultimately, may not agree with every recommendation. That does not mean the recommendations or the process by which the recommendation was made and considered are not worthwhile. The PAC exists in an advisory capacity to the City Council, but remains a resource for the community, regardless of the Council’s action on one recommendation.</p> <p>Further, the use of the terminology “non action” by the City Council is misleading. The City Council did take definitive action - to elect to not investigate further. This decision was reached in a public hearing and based on information and options presented by the PAC, a staff report, considerations presented by the IPA and after hearing public testimony.</p>	<p><b>Disagree.</b> When PAC received a Picnic Day review by IPA and asked the Council to take action to reopen an investigation into the incorrect press release, the Council declined. The PAC is unsure what else it can do because our authorizing resolution does not include investigatory privileges.</p>
<p><b>F7.</b> With IPA input, the PAC is charged with systematically reviewing DPD policies, procedures, and training for topics to be audited by the IPA. To meet this obligation, the PAC is authorized to inquire</p>	<p><b>Agree.</b> The PAC was created in late 2018 in part because of the 2017 Picnic Day incident, after a lengthy community process, an enhanced auditor position, and changes to the Police Department’s</p>	<p><b>Disagree.</b> Three pieces of information provided by the Grand Jury are different from pieces PAC heard at the time: that the dash-cam video was slowed down, that there were protocols related to congestion</p>

<p>into departures from DPD policy, procedure, and planning during and following the Picnic Day 2017 Incident, including the DPD Press Release of April 24, 2017, and the release of the edited dashcam video on May 10, 2017.</p>	<p>policies. The PAC can inquire into the 2017 Picnic Day Incident and to make recommendations to the Police Auditor and/or the City Council. The PAC is not, however, an investigatory body.</p>	<p><i>management that were not followed, that there was the ability to know who sent out the incorrect PR release. The DPD changed their policy regarding crisis press releases, now requiring that supervisors must review any crisis press communication prior to its release to the public. The PAC has agreed to review adherence to this policy after any further crisis DPD press release.</i></p>
<p><b>F8.</b> The PAC, with input from the IPA, is authorized to provide community-based police accountability by inquiring as to why the OHS attorney investigators, working under the direction of the Davis City Attorney, failed in following the procedures set out in the Public Safety Officers Procedural Bill of Rights, which led to no DPD officer being held individually accountable for the inaccuracies in the April 24, 2017 press release.</p>	<p><b>Disagree.</b> See PAC response.</p>	<p><i>Disagree. This finding appears to suggest that the PAC has investigatory privileges which it does not. It is a question that could be made to the IPA to clarify as it is under his scope of work.</i></p>
<p><b>F9.</b> PAC commissioners lack understanding of how internal affairs investigations are conducted, how findings based on such investigations are made, how SB 1421 requests should be presented, and how the DPD responds to SB 1421 requests.</p>	<p><b>Agree Partially.</b> See PAC response.</p>	<p><i>Agree Partially. The PAC is a citizen commission whose members have a variety of backgrounds and who represent the community. The group has access to utilize the Independent Police Auditor and the Davis Police Department for training and information.</i></p>

<u>FINDINGS</u>	<u>CITY COUNCIL RESPONSE</u>	<u>POLICE ACCOUNTABILITY COMMISSION RESPONSE</u>
<p><b>F10.</b> The PAC, with input from the IPA, is authorized to provide community-based police accountability by inquiring into the DPD’s public misrepresentation of the decision-making process for the release of records under SB 1421. The DPD misrepresented in January 2019 that the Custodian of Public Records made the decision to refuse release of the Picnic Day 2017 investigation.</p>	<p><b>Disagree</b> that there was misrepresentation on the part of the DPD.</p>	<p><i>Disagree. See F6.</i></p>
<p><b>F11.</b> Because appointment to the PAC is limited to people who do not have law enforcement backgrounds, training is critical for existing and incoming commissioners. For PAC commissioners to be justifiably perceived as knowledgeable on topics of police accountability, both by the public and by the DPD, commissioners require training in a wide variety of best practices for policing, including specific training in DPD police practices, policies, and procedures.</p>	<p><b>Agree Partially.</b> The PAC is a citizen commission whose members have a variety of backgrounds and who represent the community. The group has access to utilize the Independent Police Auditor and the Davis Police Department for training and information. That said, their required monthly time commitment is 2 hours, with additional time as individual schedules permit. The PAC is also able to act as a conduit for community concern about policing, without technical training.</p>	<p><i>Disagree Partially. To fulfill the training required, a commitment of more hours per month will be required of volunteer citizen Commissioners and the City will be required to allocate time and funds to provide training. PAC should join the National Association for Citizen Oversight of Law Enforcement (NACOLE) to be kept up to date on best practices of policing and oversight.</i></p>

