

Preliminary Report on the Functioning of the UC Davis Police Accountability Board

The Davis Faculty Association¹

(December 20, 2020)

Introduction

Motivation for This Preliminary Report

Recent highly publicized instances of police misconduct around the United States have rekindled interest in the reform of policing at the University of California and locally at UC Davis. Believing that proposals for reform should be rooted in a factual understanding of current police policy and performance, we have embarked on an informal (and likely intermittent) investigation of policy and performance of policing at UCD. This preliminary report focuses on the process by which complaints against UCD police officers are investigated by the UCD Office of Compliance and Policy (OCP) and evaluated by the UCD Police Accountability Board (PAB). We reasoned that if there are problems with policing at UCD, these problems would leave a trace in the complaint investigation and evaluation process. Further, we believe that the investigation and evaluation of complaints will be an important component of any future “reformed” policing arrangement on campus, even arrangements envisioned by the most radical initiatives such as the Defund and Abolish movements. For example, even if UCD’s current professional police force is replaced with a citizens’ public safety entity, campus community members will likely want to institute a method for investigating and evaluating the performance of such an entity.

A Very Brief History of Civilian Review Boards in the United States

Civilian review boards are the product of grassroots protests against police misconduct. By 2016, about half of the 50 largest police departments in the U.S were subject to civilian review board oversight (Alcom 2019). Thus, today civilian oversight of police departments is common but far from ubiquitous.

¹ This report has been endorsed by the Board of the Davis Faculty Association. It was prepared by Donald Palmer, with extensive input from the DFA’s Executive Director (Eric Hays), one of its co-chairs (Professor Richard Scalettar), and several of its other board members. Donald Palmer is Professor of Management in the UCD Graduate School of Management and member of the board of the Davis Faculty Association (DFA). He studies misconduct in organizations, of which police departments are one type.

Civilian review boards typically are limited in their ability to investigate complaints against police, partly due to resource constraints and partly due to limited police department cooperation (Umansky 2020). Further, the vast majority of civilian review boards are strictly advisory. That is, almost always they are limited to offering recommendations, which Chiefs of Police can either accept or reject. State laws typically require that Chiefs of Police be solely responsible for determinations of guilt (i.e., findings of misconduct), allocations of punishment (e.g., suspensions), and assignments of corrective action (e.g., additional training). Only six of the roughly 25 civilian review boards monitoring the 50 largest police departments had some ability to discipline police officers (Alcom 2019).

Chiefs of Police who accept civilian review board recommendations are limited in their capacity to discipline police officers. State laws, accreditation requirements, and collective bargaining agreements tie the hands of Chiefs of Police in the above three domains. The role of collective bargaining agreements is particularly noteworthy. For example, a relatively small percentage of complaints are both sustained by Chicago's civilian police review board and accepted by Chicago's Chief of Police. But a relatively large percentage of the findings, punishments, and prescribed corrective actions associated with these sustained complaints are overturned or greatly reduced when grieved by the officers in question (Richards and Cohen 2017). These factors could potentially hamper the UCD PAB's ability to protect the public against police misconduct.

Outline of the Report

The remainder of the report is organized as follows:

1. Sources of Information Contained in the Report
2. Executive Summary
3. Detailed Description of the Complaint Investigation and Evaluation Process
4. Detailed Accounting of the PAB's Evaluation of Complaints (2014-2019)
5. Detailed Observations and Future Plans

Sources of Information Contained in the Report

This preliminary report draws upon the Police Accountability Board (PAB) Annual Reports (2014 – 2019), interviews with three persons involved in the PAB's processes (the UCD Police Chief Joe Farrow, the Director of Investigations of the Office of Compliance and Policy Wendy Lilliedoll, and the point of contact in the Office of Diversity, Equity, and Inclusion Mikael Villalobos), and several members of the UCD campus community who have experienced problematic encounters with the UCD and Davis police departments (whose identities will be kept in confidence). The author greatly appreciates the considerable time and the substantial assistance Chief Farrow, Wendy Lilliedoll, and Mikael Villalobos have provided. While we point to areas of the complaint investigation and evaluation process that we believe deserve scrutiny, we believe that each of these three individuals are dedicated members of the UCD community and are performing in an exemplary fashion within the constraints of a system that may deserve reform.

