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# **Independent Police Auditor Report**

## **Complaint Regarding DPD Detention/Search of Complainant and Allegations of Failure to Pursue Investigation**

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**Report by: Michael Gennaco  
Independent Police Auditor  
City of Davis**

The Independent Police Auditor (“IPA”) received a telephonic complaint from a Davis resident who alleged that he had been subjected to an improper search that very day during a probation search of a residence. Specifically, the complainant alleged that during the search, he was detained, inappropriate force was used on him, and his property was illegally searched. In addition, the complainant alleged that the Davis Police Department had failed to arrest individuals who had assaulted the complainant in an earlier incident.

Upon receipt of this complaint, the IPA contacted DPD and an internal investigation was conducted into the complainant’s allegations. The complainant advised the DPD investigator over the phone that he was upset regarding his contact with Davis Police during the probation search. The complainant told DPD that because of the search he was late for his ride to work so he had to miss work. The complainant alleged that a DPD officer touched his genitals while they were searching him, even though he had said “no”. The complainant further alleged that the officer also pulled his wrist back and hurt it and he already had a prior wrist injury. The complainant further alleged that he should not have been detained and that the police would not let him use his cell phone to record what they were doing.

The investigator advised the complainant that he could fill out a written complaint and turn it in to the police department or he could just come in and speak to the investigator. The complainant said he wished to do both.

The complainant then talked to the investigator about the earlier incident in which he had been robbed and assaulted. The complainant said he was upset because he had seen the suspect running around town and wanted to know why he had not been arrested.

The complainant told the investigator he was going to fill out the complaint form and set up an appointment with the investigator. The complainant failed to show for the meeting and did not respond to further attempts by the investigator to contact him.

### ***Probation Search: Investigative Results and Analysis***

Despite the failure of the complainant to further cooperate in the internal investigation, DPD continued with the investigation, including interviewing the on-scene officers and reviewing the body worn cameras. The investigation revealed that on the date of the incident, DPD officers and representatives from the Yolo County Probation Department had arrived at the location to conduct a probation search at a Davis residence. The body worn cameras show that when the officers approached the residence, the complainant was observed on the front porch area. The complainant was asked to stand, he was

advised that he was going to be searched for weapons, his wrists were held behind his back, and one of the on-scene officers conducted a pat down search of him. The complainant was then advised to sit down on the porch while officers conducted a probation search of the residence.

A review of the body worn cameras of the search shows no inappropriate touching of the complainant. And importantly, either during or immediately after the search, while the complainant had a lot to complain about regarding other circumstances of his detention, he made no observable reaction of pain or discomfort nor raised any contemporaneous concern about the way in which the pat down search was conducted.

The body worn camera footage also shows that after the search, the complainant had an extended discussion with another on-scene DPD officer. During that conversation, the complainant requested access to his cell phone so that he could record the encounter. In denying the request, the officer explained that he was concerned that giving the complainant his cell phone would allow him to text message others that the police were conducting a probation search at the location, which could present a security risk to the officers.

The complainant also advised the officer that he did not want his backpack searched; the officer agreed and there is no evidence that his backpack was searched by responding officers.

While the complainant was verbally contentious and agitated about the officers denying him access to his cell phone and his backpack, about the timing of the probation search, being detained during the search, and various other related and non-related matters, the officer who engaged with the complainant used effective de-escalation skills to calm the complainant down. One effective technique used by the officer was to provide the complainant access to his vaping device during the search which clearly reduced his level of upset. As a result of the skillful use of language and patience, the officer was able to effectively convert the initial agitation expressed by the complainant into a conversation about other matters that eventually eliminated further verbal conflict. The officer should be commended for his effective use of de-escalation techniques during this encounter.

### ***Assault Investigation: Investigation Result and Analysis***

With regard to the complainant's allegations of DPD's failure to follow up on an assault of him, the investigation into that allegation revealed that the detective assigned to that incident had done extensive follow up and had attempted to arrest the main suspect but had been unable to locate him. The investigation further revealed that despite multiple

attempts, the complainant/victim has not been cooperative in the investigation, in particular, with regard to assisting in the identification of further suspects. Numerous attempts by the detective to contact the complainant had been unsuccessful. As a result of the lack of cooperation of the complainant, the investigation into the earlier assault has been suspended.

### ***IPA Analysis***

Despite the complainant's failure to completely cooperate in this investigation, DPD conducted a thorough and objective investigation into the allegations. The body camera footage was extremely helpful in obtaining a full picture of the circumstances of the probation search.

IPA concurs with DPD's conclusion that there was no evidence supporting the complainant's allegations that he was subjected to an improper pat down search. The complainant's remaining allegations about his temporary detention and his inability to access his cell phone or backpack during the search do not implicate any violation of policy; DPD procedures were consistent with probation search protocols. In fact, as detailed above, the way in which one on-scene officer de-escalated the situation between the complainant and DPD officers was textbook and worthy of commendation.

IPA further concurs that DPD's investigation of the prior assault was consistent with industry standards and that the investigation had been hampered by the complainant's failure to fully cooperate with law enforcement despite repeated attempts to enlist his assistance.

Because the contact information with the complainant is no longer good contact information, IPA could not discuss with him the possibility of a restorative justice session.

IPA has no systemic recommendations with regard to this matter.