<u>RECOMMENDATIONS</u>	<u>CITY COUNCIL RESPONSE</u>	<u>POLICE ACCOUNTABILITY COMMISSION RESPONSE</u>
<p><b>R1.</b> No later than December 31, 2020, the Davis City Council should amend the PAC’s authorizing resolution to provide that one or more members of the DPD be designated by the Police Chief as liaison(s) to the PAC to attend all meetings.</p>	<p><b>Do Not Implement.</b> The City Council updated the PAC’s authorizing resolution at the November 17, 2020 Council meeting, however, did not include a requirement that a police representative attend all meetings. The members of the community and the PAC have stated reasons why the presence of law enforcement at every meeting may impede members of the community from approaching the commission. Police representatives will attend meetings when it is appropriate based on agenda items.</p>	<p><b>Do Not Implement.</b> <i>The PAC’s authorizing resolution has been revised and forwarded to the City Council for approval. It does not include the Chief of Police as liaison or require his presence at each meeting. The PAC’s current practice is to have the Chief of Police or his designee(s) attend PAC meetings when appropriate.</i></p>
<p><b>R2.</b> No later than December 31, 2020, the Davis PAC should adopt a policy whereby the Davis Police Chief or a designee with the necessary expertise be in attendance at PAC meeting(s) when the consideration of a DPD policy, procedure, or practice requires input from a person(s) with specialized knowledge.</p>	<p><b>Implement.</b> When an item that requires technical law enforcement expertise is on an agenda, a representative from law enforcement will be invited to be present.</p>	<p><b>Has Been Implemented.</b> <i>The PAC has already agreed to have police present during any discussion related to its department operations.</i></p>
<p><b>R3.</b> No later than December 31 of each year, the Davis PAC should meet its responsibility to provide annual written input to the Davis City Manager and City Council on the effectiveness of the IPA.</p>	<p><b>Implement.</b> The PAC had only been in existence for one year when COVID hit and then national issues regarding policing redirected PAC attention. The PAC had an initial discussion on the IPA review at their November meeting and finalized a report at their December meeting. They will continue to provide input annually.</p>	<p><b>Not Implemented Yet but Will Be in the Future.</b> <i>An informal evaluation was done in the PAC’s meeting with the City Council in February 2020, although not to the degree of detail requested by the Grand Jury. The PAC is capable of evaluating the IPA’s reports, interaction and responses to the PAC commissioners’ requests and other items within his contract related to</i></p>



		<i>the PAC. A formal evaluation process is beginning via subcommittee in November 2020.</i>
<b>R4.</b> No later than December 31, 2020, the Davis PAC should identify audit topics for the IPA by leading a candid public discussion into the residual questions from the Picnic Day 2017 Incident and its aftermath. Those discussions should include the how and why of the DPD's release of inaccurate and misleading statements to the media and the public in the April 24, 2017, press release and the release of the edited dashcam video on May 10, 2017. The PAC should hear directly from and ask questions of the Davis City Manager, the Davis Police Chief, the author of the initial Picnic Day press release, and the Davis IPA at a public meeting of the PAC.	<b>Do not implement.</b> Also see F6.	<b><i>Requires Further Analysis.</i></b> <i>If the PAC wants to follow up on these items, it will designate them within its 2021 Workplan.</i>
<b>R5.</b> No later than December 31, 2020, the Davis PAC should identify the consequences of the failure of the OHS attorneys to follow procedures set out in the Public Safety Officers Procedural Bill of Rights in the investigation of the inaccurate and misleading press release of April 24, 2017. The PAC should hear directly from and ask questions of the Davis City Attorney, the Davis City Manager, the Davis Police Chief, and the Davis IPA at a public meeting of the PAC.	<b>Do not implement.</b> Also see F6.	<b><i>Requires Further Analysis.</i></b> <i>If the PAC wants to follow up on these items, it will designate them within its 2021 Workplan.</i>