Executive Summary

The complaint investigation and evaluation process in place at UCD was established in 2014 following formal inquiries into campus police conduct in 2012. These inquiries were convened in the wake of general public outcry and campus protest against perceived police misconduct and administrator errors during the Occupy protests on the Davis campus and more specifically the “pepper spray incident” in 2011.²

Persons wishing to express dissatisfaction with a UCD police officer’s conduct may register a complaint through a variety of channels (e.g., the PAB website³, the UCD Police Department Facebook page, direct communication with a university official such as the Police Chief or even the Chancellor, etc.). Regardless of how complaints are registered, they are first considered by the UCD Office of Compliance and Policy (OCP). The OCP determines whether a complaint falls within the jurisdiction of the PAB and, if so, attempts to conduct an investigation of the complaint. If the OCP can complete an investigation of the complaint, it passes its “findings of fact” and “findings of police violations” to the PAB.⁴ The PAB then decides (based on the OCP’s findings) whether to sustain the complaint’s allegations and, if so, whether to offer recommendations for corrective action (e.g., for additional officer training). It then passes its determinations and any recommendations on to the UCD Chief of Police, who can either accept or not accept those determinations and recommendations. Only the PAB’s ultimate determinations and recommendations and the Police Chief’s acceptance or non-acceptance of them are made public. The Office of Diversity, Equity, and Inclusion (ODEI) provides the PAB with administrative support and orchestrates outreach activities designed to inform the campus community about the complaint submission and evaluation process (as well as about the PAB’s other functions).

The PAB Annual Reports for the 2014-2015 through 2018-2019 academic years listed 69 complaints that were filed against the UCDCPD since the PAB’s inception, two of which were withdrawn by the complainant and nine of which were listed as ongoing at the end of the year covered by the annual report. Thus, we assume that the OCP considered 58 unique complaints in the period covered by this investigation. Thirty-nine (67 %) of these complaints were either dismissed or not investigated to completion by the OCP in the year they were filed. The PAB Annual Reports did not include sufficient information to know: 1) the reasons why each dismissed complaint was dismissed, 2) why each complaint not investigated to completion in a given year was not investigated to completion, and 3) how many (if any) of the complaints that were not investigated to completion in a given year were ever investigated to completion in a subsequent year.

The PAB issued opinions on only nineteen (33%) of the complaints that were filed against the UCDCPD since 2014. Complaints often consist of multiple allegations (e.g., discourteous behavior and discrimination). Thus, the PAB’s evaluations can be summarized in two ways. Regarding complaints, the PAB sustained no (0%) complaints in whole, sustained four (21%) complaints in part, and rejected (i.e., did not sustain) fifteen (79%) complaints in

² More information about this event is available in the “UC Davis November 18, 2011 “Pepper Spray Incident” Task Force Report.”

³ Persons wanting to file a complaint can do so on the PAB website at: <https://pab.ucdavis.edu/file-complaint>

⁴ The PAB website is at: <https://pab.ucdavis.edu/>

whole. Regarding allegations, the PAB sustained six (13%) allegations and rejected thirty-nine (87%). The six allegations that were sustained by the PAB included two for unlawful entry, one for improper conduct, and three for discourteous behavior. Only the three allegations of discourteous behavior were accepted by the Chief of Police in office at the time.

Only about one-third of the PAB Annual Report complaint records included information on complainants' race, which makes it difficult to assess the role that race played in the disposition of complaints. Analyses of the complaints for which complainants' race was available indicated that the complaint allegations of people of color were more likely than the allegations of people who identified as Caucasian or White to be sustained, but this was due to the fact that the complaints filed by people of color were more likely to include serious allegations (e.g., excessive use of force, unlawful detention, etc.). This may indicate either that community members of color are more likely to experience serious police misconduct or that community members of color are less likely to file complaints against UCD police officers that allege minor misconduct.

We have begun to reach out to campus community members who have had problematic encounters with the UCD Police Department and to community members more generally to learn about their experience with the UCD Police Department and knowledge of the complaint investigation and evaluation process at UCD. Only one of our initial contacts had filed a complaint against a UCD police officer. This person reported that the complaint investigation and evaluation process was secretive and that his/her complaint, while investigated to completion by the OCP, was not sustained by the PAB. Our other initial contacts reported that they were unaware that UCD had established a process by which community members could register complaints against UCD police officers and thus were not informed of the OCP's and PAB's processes. Further, the campus community members of color with whom we spoke reported that even if they knew that community members could file complaints against UCD police officers, they would not do so. Their prior experience with police officers led them to believe filing a complaint would not likely lead to a positive outcome and might well lead to future police harassment. This expressed sentiment is consistent with the second interpretation of the statistical association between complainants' race and the seriousness of complainants' allegations of misconduct offered above, which holds that community members of color only file complaints against UCD police officers when they have been seriously aggrieved.

We think the creation of the complaint investigation and review process in place at UCD represents a victory for those who wish to increase the likelihood that the UCDCPD protects and serves UCD community members in a fair and equitable fashion. Further, we think the complaint investigation and review process has provided an important mechanism for many community members who believe they have been treated inappropriately by UCD police officers to have their concerns heard. Still, our reading of the PAB's annual reports, interviews with UCD officials involved in the UCD police complaint evaluation process, interviews with UCD community members with problematic experiences with the UCD police, and general knowledge of civilian review boards leads us to believe that the OCP

investigative process and PAB deliberative process deserves critical scrutiny. Specifically, we offer the following recommendations.⁵

1. Additional steps should be taken to inform the campus community of the PAB's existence and educate the community about the complaint submission process.
2. Considerations should be given to reforming the complaint submission process to compensate for the tendency of people of color to view the registering of complaints against the police as futile and risky.
3. The OCP or PAB should assign each past and future complaint a unique number, so that it is easier for the members of the public to determine the OCP and PAB's disposition of complaints.
4. The OCP should provide a more detailed accounting of the reasons why complaints are dismissed or not investigated to completion.
5. Once a more detailed understanding of why the OCP dismisses complaints is reached, it may be appropriate to consider whether the criteria used by OCP to dismiss complaints is overly restrictive.
6. Once a more detailed understanding of why the OCP fails to investigate complaints to completion is reached, it may be appropriate to consider ways in which OCP can increase the percentage of complaints that it can investigate to completion.
7. Efforts should be made to assess why the PAB has sustained no complaints in whole and only 4 complaints in part, with an eye to identifying and addressing aspects of its processes that might be considered problematic.
8. Considerations should be given to altering the complaint submission process so as to increase complainant provision of race and other demographic information (e.g., gender and campus community member status).
9. Efforts should be made to increase the transparency of the OCP investigative process and the PAB's deliberations allowable within the limits of the law.
10. It is important to note that the OCP is an administrative unit of the University of California, Davis. Further, the PAB's Administrative Advisory Group is composed of university officials, including officials from the Campus Community Relations unit and the UCD Police Department. Insofar as the OCP's findings and recommendations and the PAB's evaluations could damage UCD's image and even expose it to legal liability, efforts to safeguard against conflict of interest bias should be explored.
11. Finally, it is also important to note that the activities of the OCP and PAB are constrained by state and federal laws such as the Police Officer Bill of Rights. Hence, those wishing to increase the degree to which the OCP and PAB function so as to ensure that the UCD Police Department operates in a fair and effective manner will need to direct their attention to state and federal level policies as well. Put another way, even if the above recommended reforms are instituted, the OCP and PAB will likely be less fair and effective than many would wish it to be.

⁵ The 2018-2019 PAB Annual Report indicated that the PAB Advisor Group, let by the Office of Diversity, Equity, and Inclusion completed a review of the PAB's four-year pilot program from 2014-2018. But this report has not been released, although it is slated to be released sometime this September (personal communication, Mikael Villalobos).

Detailed Description of the Complaint Investigation and Evaluation Process

The Submission of Complaints

Persons wishing to express dissatisfaction with a UCD police officer's conduct may register a complaint via the following routes: the completion of an electronic form available on the PAB's website, submission of an email to the PAB, or via communication with the OCP, the UCD Police Department, or another university official (one complaint was submitted to the Chancellor at the time).

The Office of Compliance and Policy

Regardless of how a complaint is registered, it is evaluated by the UCD Office of Compliance and Policy (OCP). On one occasion the OCP worked with an outside investigator and in another it worked with an outside attorney to obtain expertise that it did not possess. All OCP investigators possess JD degrees and receive police internal affairs training. Some investigators have prior experience in internal affairs or civilian review board investigations.

Investigations entail contacting complainants, witnesses, and involved officers as well as collecting evidence (e.g., in the form of police reports and audio/video recordings). Contacts with complainants begin with an inquiry into the process complainants seek to initiate; specifically, whether to initiate a formal investigation or pursue a more informal avenue (e.g., simply making the PAB and Chief aware of their concerns). All formal complaints leave a trace in the PAB annual reports.