<p><b>R6.</b> No later than December 31, 2020, the PAC should obtain an explanation of the mechanics of an internal police investigation and the circumstances under which the findings of an investigation may or may not be released pursuant to SB 1421. The PAC should hear directly from and ask questions of the Davis City Attorney, the Davis City Manager, the Davis Police Chief, and the Davis IPA at a public meeting of the PAC.</p>	<p><b>Implement.</b> The PAC will receive training or additional training on technical issues that are foundational for their work, including the police investigation process and SB 1421. These items will be scheduled as agendas permit.</p>	<p><b><i>Requires Further Analysis.</i></b> <i>If the PAC wants to follow up on these items, it will designate them within its 2021 Workplan.</i></p>
<p><b>R7.</b> No later than December 31, 2020, the PAC should obtain an explanation of the DPD decision-making process for release of police records pursuant to SB 1421 and the identity of the person who has the final authority to release or deny access to police records under SB 1421. The PAC should hear directly from and ask questions of the Davis City Attorney, the Davis City Manager, the Davis Police Chief, and the Custodian of Records for the DPD at a public meeting of the PAC.</p>	<p><b>Implement.</b> The PAC should receive additional training on technical issues that are foundational for their work, including the process to decide to release records under SB 1421. These items will be scheduled as agendas permit.</p>	<p><b><i>Requires Further Analysis.</i></b> <i>If the PAC wants to follow up on these items, it will designate them within its 2021 Workplan.</i></p>
<p><b>R8.</b> No later than January 15 of each year, the PAC should adopt an annual workplan that includes a monthly schedule of training for incoming and existing commissioners. That training should be heavily focused on best practices and on specific DPD policies, procedures, and practices. Training should provide one-on-one opportunities for commissioners to observe Davis police officers at work in the community.</p>	<p><b>Partially Implement.</b> Every commission, including the PAC, is supposed to have an annual workplan. Workplans are adopted at different times of year. The PAC should be exposed to more technical training about the Police Department, including opportunities for direct interaction with Police Department staff, and planning for this should be reflected in their annual workplan.</p>	<p><b><i>Requires Further Analysis.</i></b> <i>While training is an important component of PAC membership, it would require additional meetings or extended times at meetings. There is no required time commitment for Commissioners beyond one two-hour meeting per month. Requiring more time could limit the pool of Commission candidates.</i></p>





**City of Davis City Council Responses to the 2019-2020 Grand Jury:  
*The Hawk, the Beetle, and the Budget: An Evaluation of the Approved Yolo  
Habitat Conservation Plan in its First 16 Months***

**FINDINGS**

- F1. The YHC is a business attached to a cause (habitat and species conservation). If the business model fails (due to poor management or insufficient revenue), the Plan's conservation objectives will not be accomplished.**

Response: The respondent agrees with this finding conceptually, but disagrees with the characterization that YHC is a business. While YHC may be an enterprise, it is not a business, it is a public agency and seeks to maximize public benefits.

- F2. The Plan as developed and approved is well constructed to accomplish its species and habitat conservation goals.**

Response: Agree

- F4. The Swainson's Hawk is the covered species most associated with agricultural landscapes in Yolo County. Developing a workable conservation strategy for the hawk balances maintaining an economically viable agricultural landscape with protecting foraging and nesting habitats.**

Response: Agree

- F5. The Plan as developed by the YHC focused primarily on its conservation goals but failed to anticipate a sound financial model for its implementation and its ongoing success over a 50-year term.**

Response: Disagree. YHC has spent considerable time and effort developing a sustainable fiscal model. Furthermore, YHC reviews and updates its fiscal model on a recurring five-year basis per section 8.4.1.6.2 of the Yolo Habitat Conservation Plan/Natural Community Conservation Plan.