OCP findings sometimes entail determinations that the complaints do not fall under the PAB's jurisdiction. Some cases fall outside the PAB's jurisdiction because they pertain to the City of Davis PD or some other UCD or non-UCD entity. More often cases fall outside the PAB's jurisdiction because they fail to meet criteria specified in the PAB's bylaws or policies and procedures (<https://pab.ucdavis.edu/bylaws>). Investigations also sometimes result in determinations that sufficient information for a definitive finding could not be obtained. Investigators seek to obtain information from complainants and witnesses. But such information cannot always be obtained, as is the case when OCP lacks complainants' contact information or complainants decline to participate in an investigation. With this said, in some cases the OCP issues findings based solely on testimony and evidence collected from the involved officers and UCDPD. (It is not clear how often this is the case.)

After the OCP concludes its investigation of a complaint, it forwards its "findings of fact" (i.e., it's determinations of what happened) and "findings of policy violation" (i.e., it's determinations of whether what happened represented a violation of policy) to the PAB for its consideration.

The Police Accountability Board

The PAB's Origins

The PAB was formed in 2014, following release of the Robinson-Edley Report (2012) on police response to protests on the UC Berkeley and UC Davis campuses in 2011 and the Reynoso Report (2012) on the “pepper spray” incident on the UC Davis campus in the same year. To the best that we can determine, a committee of UCD campus community members (students, federation faculty, academic senate faculty, and staff), UCD legal staff, and outside consultants (including a law firm) that were experts in the operation of police civilian review boards jointly designed the PAB structure and process. It seems likely the lawyers played an outsized role in the design of the PAB, because (as indicated below) there are a number of significant legal constraints on the operation of civilian police review boards.

The PAB’s Composition

The PAB is composed of seven campus community “members,” each of whom also has a designated “alternate.” Members consist of two undergraduate students, one graduate student, one faculty member (either Academic Federation or Academic Senate), one staff member, and two UCD Health members (student, staff, or faculty). Members and alternates are nominated by the Academic Federation, Academic Senate, Associated Students UCD, Graduate Student Association, Staff Assemblies, Student Live, and UCD Health Office of Equity, Diversity, and Inclusion. The Academic Senate nominees are chosen by the Senate’s Committee on Committees. It is not known how the other nominees are chosen.

The PAB also includes an Administrative Advisory Group, which presumably provides some high-level oversight over the board’s functioning. In 2018-2019, this advisory group consists of the following individuals:

Rahim Reed, Associate Executive Vice Chancellor, Campus Community Relations

Joseph Farrow, Chief of Police, UC Davis Police Department

Wendy Lilliedoll, Director of Investigations, Office of Compliance and Policy

Mikael Villalobos, Associate Chief Diversity Officer, Office of Campus Community Relations

Larisa King, Compliance Analyst, Office of Compliance and Policy

Megan Macklin, Program Manager, Office of Campus Community Relations

Sunjeet Dosanjh, Program Assistant, Office of Campus Community Relations

Laura Izon, Kronick, Moskowitz, Tiedemann and Girard (external counsel)

The PAB’s Activities

The PAB evaluates complaints investigated by the Office of Compliance and Policy (OCP). The PAB receives completed complaint investigation reports from the OCP that include “findings of fact” and “findings of policy violations” and then decides whether to accept, reject, or table for further investigation those findings regarding each of a complaint’s allegations. Typically, the PAB agrees with the OCP’s findings (e.g., if the OCP finds that a policy violation did not occur, typically the PAB similarly rules that a policy violation did not occur). The PAB then

determines whether a complaint's allegations are: 1) "sustained" (i.e., determinations that the alleged conduct occurred and violated police department policies and procedures), 2) "not sustained" (i.e., determinations that the evidence was insufficient to conclude whether the alleged conduct occurred and violated police department policies and procedures), 3) "unfounded" (i.e., determinations that the alleged conduct did not occur), or 4) not supported to the extent that the officer in question is "exonerated" (i.e., determinations that the conduct occurred but was justified, lawful, or proper). For the sake of simplicity, this report will lump the "not sustained," "unfounded," and "exonerated" categories together under the single heading of "not sustained." When the PAB sustains a complaint, it may also issue recommendations for corrective action. The OCP's investigative reports and the PAB's deliberations on those reports are not available for scrutiny by the public. The PAB's annual report only indicates its final disposition of complaints.

While this report focuses on the PAB's evaluation of complaints filed against the UCDPD, it is important to keep in mind that the PAB also engages in the following additional activities:

1. The PAB inquires and makes recommendations about matters of interest to it and the public (e.g., the extent and nature of police training on de-escalation techniques or the UCDPD's plans regarding potentially problematic upcoming campus events such as controversial public lectures, etc.).
2. The PAB meets monthly; in closed session when evaluating complaints and in public when seeking or allowing input from members of the community.
3. The PAB meets quarterly in publicized public session to obtain input from the public.
4. The PAB participates in periodic community outreach events (e.g., "town halls") to educate and obtain input from the public.

The Office of Diversity, Equity, and Inclusion

The Office of Diversity, Equity, and Inclusion (ODEI) provides administrative support to the PAB. Administrative support includes the preparation of documents for PAB monthly and quarterly meetings, the handling of logistics for PAB quarterly meetings and periodic town halls, the arrangement of training for PAB board members, support for the recruitment of new PAB members, the writing and publication of the PAB's annual report, and assorted other things. The ODEI does not, however, participate in the PAB's decision-making.

The Police Chief

As is the case across the nation, the UCD PAB's determinations and recommendations are not binding on the UCDPD Chief. Once rendered, the Chief can reject the PAB's findings and/or recommendations. The Chief's autonomy in this regard is protected or enforced (depending on one's point of view) by the Police Officers' Bill of Rights, which is stipulated in the State of California's "government code" (i.e., it is the law). Indicative of this, the last line in UCD PAB Policies and Procedures states "Any complaining party who is not satisfied with the Chief of Police's ultimate disposition of the complaint may contact the Chief of Police to discuss the matter further."

With this said, the UCDPD Chief's autonomy in the allocation of punishment and assignment of corrective action is constrained not just by the Police Officers Bill of Rights, but also by the California Police Accreditation Coalition (also known as Commission on Accreditation for Law Enforcement Agencies) and the California Peace Officers Standards and Training Commission. Finally, any findings, punishments, and corrective actions levied by the Chief are subject to appeal through procedures delineated in the police officer's collective bargaining agreement.

Detailed Accounting of the Complaint Investigation and Evaluation Process (2014-2019)

The Anatomy of the Complaint Investigation and Evaluation Process

There were 69 complaints listed in the PAB Annual Reports that were filed at the end of the 2014-15 to 2018-19 academic years. Two of these complaints were dropped by the complainant and nine were in the process of being investigated by the OCP at the close of the year covered by the annual report in which it was listed. Although we cannot determine whether all of these nine complaints were investigated to completion by the OCP in a subsequent year, for the purposes of our analysis we will assume that they were. Thus, all of the subsequent percentage calculations will be based on the assumption that the OCP investigated 58 complaints in the 2014-2019 period. Before proceeding with our analysis, though, we note that we consider our counts of the different types of complaint outcomes tentative, because the PAB annual reports' categorizations of complaints appear to have changed somewhat over time.

Of the 58 complaints handled by the OCP, 19 (33%) were "dismissed" for one reason or another. In some cases, complaints were dismissed because they pertained to the actions of officers affiliated with another police department (e.g., City of Davis PD) or other UCD staff (e.g., residence halls staff). In other cases, complaints were dismissed because they did not fall within the PAB's jurisdiction as stipulated by its bylaws and policies and procedures. The specific number of cases that were dismissed for different reasons cannot be tabulated, because the information needed to do so is not provided in the annual reports.

Further, 20 (34%) of the 58 complaints were not investigated to completion by the OCP for lack of information. It appears that in the first two years of its existence, the PAB categorized one such complaint as "dismissed." In subsequent years the PAB created a separate category for complaints that fall into the "insufficient information" category, leaving open the possibility that these complaints would be re-visited in later years if additional information became available (N=19). It is unclear to us how many, if any, such complaints were re-visited in the future. Lack of information results when the complainant cannot be located or does not make themselves available for interview, witnesses cannot be located or do not make themselves available for interview, and/or other evidence related to the complaint (e.g., police report on the incident) cannot be obtained. As indicated above, the OCP may complete an investigation even if it does not obtain information from a complainant or witnesses. The specific number of cases that were not completed for

reasons of lack of specific types of information (e.g., because complainants cannot be located or are unwilling to cooperate, or because witnesses cannot be located or are unwilling to cooperate, etc.) cannot be tabulated, because the information needed to do so is not provided in the annual reports.