- F6. For the Plan to endure and prosper, the YHC requires leadership from a person with a business management skill set who has some knowledge of conservation, as opposed to a conservation-oriented person who has some knowledge of business.**

Response: The respondent agrees that sound management is imperative to the success of any organization. However, the respondent also finds it is important that YHC

leadership, staff, and consultants have both management and conservation competencies.

- F7. The YHC Board of Directors has not developed a clear strategy that includes having an executive director in place whose daily responsibilities focus on managing money, people, and risk.**

Response: Disagree. As of July 1, 2020, YHC has contracted with Yolo County for general administration of YHC. The scope of work is as follows:

The County Administrator's Office (CAO) will be responsible for the general administration and shall serve as the Executive Director of the Yolo County Habitat Conservancy and administer the Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) under the direction of the Board of Directors pursuant to Section 7.1 of the Joint Powers Agreement of the Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency. In conjunction with the existing Memorandum of Understanding with the Yolo County Department of Financial Services, these two agreements for service will be inclusive of all administrative, legal, human resource, finance, budget, and related administrative functions, as well as all oversight and administration of programmatic functions of HCP/NCCP including permitting, acquisition of easements, and management and monitoring tasks that are consultant staffed.

- F8. The future survival of the Plan depends upon the YHC Board of Directors' ability to limit its administrative expenses to match that portion of its revenue allocated to administration staff size and composition (a balance of YHC staff and consultants).**

Response: Agree

- F9. The Plan provides the YHC Board of Directors with the authority to partner with an existing land management agency (a plan operator) such as the Natomas Basin Conservancy that has an existing staff with the required qualifications and infrastructure to manage the Plan and to hire and manage the necessary environmental consultants.**

Response: Agree

- F10. The YHC Board of Directors has the authority to approve integration of YHC operations into the Office of the Yolo County Administrator with that office providing 20% of a manager position and 50% of an analyst position.**

Response: Agree

- F11. The availability of backup funding from JPA members is necessary for the Plan to survive.**

Response: Disagree. While YHC has previously solicited loans and prepayments from member agencies, its FY20-21 budget does not contemplate additional loans or prepayments from member agencies.

## **RECOMMENDATIONS**

- R2. By December 31, 2020, the YHC Board of Directors should identify the specific business qualifications and skill sets required for an executive director or a plan operator to manage and lead the YHC in the long term.**

Response: This recommendation will not be implemented as it is not warranted. As of July 1, 2020, YHC has contracted with Yolo County for general administration. The contract term is July 1, 2020 to June 30, 2021. In the event the City of Davis is not satisfied with the County's administration of YHC it can communicate this concern and request that the YCH Board of Directors terminate or not renew the contract.

- R3. By December 31, 2020, the YHC Board of Directors should do an analysis to match the YHC's staff size and composition (a balance of employees and consultants) with both its revenue and its conservation mission.**

Response: This recommendation will not be implemented as it is not warranted. YHC evaluates and forecasts its organizational needs as part of its annual budget process. Accordingly, at the present time and for the foreseeable future, agency staffing (including consultant support) will adjust from time to time to match revenues and needs.

- R4. By March 31, 2021, the YHC Board of Directors should evaluate how well the person, plan operator, or other entity chosen to manage and lead the YHC is serving the needs of the Plan and how well the Plan is serving Yolo County and the four cities that comprise the JPA.**

Response: This recommendation will not be implemented as it is not warranted. As of July 1, 2020, YHC has contracted with Yolo County for general administration. In the event the City of Davis is not satisfied with the County's administration of YHC it can communicate this concern and request that the YCH Board of Directors terminate or not renew the contract. As mentioned above, the contract term is July 1, 2020 to June 30, 2021 and an evaluation of whether to extend this arrangement—which will include a consideration of the issues mentioned in this recommendation—will therefore occur on or before that date.

- R6. By June 30, 2021, the YHC Board of Directors and the member agencies of the JPA should evaluate whether the Plan would be best served by partnering with an existing plan operator, such as the Natomas Basin Conservancy.**

Response: This recommendation will be not be implemented as it is not warranted. As of July 1, 2020, YHC has contracted with Yolo County for general administration. In the event the City of Davis is not satisfied with the County's administration of YHC it can communicate this concern and request that the YCH Board of Directors terminate or not renew the contract and determine if an alternative administrative model is necessary.