Thus, only nineteen (33%) of the complaints registered by campus community members were investigated to completion and passed on to the PAB for its consideration. Complaints often contain more than one allegation (e.g., both discourteous behavior and discrimination). Thus, both the disposition of complaints and of allegations can be summarized. Regarding the nineteen complaints that were evaluated, none were sustained in whole, four (21%) were sustained in part (meaning one or more, but not all of the allegations leveled in the complaint were sustained), and fifteen (79%) were not sustained. Regarding the forty-five allegations that were evaluated, six (13%) were sustained and thirty-nine (89%) were not sustained. The six sustained allegations were for: discourteous behavior (3), unlawful entry (2), and improper conduct (1).

As indicated above, sustained allegations can either be accepted or rejected by the Chief of Police. There were three Chiefs of Police during the period covered by the PAB Annual Reports analyzed here. The most recent Police Chief (Joseph Farrow) accepted both of the sustained allegations handed down during his tenure to date. The prior Police Chiefs were less accommodating. Turning to the six sustained allegations, the two allegations of unlawful entry and one allegation of improper conduct were not accepted by the Chief of Police at the time. One of the allegations of discourteous behavior was accepted by the Chief of Police at the time, but the associated PAB recommendation for additional training was not. The remaining two allegations of discourteous behavior were both accepted by the Chief of Police at the time (who is the Chief of Police at the moment).

Thus, only three (7%) of the forty-five allegations registered by members of the campus community against UCD police officers between 2014 and 2019 were both sustained by the PAB and accepted by the Chief of Police, all three of which alleged the rather mild form of police misconduct of "discourteous behavior." We do not know whether the three allegations that were sustained by the PAB and accepted by the Chief of Police were grieved by the officers involved.

The Impact of Race on the Outcome of the Investigation and Evaluation Process

We attempted to determine whether there was evidence of racial bias in the investigation and evaluation of complaints against UCD police officers. Our attempt, though, was severely hampered by lack of information on complainants' race. Still, our preliminary assessment is that complaints submitted by people of color were more likely to be partially sustained than were complaints submitted by people who identified as Caucasian or White, but that this was because their complaints tended to include more serious allegations.

Of the fifty-eight persons who filed complaints in the period covered by this report, thirty-five (62.1%) did not indicate their race. Of the remaining twenty-three people who submitted complaints, eleven identified as Caucasian or White, two identified as African American, one identified as Black, one identified as Asian, one identified as Indian, two identified as mixed-race, and one identified as American. For the purposes of the analyses described here, complainants who identified as African American, Black, Asian, Indian, or mixed-race were considered people of color.

Simple OLS regression analyses that included two dummy variables, one for people of color and another for people who did not identify their race indicate that: 1) complaints submitted by people of color were less likely than complaints submitted by people who identified as Caucasian or White (the omitted variable in the regression) to be dismissed by the OCP ($r = -.417$; $p < .05$), 2) complaints submitted by persons who did not identify their race were less likely than complaints submitted by people who identified as Caucasian or White to be investigated to completion by the OCP ($r = .664$; $p < .001$), and 3) that complaints submitted by people of color were more likely than complaints submitted by people who identified as Caucasian or White to be sustained by the PAB ($r = .375$; $p < .10$). But the effects of the dummy variable for people of color on the likelihood that a complaint would be dismissed by the OCP and that a complaint that was not dismissed would be sustained by the PAB were greatly reduced in magnitude and became statistically insignificant when a variable indicating the severity of a complaint was included in the model. The severity of complaint variable was a statistically significant predictor of the likelihood that complaints would not be dismissed ($p < .05$), would be investigated to completion ($p < .10$), and would be sustained by the PAB ($p < .10$).⁶

We measured a complaint's severity in two ways: by the number of allegations it included and by whether or not it included any of the following allegations: excessive/inappropriate use of force, unlawful detention, unlawful entry, and unlawful search. Simple OLS regression analyses that included two dummy variables, one for people of color and another for people who did not identify their race indicate that: 1) people of color are more likely than people who identified as Caucasian or White (the omitted variable in the regression) to submit complaints that include numerous as opposed to few allegations ($r = 1.167$; $p < .005$) and 2) people of color are more likely than people who identified as

⁶ Most of the models discussed here include dichotomous dependent variables (e.g., "sustained complaint," or "serious complaint"). Typically models with dichotomous dependent variables are estimated using a logit equation. We could not estimate logit equations on these data, because the small number of cases led to "singularity" problems. Thus, we estimated the models using OLS regression as a second-best option. The regression coefficient "r" indicates the impact of moving from one state to another on an independent variable (e.g., complainants who are people of color rather than white) on the probability of a dichotomous outcome (e.g., complaints being partially sustained rather than not). Tests of statistical significance are indicated by "p" values. One might question the use of tests of statistical significance in my analysis, because we are analyzing the full population of complaints that have been submitted since the creation of the PAB, rather than a sample of complaints. Still we report the statistical significance of model parameters and refer to parameters as "statistically significant" or not because we suspect that many readers will expect this information and terminology.

Caucasian or White to submit complaints that include allegations of excessive use of force, unlawful detention, unlawful entry, and unlawful search ($r = .517$; $p < .005$).

The results summarized above could be interpreted in many ways; two of which seem most plausible. Campus community members of color might be exposed to more serious types of police misconduct than are community members who identify as White or Caucasian. A sizably body of research indicates that this is the case more generally (Weir 2016; Schumaker 2020). Alternatively, community members of color might have a higher “tolerance” of perceived police misconduct. That is, while people who identify as Caucasian or White might often submit complaints for minor perceived offenses (e.g., discourtesy), people of color might only submit complaints when perceived misconduct is serious (e.g., excessive use of force).

Preliminary Interviews with Campus Community Members

We have begun to reach out to campus community members who have had problematic encounters with the UCD Police Department, as well as to campus community members more generally to learn about their experience with the UCD Police Department and knowledge of the complaint investigation and evaluation process at UCD. Only one of our initial contacts had filed a complaint against a UCD police officer. This person reported that the complaint investigation and evaluation process was secretive and that his/her complaint was investigated to completion by the OCP but was not sustained by the OCP.

Our other initial campus community member contacts reported that they were unaware that UCD had established a process by which community members could register complaints against UCD police officers and thus knew nothing about the OCP’s and PAB’s processes. Further, campus community members of color reported that even if they knew that community members could file complaints against UCD police officers, they would not file a complaint if they witnessed what they believed to be police misconduct or believed they had been the victim of police misconduct. Their prior experience with police officers led them to believe that their complaint would not be taken seriously, would not result in discipline of the officer, and would not result in alteration of the police officer’s conduct. Further, it might well lead to future police harassment. This testimony is consistent with the second interpretation of the association between complainant race and complaint seriousness offered in the last paragraph of the previous section. While campus community members who identify as Caucasian or White might often submit complaints for minor perceived offenses (e.g., discourtesy), people of color primarily submit complaints when the perceived misconduct is serious (e.g., excessive use of force).

Recommendations

We think the creation of the complaint investigation and review process in place at UCD represents a victory for those who wish to increase the likelihood that the UCDDPD protects and serves UCD community members in a fair and equitable fashion. Further, we think the

complaint investigation and review process has provided an important mechanism for many community members who believe they have been treated inappropriately by UCD police officers to have their concerns heard. Still, our reading of the PAB's annual reports, interviews with UCD officials involved in the UCD police complaint evaluation process, interviews with UCD community members with problematic experiences with the UCD police, and general knowledge of civilian review boards leads us to offer the following recommendations.

1. The Office of Diversity, Equity, and Inclusion conducts outreach activities that inform campus community members about the complaint investigation and evaluation process at UCD. Still, interviews with campus community members suggest that many community members are unaware of the PAB's existence, let alone knowledgeable about how to register a complaint against a UCD police officer. Thus, additional steps should be taken to inform the campus community of the PAB's existence and educate the community about the complaint submission process.
2. Interviews with campus community members of color suggest that many community members of color would be reticent to register complaints against the UCD campus police, if they witnessed or experienced a problematic encounter with the police, because prior experience with police leads them to believe that their complaints would not result in positive outcomes and might lead to retribution. Further, analysis of the PAB annual reports indicates that complaints filed by campus community members of color tend to be more serious than those filed by other community members, suggesting that campus community members of color must be more seriously aggrieved by perceived officer misconduct than other community members, before they are inclined to register a complaint. Thus, considerations should be given to reforming the complaint submission process to compensate for the tendency of people of color to view the registering of complaints against the police as futile and risky.
3. It is difficult to know whether complaint investigations that are categorized as "ongoing" or "incomplete for reasons of lack of information" in the PAB's Annual Reports are ever completed in a subsequent year. This ambiguity makes it more difficult for members of the campus community to assess the OCP's and PAB's performance. Thus, the OCP or PAB should assign each past and future complaint a unique number, so that it is easier for the members of the public to determine the OCP and PAB's disposition of complaints.
4. The PAB Annual Reports do not indicate why complaints that were not investigated to completion were not investigated to completion and only occasionally indicates why complaints that were dismissed are dismissed. This ambiguity makes it more difficult for members of the campus community to assess the OCP's process in these regards. Thus, the OCP should provide a more detailed accounting of the reasons why complaints are dismissed or not investigated to completion.
5. Once a more detailed understanding of why the OCP dismisses complaints is reached, it may be appropriate to consider whether the criteria used by OCP to dismiss complaints is overly restrictive.

6. Once a more detailed understanding of why the OCP fails to investigate complaints to completion is reached, it may be appropriate to consider ways in which OCP can increase the percentage of complaints that it can investigate to completion.
7. As indicated above, none of the complaints and very few of the complaint allegations that are investigated to completion were sustained by the PAB. There are many reasons why this might be the case. Complaints and allegations might be spurious. The OCP's investigative processes and/or the PAB's decision-making process might be constrained by federal or state law (e.g., the California Police Officers' Bill of Rights) in ways that make the sustaining of complaints difficult. Or the OCP's investigative processes and/or the PAB's decision-making processes might be wanting in one or more respects. Efforts should be made to assess the degree to which the above (and other) reasons might explain the very low rate at which the PAB sustains complaints, with an eye to identifying and fixing aspects of its processes that might be considered problematic.
8. Our attempt to examine the impact of the race (and other complainant attributes) on the disposition of complaints was severely hampered by the prevalence of missing data on race (and other complainant attributes). Thus, consideration should be given to altering the complaint submission process so as to make complainant provision of this information more likely.
9. The OCP's investigative reports and the PAB's deliberations on the OCP's investigative reports are not made available to the public. Indeed, they are not even made available to complainants. Only the PAB's final findings and evaluations of complaints and the Police Chief's acceptance or non-acceptance of these findings and evaluations are made available to the public and the complainants. This lack of transparency inhibits the public's ability to evaluate the integrity of the complaint investigation and evaluation processes and thus likely to undermine public trust in these processes. Thus, efforts should be made to increase the transparency of the OCP investigative reports and the PAB's deliberations allowable within the limits of the law.
10. It is important to note that the OCP is an administrative unit of the University of California, Davis. Further, the PAB's Administrative Advisory Group is composed of university officials, including officials from the Campus Community Relations unit and the UCD Police Department. Insofar as the OCP's findings and recommendations and the PAB's evaluations could damage UCD's image and even expose it to legal liability, its staff are subject to conflicts of interest. While the OCP and the PAB's Administrative Advisory Group are staffed with professionals who undoubtedly feel duty bound to impartiality, a substantial body of research indicates that people (including professionals) underestimate their susceptibility to conflicts of interest (c.f., Moore, Tanlu, and Bazerman 2010). Thus, efforts to safeguard against conflict of interest bias should be explored.
11. Finally, it is also important to note that the activities of the OCP and PAB are constrained by state and federal laws such as the Police Officer Bill of Rights. Hence, those wishing to increase the degree to which the OCP and PAB function so as to ensure that the UCD Police Department operates in a fair and effective manner will need to direct their attention to state and federal level policies as well. Put another

way, even if the above recommended reforms are instituted, the OCP and PAB will likely be less fair and effective than many would wish it to be.

References

- Alcorn, Ted. 2019. "Who will hold the police accountable," *The Atlantic*. July 25
- Edley, Christopher F. and Robinson, Charles F. 2012. "Response to Protests on UC Campuses: A Report to President Mark G. Yudof," *University of California*, September 13. Available at: https://demonstrationreviews.ucdavis.edu/local_resources/pdf_documents/RE%20Report.pdf.
- Moore, Donald, Tanlu, Lloyd, and Bazerman, Max. 2010. "Conflicts of interest and the intrusion of bias," *Judgement and Decision-Making*, Vol. 5, No. 1, 37-53.
- Reynoso Task Force. 2012. "UC Davis November 18, 2011 'Pepper Spray Incident' Task Force Report." Available at: https://localwiki.org/davis/Reynoso_report.
- Richards, Jennifer Smith and Cohen, Jodi S. 2017. "Chicago police win big when appealing discipline." *Chicago Tribute and ProPublica*, December 14.
- Schumaker, Erin. 2020. "What the latest research tells us about racial bias in policing," *ABC News Daily*, August 12.
- Umansky, Eric 2020. "My family saw a police car hit a kid on Halloween. Then I learned how NYPD impunity works." *ProPublica*, June 23.
- Weir, Kirsten, 2016. "Policing in black and white," *American Psychological Association*. Vol.47, No. 11